

Ordinance No. 209

Ord 209  
Rep 1507  
Amend 216

An ordinance to provide for the Prevention and Removal of nuisances and to punish those who allow or maintain them, and to provide how the costs and expenses of abating such nuisances shall be collected and paid, and to define what shall constitute a nuisance within the limits of the City of Albany.

The People of the City of Albany do ordain as follows:

Section 1. No Butcher or other person shall Kill or slaughter within the City limits any animal or animals, the flesh of which is intended to be sold or offered for sale, and no person shall keep in any yard, pen or Corral, within the City limits any sheep, swine, or other animals, for sale to be slaughtered for a longer period than three days.

Section 2. No person shall cast, or leave, or keep in or adjoining any street, lane, alley, square or public place, or in any yard, lot, block or premises within the City limits, or in the Willamette River, between the East boundary of the City and the West boundary thereof or in the Calapooia Creek at any point where said City abuts upon said Creek, any bones, putrid, unsound, unwholesome or refuse beef, or meat of any animal, whether salted or otherwise, or any hides or skins of any kind, or the whole or part of any dead animal or fish, or any stagnant or impure water, or any unsound, putrid or unwholesome substance or the offal, garbage, or the offensive part of any animal or animals.

amended by Ordinance 216

Section 3. No person or persons shall permit, or suffer to accumulate, in or upon any yard, lot, place or premises, or upon any street alley or sidewalk, adjacent to or abutting upon any lot, block, place or premises owned, controlled or occupied by him or them, or for which he or they may be Agent or Agents, within the City limits, any stagnant or impure water, refuse vegetables, decayed or decaying substances, garbage, manure, filth of any kind, nor suffer such lot, yard, place or premises to be or

remain in such condition as to cause, produce or create any noisome or offensive smell or atmosphere, or thereby to be, become, or cause, or create a public nuisance; Provided that no person shall be prosecuted for a violation of this section, unless such violation shall continue for 5 days after he or they have received the notice provided in Section 7 of this Ordinance.

Section 4. No person who is the owner or occupant or in the control of, or the agent for any house, store or building or premises, in the City of Albany, to which a privy or water closet shall be attached or belongs or appertains, shall use or keep the same in such a condition or manner as to cause a noisome or offensive smell to arise therefrom so as to become a nuisance.

Section 5. It shall be unlawful for any person or persons to construct or cause to be constructed or used, any privy or cesspool under any sidewalk in front of or adjoining any property owned or occupied by him or them and every day such person or persons shall use or permit to be used, such privy or cesspool, after receiving the notice provided for in Section 7 of this Ordinance, shall be deemed a new and separate offense and violation of this Ordinance.

Section 6. Whenever in the opinion of the Committee on fire and water and the Chief Engineer, or a majority of them, any building, structure or awning within the City limits shall become so much injured by fire, decay, or on account of defective material used in the construction thereof, or from any other cause, as to be dangerous to surrounding property, or in danger of falling down, the same shall be deemed a nuisance and shall be by them so declared, and they shall forthwith file such declaration with the Recorder, who shall forthwith thereafter furnish to the Marshall a certified copy of such declaration, to be served by him upon the owner of such property, or his authorized agent in case the owner thereof is absent from the City or

cannot be found therein. And any owner of such property or building, or in case of the absence of such owner from the city, his authorized agent, who shall neglect or refuse to remove or repair, such building, structure, or awning, for two days after being ordered so to do by the Marshall, shall be deemed guilty of a misdemeanor and upon conviction thereof before the City Recorder, shall be fined not less than \$5<sup>00</sup> nor more than \$100<sup>00</sup>, or be imprisoned in the City jail not less than 2 days nor more than 50 days; and each day that such building, awning or structure shall so stand, after such conviction, shall be deemed a new and separate offense.

Amended by Ordinance 216

Section 7. Whenever the Marshall shall be informed of the existence within the City limits of any nuisance prohibited by sections 3 and 4 of this ordinance, he shall immediately make or cause to be made, an examination of the yard, lot, street, alley, sidewalk, place or premises, on which it is charged that such nuisance is suffered or permitted, and if a nuisance is found to exist thereon, or to exist upon any street, sidewalk or gutter, adjacent to, or abutting upon any such yard, lot, place or premises, unless it shall be necessary in order to abate such nuisance to fill up or drain the property on which the same is situated, he shall forthwith give or cause to be given, to either owner, agent, or occupant of such yard, lot, place or premises, or to all of them, a notice to remove or abate such nuisance, within 5 days from the service of such notice upon such owner, agent, or occupant, and if such nuisance is not removed at the end of 5 days from the service of such notice on such owner, occupant or agent, the Marshall shall cause such owner occupant or agent to be arrested for suffering or permitting such nuisance to exist, and if he or they shall be convicted before the Recorder therefor, the Marshall shall at once thereafter cause the same to be removed, and he shall be and he is hereby authorized to remove any and all obstructions that

2

it may in his judgment be necessary to remove in order to reach and remove or abate such nuisance. The expense of the removal of any such nuisance by the Marshall shall be paid by the City in the first instance, but in case the author or continuer of such nuisance is the owner or occupant of the property whereon such nuisance exists, the expense of the removal thereof shall be taxed to such owner or occupant as a part of the costs and expenses in such cause, and be recovered by the City from such owner or occupant, notified as hereinbefore provided.

The Recorder shall tax such costs and expenses as soon as they are ascertained, and if such costs and expenses are not paid, when so taxed against such owner or occupant, within 5 days after the taxing thereof, the Recorder shall forthwith thereafter enter a statement of such costs and expenses on the book of City liens; such statement shall contain the following matters in relation to the removal and abatement of such nuisance:

1. A particular description of the tract of land whereon such nuisance existed
2. The amount of the costs and disbursements of the arrest and conviction of the author or continuer of such nuisance.
3. The name of the owner and occupant of the land whereon such nuisance existed
4. The amount of the costs and expenses of the removal of such nuisance by the Marshall.

From the date of the entry of such statement in the book of City liens, such costs, disbursements and expenses shall be and constitute a lien on or against the tract of land described in such lien shall be enforced against such land in the same manner as provided in the Charter of said City and the ordinance thereof for the enforcement of liens on real property in said City, for street improvements.

Section 5 Whenever the Committee on Health and Police shall find that any stagnant water exists on any lot or lots, block or blocks, within the limits of the City of Albany to such an extent as to be a nuisance, or to endanger the health of the Citizens of said City residing or passing within in the vicinity where such stagnant water is situated and that in order to remove the same from such land, it is necessary to fill up or drain the same, said Committee shall report such fact in writing to the Council at their next meeting, together with a description of the lands upon which such stagnant water is situated, the owner or owners of such property together with their estimate of the costs and expenses of making such fill or drain. Thereupon if the Council shall adopt such report, they shall declare by ordinance that such stagnant water is a nuisance, and that a necessity for such fill or drain exists, and state in such Ordinance the reasons therefor. Immediately thereafter the Recorder shall deliver certified copies of such Ordinance declaring the necessity of such fill or drain, to the Marshall who shall forthwith serve the owner or owners of such land or his or their Agent or Agents, with a copy of such Ordinance, and at the same time notify such owner or owners, his or their Agent or Agents, to fill or drain such premises within a time specified in such notice, which said time shall be fixed by the Council in the Ordinance declaring the necessity for such fill or drain, and if such owner or owners, his or their Agent or Agents shall fail or refuse to make such fill or drain within the time so fixed by the Council, which time shall not be less than five days, then the Committee on Health and Police shall let the Contract for such work to the lowest bidder after first giving five days notice posted in three public places in the City, of the time and place of letting the Contract for such work. When the Contract is let, the work shall be done under the direction of

The Committee on Health and Police, and it shall be the duty of the Superintendent of Streets to see that such work is finished as rapidly as possible. When such work is finished the costs and expenses thereof shall be immediately entered by the Recorder in the book of City liens, in the same manner as provided in the Charter and Ordinances for entering liens for street improvements, and such entry shall constitute a lien against all of the lands upon which such stagnant water existed, and such lien shall be enforced against such property in like manner and with like effect as a lien for street improvements.

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Section 9. All accumulations in or upon any yard, lot, place or premises, or upon any street sidewalk or alley, adjacent to or abutting upon any lot, block, place or premises within the limits of the City of Albany, of any stagnant or impure water, refuse, vegetables decayed or decaying substances, garbage manure or filth of any kind, from which a noisome or offensive smell or atmosphere shall arise, and all buildings, structures and awnings within said City limits which shall become so much injured by fire, decay, or on account of defective material used in the construction thereof, or from any other cause as to be dangerous to surrounding property, or in danger of falling, and all privies, belonging to or appertaining to any house, store-building or premises in said City, which are or shall be kept in such condition or manner as to cause a noisome or offensive smell or atmosphere to arise therefrom or to be offensive to decency in any manner, are hereby defined to be nuisances.

Section 10. If any person or persons shall violate any of the provisions of this ordinance he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof before the Recorder, shall be fined not less than \$5.00 nor more than \$100.00 or imprisoned

oned in the City jail not less than 2 days nor more than 50 days, or by both such fine and imprisonment at the discretion of the Court. And in all cases of conviction under this ordinance, the costs of the case, together with the costs of removing or abating the nuisance shall be taxed against the defendant.

Section 11 All ordinances and parts of ordinances in conflict herewith are hereby repealed

Section 12 This ordinance shall be in full force and effect from and after five days from its approval by the Mayor

Passed the Council April 14<sup>th</sup> 1891

Approved 16<sup>th</sup> April 1891

J. L. Conall

Mayor

Attest:

J. G. Heaton

Recorder of the City of Albany

State of Oregon E 55  
County of Linn ?

Office of City Recorder

J. G. Heaton, Recorder of the City of Albany Oregon do hereby certify, that the foregoing Ordinance No 209 has been by me carefully compared with the original Ordinance bill No 219 now on file in this office, and that it is a true and correct copy of all and the whole of said Ordinance bill No 219, as passed by the Council April 14<sup>th</sup> 1891.

In testimony whereof I have hereunto set my hand, and affixed thereto the seal of the City of Albany this 16<sup>th</sup> day of April A. D. 1891.

J. G. Heaton

Recorder of the City of Albany

