

ORDINANCE NO. 4702

TITLE:

AN ORDINANCE REPEALING CHAPTERS 13.20 AND 13.24 OF THE ALBANY MUNICIPAL CODE AND ADOPTING IN LIEU THEREOF, SECTIONS 13.21.10 THROUGH 13.21.230 PRESCRIBING REGULATIONS FOR MOTOR VEHICLE PARKING.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1:

AMC 13.20 and 13.24 are repealed.

SECTION 2:

The following regulations are adopted with respect to motor vehicle parking within the City of Albany and are codified as Albany Municipal Code Chapter 13.21.10 through 13.21.230 as follows:

13.21.10 Definitions. For the purpose of this chapter:

(a) "Park" or "parking" means the standing of a vehicle, whether occupied or not, upon a street otherwise and temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

(b) "Person" means and includes any individual, firm, copartnership, association or corporation.

(c) "Operator" means and includes every individual who shall operate a vehicle as the owner thereof, or as the agent, employee, permittee of the owner or in actual physical control of the vehicle.

(d) "Street" means any public street, avenue, road, alley, highway, lane, path, or other public place located in the City, established for the use of vehicles.

(e) "Vehicle" means any device in, upon or by which any person or property is or may be transported upon a highway, except a device which is operated upon rails or tracks.

13.21.20 Improper Parking Methods.

(a) No person shall stand or park a vehicle in a street, other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within twelve inches of the edge of the curb, except where the street is marked or signed for angle parking.

(b) Where parking space markings are placed on a street, no person shall stand or park a vehicle other than at the indicated direction and within a single marked space, unless the size or shape of the vehicle makes compliance impossible.

(c) Whenever the owner or driver of a vehicle discovers that the vehicle is parked immediately in front of or close to a building to which the Fire Department has been summoned, he/she shall immediately remove the vehicle from the area unless otherwise directed by police or fire officers.

13.21.30 Prohibited Parking Areas. No driver of a vehicle shall stop, stand or park it, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control signal, in any of the following places:

- (a) When in an intersection;
- (b) On a crosswalk;
- (c) Within ten feet of a fire hydrant;
- (d) In front of a private driveway;
- (e) On a sidewalk;
- (f) In a bus stand, unless operating a bus;
- (g) In a passenger loading zone, unless loading or unloading passengers and their luggage;
- (h) In a taxi stand, unless a regularly licensed taxi cab;
- (i) Upon a bridge, viaduct or elevated structure used as a street;
- (j) In an alley, except to load or unload persons or materials not to exceed fifteen consecutive minutes in any one hour. A vehicle may park in any alley between the hours of eight o'clock a.m. and five o'clock p.m. if it is actively needed to make installation or repairs to equipment or buildings or for building construction, provided the vehicles will not cause the alley to be blocked to other traffic.
- (k) Upon any parkway except where specifically authorized;
- (l) Upon any street within the city for the principal purpose of:

- (a) Displaying such vehicle for sale,
 - (b) Greasing or repairing such vehicle,
- except repairs necessitated by emergency,
- (c) Displaying or advertising from such vehicle,
 - (d) Selling merchandise from such vehicle, except in a duly licensed market place or when so authorized or licensed under the ordinances of this city,
 - (e) Storage or junkage or dead storage for more than twenty-four hours,
 - (m) A vehicle upon any marked bicycle pathway.
 - (n) Upon any street, alley, public parking lot, or parking strip in the city with any vehicle or combination of vehicles which are in excess of twenty-three (23) feet in length ~~or with the capacity of carrying more than one and one-half (1 1/2) tons~~ or in excess of eight (8) feet in width between the hours of 10:00 p.m. and 7:00 a.m. of the following day and all day on Saturday, Sunday, and holidays.

13.21.40 Parking Time Limited In Certain Areas.

When signs are erected in any block or within any public parking lot limiting permissible parking time, ~~giving notice thereof~~, no person shall park a vehicle within that block or parking lot ~~the block~~ for longer than the time posted upon ~~the~~ sign. Movement of a vehicle to a parking space on either side of the same street within the area between the intersections at each end of the block shall not extend the time limits for parking. Nor, shall movement of a vehicle to another parking space within the same parking lot extend the time limits for parking. After a vehicle has been moved from the posted block or parking lot for a period of time not less than one hour, then a new time limitation shall apply.

13.21.50 Parking in Violation of Signs. No person shall stand or park a vehicle in violation of any sign posted by the City of Albany regulating the manner in which vehicles may be parked whether such sign is placed on a public street or upon a public parking lot.

13.21.60 Designation of Parking Spaces and Signs. The Public Works Director of the City of Albany is hereby authorized to designate and mark off individual parking spaces upon public streets or parking lots. Parking spaces are to be designated by lines painted or durably marked upon the curbing or the surface of the street. The Public Works Director is further authorized to post signs upon or adjacent to public streets or parking lots regulating the manner in which vehicles may be parked.

13.21.70 Public Parking Lots. It is unlawful for any person to back into and leave a parked motor vehicle in a parking space on a public parking lot in the city.

13.21.80 Use of Loading Zone. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick up and loading of materials, freight or passengers in any place designated a loading zone during the hours when the provisions applicable to loading zones are in effect. The stopping, standing or parking of a vehicle in an unmetered loading zone in excess of fifteen minutes shall be prima facie evidence of a violation of the use of the loading zone.

13.21.90 Use of Passenger Loading Zone. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of passengers in any place designated as a passenger loading zone during the hours when the provisions applicable to passenger loading zones are in effect.

13.21.100 Restricted Use of Bus and Taxicab Stands. No person shall stop, stand, or park a vehicle other than a bus in a bus stand or other than a taxicab in a taxicab stand, except that the driver of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

13.21.110 Barricade of Parking Spaces.

(a) The City Recorder may issue a permit to be placed on a barricade in a parking space in a time limit zone to a contractor or utility company engaged in construction, reconstruction, or repair of a building or installation of equipment, or to persons engaged in moving furniture or fixtures into or out of a building located adjacent to a street in a time limit zone when such building is to be used as a public gathering place.

(b) The permit shall be issued only for each particular construction job or use.

(c) No person shall stand or park vehicles and/or equipment other than those described on the permit in the posted or barricaded space or area.

13.21.120 Exemption. The provisions of this title regulating the parking or standing of vehicles do not apply to any vehicle of a city department or public utility while necessarily in use for construction or repair work on the street or any vehicle owned by the United States while in use for the collection, transportation or delivery of United States mail.

13.21.130 Enforcement Responsibility. ~~It shall be the duty of the police department to enforce~~ The Chief of Police and every police officer shall have the responsibility for enforcement of the provisions of this chapter. The Chief of Police may appoint such additional persons as he deems necessary to act as parking enforcement officers. Such persons shall have the authority and responsibility to enforce all regulations of this chapter. Such parking enforcement officers shall be considered "issuing officers" for the purposes of ORS 221.340.

13.21.140 Responsibility of Owner for Parking Violations.

(a) The owner of a vehicle parked in violation of AMC 13.21.110 through 13.21.120, shall be responsible for the offense, except where the use of the vehicle was secured by the operator without the owner's consent.

(b) In a prosecution of a vehicle owner charged with a violation of AMC Sections 13.21.110 through 13.21.120, proof that at the time of the alleged violation the vehicle was registered with the appropriate motor vehicle licensing authority of any state as belonging to the defendant shall raise a disputable presumption that he was the owner at the time of the violation in question.

13.21.150 Penalties for Parking Violations. Notwithstanding AMC 1.04.10, violations of AMC Sections 13.21.110 through 13.21.120 shall be punishable only through the imposition of a civil penalty in an amount not to exceed \$100.00 per violation.

13.21.160 Methods of Charging Parking Violations.

Whenever any officer having enforcement responsibility as provided in AMC Section 13.21.130 shall have reasonable cause to believe that a vehicle is parked in violation of any of the provisions of AMC Section 13.21.110 through 13.21.120, he shall issue a citation in conformance with ORS 221.340, and file the original thereof with the Municipal Court Clerk or such other person as the Clerk may designate to receive such citations.

13.21.170 Forfeiture.

(a) Before midnight on the 14th day following the date of the alleged violation, any person charged with a violation of AMC Section 13.21.110 through 13.21.129 may, without personal appearance before the Municipal Judge, make a forfeiture deposit in the amount shown on the citation charging such offense, which amount shall be for an alleged violation of:

(1) AMC Section 13.21.20(a), 13.21.30(a) through 13.21.30(m), 13.21.70, 13.21.80, 13.21.90, 13.21.100, and any other violation of 13.21.10 through 13.21.120 and any other parking regulations for which a specific forfeiture deposit is not set forth below, \$5.00.

(2) AMC Section 13.21.20(b), 13.21.40, \$3.00.

(3) AMC Section 13.21.30(n), \$10.00.

(b) After the period set forth in subsection (a) of this section, and before midnight of the 30th day following the date of the alleged offense, any person so charged may, without personal appearance before the Municipal Judge, make a forfeiture deposit in the amount designated in this subsection.

If the amount under subsection (a) of this section for the alleged violation is:

(1) \$3.00, then the forfeiture shall be \$7.50.

(2) \$5.00, then the forfeiture shall be \$7.50.

(3) \$10.00, then the forfeiture shall be \$12.50.

(c) After midnight of the 30th day following the date of the alleged offense, any person so charged may, without personal appearance before the Municipal Judge, make a forfeiture deposit in the amount designated in this subsection. If the amount under subsection (a) of this section for the alleged violation is:

(1) \$3.00, then the forfeiture shall be \$12.00.

(2) \$5.00, then the forfeiture shall be \$12.00.

(3) \$10.00, then the forfeiture shall be \$15.00.

(d) The Municipal Judge may, in the exercise of his discretion and where he deems cause to exist therefor in a particular case, remit all or any portion of the forfeiture set forth in this section, or require any additional sum he deems necessary up to the maximum civil penalty prescribed in AMC Section 13.21.150.

13.21.180 Plea of Defendant. Any person charged with a violation of AMC Section 13.21.10 through 13.21.120 shall plead either guilty, not guilty, or no contest to the charge by:

(a) Appearing before the Municipal Judge and entering his plea in open court;

(b) Entering his plea in writing, by regular mail or personal delivery, accompanied by the sum fixed as bail which shall equal the forfeiture amount set forth at AMC 13.21.170; or

(c) Depositing bail, equal to the forfeiture amount without a specific plea as provided in AMC Section 13.21.170.

13.21.190 Powers of Court Upon "No Contest" Plea. Upon entry of a plea of "no contest" as provided in AMC 13.21.180 or 13.21.200, the court may consider any oral or written statement given by the defendant; and may, on its own motion and in the interest of justice, order the charge dismissed and any bail returned to the defendant. Unless the court dismisses the charge, the court shall enter a judgment of conviction upon a plea of "no contest."

13.21.200 Effect of Forfeiture Deposit Not Accompanied By Answer. Whenever a person charged with a violation of AMC 13.21.10 through 13.21.120 makes a forfeiture deposit in the sum fixed pursuant to AMC 13.21.170, but does not enter his answer either personally or in writing, such deposit shall be deemed an answer of "no contest," except that, if the deposit is accompanied by a writing which does not specifically state an answer, the Municipal Judge may, in his discretion, treat the writing as either an answer of no contest or an answer of denial, depending on the tenor of the respondent's statement as to the material facts of the alleged violation, or may require that the respondent enter a specific answer within seven days, failure to enter which shall be deemed an answer of "no contest."

13.21.210 Procedure for Adjudication of Civil Penalty. The procedure to be used for adjudicating a defendant's violation of AMC Section 13.21.10 through 13.21.120 and the appeal of any conviction therefrom shall be the same as those employed for the adjudication of any criminal violation of the Albany Municipal Code except that:

(a) Defense counsel shall not be provided at public expense;

(b) While the City Attorney may aid in preparing evidence and obtaining witnesses for trial, he shall not appear at such trial unless counsel for the defendant appears;

(c) The City shall have the burden of proving the defendant's commission of the violation in question by preponderance of the evidence; and

(d) There shall be no right to jury trial.

13.21.220 Failure to Appear and Answer Parking Citations. Every person cited for a parking violation pursuant to AMC Section 13.21.10 through 13.21.120 shall appear before the Municipal Judge on the day and at the time and place specified in the parking citation and enter a plea as required by AMC Section 13.21.180. A failure to appear and answer said charge or a failure to appear at any subsequent trial or hearing after having received notice thereof, shall be a crime punishable by the general penalty set forth in AMC Section 10.04.010.

13.21.230 Failure to Pay Civil Penalty. Any civil penalty referred to in this chapter shall be imposed by order of the Municipal Court and any failure to pay said penalty shall be enforceable through contempt proceedings.

Please Note: AMC Sections 13.20.060, 13.20.080, 13.24.010(6), 13.24.010(7), 13.24.010(8), 13.24.020, 13.24.030, 13.24.040, 13.24.050, 13.24.060, 13.24.070, 13.24.080, 13.24.090, 13.24.100, 13.24.120, 13.24.130, 13.24.140, 13.24.150, 13.24.160, 13.24.170, 13.24.180, and 13.24.190, have been deleted in their entirety.

PASSED BY THE COUNCIL: December 18, 1985

APPROVED BY THE MAYOR: December 20, 1985

EFFECTIVE DATE: January 17, 1986

ATTEST:



City Recorder



Mayor