

ORDINANCE NO. 5779

AN ORDINANCE AMENDING TITLE SEVEN OF THE ALBANY MUNICIPAL CODE AND DECLARING AN EMERGENCY

WHEREAS, in 2007, the City Council of the City of Albany began a review of the City's Charter and noted several revisions and changes that were needed to bring the Charter into compliance with current legal and procedural practices; and

WHEREAS, the City Council submitted those revisions and changes to the electors of the City in May 2010; and

WHEREAS, the electors approved the changes and the City Council adopted them in June 2010; and

WHEREAS, reviewing the Charter prompted City staff to move on to review more of the Albany Municipal Code, title by title, and recommend changes or revisions that align with those in the revised Charter; and

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Amending Albany Municipal Code Title 7 as follows:

~~7.08.030 Loitering:~~

~~A person commits the crime of loitering if he/she:~~

~~(1) Loiters in or near a school building or grounds, not having any reason or relationship involving custody of or responsibility for a student, or upon inquiry by a peace officer or school official, not having a specific, legitimate reason for being there; or~~

~~(2) Loiters or prowls in a public place without apparent reason and under circumstances which warrant justifiable alarm for the safety of persons or property in the vicinity and upon inquiry by a peace officer, refuses to identify himself/herself and give a reasonably credible account of his/her presence and purposes. (Ord. 5026 § 1, 1993; Ord. 3603 § 3, 1972; Ord. 2823 § 5, 1958).~~

~~7.16.010 Concealed weapons:~~

~~No person other than an authorized officer or person licensed pursuant to ORS 166.290 shall carry concealed on or about his/her person in any manner any revolver, pistol, or other firearm, or any knife, other than an ordinary pocketknife, or any dirk, dagger, stiletto, metal knuckles or any other weapon by the use of which injury could be inflicted upon person or property. (Ord. 5026 § 1, 1993; Ord. 2823 § 11, 1958).~~

~~7.16.030 Discharge of weapons~~

~~(e) By a properly licensed waterfowl hunter, hunting on privately owned property of not less than 20 acres with the permission of the property owner, in full compliance with State and Federal hunting laws, regulations, and requirements, between January 13, 2000, through January 16, 2000, and between January 26, 2000, through February 27, 2000.* (Ord. 5430 § 1, 2000; Ord. 5026 § 1, 1993; Ord. 5011 § 1, 1992; Ord. 4694 § 1, 1985; Ord. 2823 § 13, 1958).~~

7.20.010 Possession of burglar's tools.

(1) A person commits the crime of possession of burglar's tools if he/she possesses any burglar's tool with the intent to use the tools or knowing that some person intends to use the tools to commit or facilitate a forcible entry into premises or theft by physical taking.

(2) "Burglar tool" means acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating a forcible entry into premises or theft by a physical taking. (Ord. 5026 § 1, 1993; Ord. 3603 § 6, 1972; Ord. 2992 § 1, 1961; Ord. 2823 § 29, 1958).

Chapter 7.24

TRAINS

Sections:

7.24.010 Train signals.

7.24.020 Flying switches.

7.24.040 Boarding.

7.24.050 Handling.

7.24.060 Blocking traffic.

7.24.010 Train signals.

It is unlawful for any person or persons running, conducting or managing the locomotive train, electric cars, or electric trains within the corporate limits of the City, to cross any street intersection in the City between the hours of 6:00 a.m. and 11:00 p.m. without first sounding a bell, gong, or other signal while approaching any street intersection. (Ord. 2823 § 9, 1958).

7.24.020 Flying switches.

It is unlawful for any firm or corporation having charge of the moving of any railroad cars within the corporate limits of the City to make any flying switches or to move any such cars by the process commonly known as kicking without first having stationed a competent person at each street intersection where such cars may cross to warn traffic on such street of the approaching of such cars. (Ord. 2823 § 10, 1958).

7.24.040 Boarding.

It is unlawful for any person other than a railroad employee to climb upon or enter or to board any portion of any railroad car or railroad train at any place within the corporate limits of this City, except at a regular depot platform or where the train or trains may regularly stop for passengers. (Ord. 1549 § 2, 1942; Ord. 1495 § 2, 1940).

7.24.050 Handling.

It is unlawful for any person or persons other than a railroad employee to run or move or handle or in any way interfere with any locomotive or train left standing by any railroad company on its track in the City or any part thereof. (Ord. 1549 § 3, 1942; Ord. 1495 § 3, 1940).

7.24.060 Blocking traffic.

It is unlawful for any person or persons managing, conducting, operating, and running any railroad train or any car to stop the same and allow the same to remain standing to exceed 20 minutes at any point where a public and traveled street crosses any railroad track within the City. (Ord. 1549 § 4, 1942; Ord. 1495 § 4, 1940)

Chapter 7.32 Petty Larceny—Shoplifting

7.32.010 Definitions.

As used in this code, unless context requires otherwise:

- (1) "Appropriate property of another to oneself or a third person" or "appropriate" means to:
- (a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or
 - (b) Dispose of the property of another for the benefit of oneself or a third person.
- (2) "Deprive another of property" or "deprive" means to:
- (a) Withhold property of another or cause property of another to be withheld from him/her permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him/her; or
 - (b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.
- (3) "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.
- (4) "Owner of property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.
- (5) "Property" means any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, real property, choses in action, evidence of debt or of contract. (Ord. 5026 § 1, 1993; Ord. 3603 § 1, 1972; Ord. 2823 § 34, 1958).

7.32.020 Theft — Definition.

A person commits theft when, with intent to deprive another of property or to appropriate property to himself/herself or to a third person, he/she:

- (1) Takes, appropriates, obtains or withholds such property from an owner thereof; or
- (2) When the person knows or has good reason to know the property has been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient and said person has the intent to deprive the owner thereof and he/she fails to take reasonable measures to restore the property to the owner;
- (3) Shoplifting Defined. Any person who willfully conceals or takes possession of any goods offered for sale by a wholesale or retail store or other mercantile establishment, without the knowledge or consent of the owner, and with the intent to convert the goods to his/her own use without paying the purchase price thereof, is guilty of shoplifting. It shall be prima facie evidence of an attempt to convert the goods to his/her own use if such goods are taken from the establishment without having paid for the same or without having made arrangements with the owner, manager, or one of his/her agents at the wholesale, retail or mercantile establishment to remove the goods. Any person found guilty of shoplifting as defined in this section shall, upon conviction, be punished as provided in Section 1.04.010. (Ord. 5026 § 1, 1993; Ord. 3603 § 8, 1972; Ord. 3462 § 1, 1970; Ord. 3198 § 1, 1965).

7.32.030 Theft.

A person commits the crime of theft if, by other than extortion, the person:

- (1) Commits theft as defined in Section 7.32.020 of this chapter; and
- (2) The total value of the property in a single or aggregate transaction is under \$750.00; or
- (3) The total value of the property in a single or aggregate transaction is under \$200.00 in a case of theft by receiving. (Ord. 5141 § 1, 1994; Ord. 4918 § 1, 1990; Ord. 3603 § 9, 1972).

7.32.040 Theft by receiving

(1) A person commits the crime of theft by receiving if the person receives, retains, conceals or disposes of property of another knowing or having good reason to know the property was the subject of theft.

(2) "Receiving" means acquiring possession, control or title, or lending on security of the property. (Ord. 5141 § 5, 1994).

7.36.010 Theft of services.

(1) A person commits a crime of theft of services if:

(a) With intent to avoid payment therefor, he/she obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities or another, he/she uses or diverts to the use of himself/herself or a third person such labor, equipment or facilities with intent to derive a commercial benefit for himself/herself or a third person not entitled thereto.

(2) As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public nature such as gas, electricity, steam and water.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained by deception. (Ord. 5026 § 1, 1993; Ord. 3603 § 10, 1972; Ord. 2823 § 23, 1958).

7.40.010 Destruction of official notices and signs.

No person shall willfully deface or tear down any official notice or bulletin or any official sign or signal posted or placed in conformity with the law. (Ord. 2823 § 30, 1958).

7.40.020 Criminal mischief.

(1) A person commits the crime of criminal mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so or reasonable grounds to believe that he/she has such right, he/she tampers or interferes with property of another.

(2) A person commits the crime of criminal mischief in the second degree if he/she commits the crime defined in subsection (1) and in addition thereto the damages to the property are in an amount exceeding \$100.00 or having no right to do so or no reasonable grounds to believe that he/she has such right, he/she intentionally damages property of another in any amount, or he/she recklessly damages property of another in an amount exceeding \$100.00. (Ord. 5026 § 1, 1993; Ord. 3667 § 1, 1972; Ord. 2823 § 31, 1958).

7.40.030 Taking, retention or mutilation of public records.

(1) No person shall without proper authority take or remove any public record, document, book, paper or personal property of any kind owned by the City.

(2) No person without proper authority shall mutilate or destroy any public record, document, book, or paper on file or kept on record in any public office of the City.

(3) No person shall retain any public record, document, book or paper after lawful demand has been made for the return thereof. (Ord. 2823 § 33, 1958).

7.40.040 Criminal trespass.

(1) A person commits the crime of criminal trespass if he/she enters or remains unlawfully in or upon premises.

(2) For the purpose of this section, the following definitions shall apply:

(a) "Enter or remain unlawfully" means:

(i) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when entrant is not otherwise licensed or privileged to do so; or

(ii) To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge;

(b) "Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain was required;

(c) "Premises" includes any building and any real property, whether privately or publicly owned;

(d) "Person in charge" means a person, his/her representative or his/her employee who has lawful control of premises by ownership, tenancy, official position, or other legal relationship. It includes, but is not limited to the person, or holder of a position, designated as the person or position holder in charge by City Council, board, commission or governing body of any political subdivision of the State. (Ord. 5026 § 1, 1993; Ord. 3603 § 11, 1972; Ord. 3160 § 1, 1964; Ord. 2823 § 61, 1958).

7.48.010 Definition.

Any person who by means of telephone communication:

(1) Makes any comment, request, suggestion or proposal which is obscene or lewd or lascivious and with intent to annoy, abuse, threaten or harass any person at the called number; or

(2) Makes a telephone call whether or not conversation ensues, with or without disclosing his/her identity and with the intent to annoy, abuse, threaten or harass any person at the called number; or

(3) Makes or causes the telephone of another to repeatedly or continuously ring, with intent to annoy or harass any person at the called number; or

(4) Makes repeated telephone calls during which conversation ensues, solely to annoy or harass any person at the called number, shall be punished as provided in Section 1.04.010. (Ord. 5026 § 1, 1993; Ord. 3306 § 1, 1967).

7.48.020 Allowing use of telephone.

It is unlawful for any person knowingly to permit any telephone under his/her control to be used for any purpose prohibited by Section 7.48.010 and violation thereof shall be subject to punishment as provided in Section 1.04.010. (Ord. 5026 § 1, 1993; Ord. 3306 § 2, 1967).

7.48.030 Location.

Any offense committed by use of the telephone as herein set out shall be deemed to have been committed either at the place in which the telephone call is made or at the place where the telephone call is received. (Ord. 3306 § 3, 1967).

Chapter 7.52 Littering

7.52.010 Short title.

This chapter shall be known and may be cited as the "Albany Anti Litter Ordinance." (Ord. 2920 § 1, 1960).

7.52.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Aircraft" means any contrivance now known or hereafter invented, used, or designated for navigation or for flight in the air. "Aircraft" includes helicopters and lighter than air dirigibles and balloons.

(2) "Authorized private receptacle" means a litter storage and collection receptacle as required and authorized in Ordinance No. 2758.¹

(3) "City" means the City of Albany, Oregon.

(4) "Commercial handbill" means any printed or written matter, and sample, or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

(a) Which advertises for sale any merchandise, product, commodity, or thing, or

(b) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales, or

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause do not apply where an admission fee is charged or a collection is taken up for the

purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, or under any ordinance of this City, or

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(5) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(6) "Litter" means "garbage", "refuse", and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(7) "Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statutes or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(8) "Noncommercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(9) "Park" means a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

(10) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(11) "Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(12) "Public place" means any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(13) "Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(14) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

(15) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Ord. 2920 § 2, 1960).

7.52.030 Offensive littering.

(1) A person commits the crime of offensive littering if he/she creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way; or

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon public way; or

(c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he/she is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.

(2) As used in this section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, county or a local municipality for use by the general public. (Ord. 5026 § 1, 1993; Ord. 3603 § 14, 1972; Ord. 2920 § 3, 1960).

7.52.040 Placement of litter in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place. (Ord. 2920 § 4, 1960).

7.52.050 Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (Ord. 2920 § 5, 1960).

7.52.060 Merchants' duty.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter. (Ord. 2920 § 6, 1960).

7.52.070 Litter thrown from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City. (Ord. 2920 § 7, 1960).

7.52.080 Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances or foreign matter of any kind. (Ord. 2920 § 8, 1960).

7.52.090 Litter in parks.

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. (Ord. 2920 § 9, 1960).

7.52.100 Lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay, or any other body of water in a park or elsewhere within the City. (Ord. 2920 § 10, 1960).

7.52.110 Commercial handbills in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however that it is not unlawful on any sidewalk, street, or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (Ord. 2920 § 11, 1960).

7.52.120 Placing on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle, provided however, that it is not unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (Ord. 2920 § 12, 1960).

7.52.130 Depositing on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. 2920 § 13, 1960).

7.52.140 Prohibiting distribution where posted.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if required by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement", or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 2920 § 14, 1960).

7.52.150 Distributing at inhabited private premises.

(1) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon the premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

(2) Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein). (Ord. 2920 § 15, 1960).

7.52.160 Dropping litter from aircraft.

No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object. (Ord. 2920 § 16, 1960).

7.52.170 Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law. (Ord. 2920 § 17, 1960).

7.52.171 Owner of property referred to in sign responsible.

When any sign or notice has been posted as prohibited in Section 7.52.170 it should be presumed that the owner or occupant of the premises referred to in the sign, notice, or poster, has caused the sign to be posted. (Ord. 4514 § 1, 1982).

7.52.180 Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property. (Ord. 2920 § 18, 1960).

7.52.190 Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section does not prohibit the storage of litter in authorized private receptacle for collection. (Ord. 2920 § 19, 1960).

7.52.200 Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not. (Ord. 2920 § 20, 1960).

7.52.210 Keeping of litter deemed nuisance.

It is hereby determined and declared that the keeping of litter on any vacant lots within the City is a nuisance and is unlawful. (Ord. 4552 § 1, 1982).

7.52.220 Notice of property owner—Cost of removal.

The City Manager or his/her designate shall notify any owner or person in charge of real property upon which the litter is located to remove the same within 10 days after notice. Notice shall be given by certified mail with return receipt addressed to the owner as shown by the Assessment Records of Linn County, Oregon. In the event that the property owner fails to remove said litter within 10 days after notice, the City Manager or his/her designate shall take action to cause the nuisance to be abated.

If the litter has not been removed within 10 days after notice, the City Manager or his/her designate may cause the same to be removed either through contract with a private contractor or by City crews and the cost of removal of said litter shall be calculated and be charged to the owner of the property and will become a lien against the property.

(1) Right to Enter. In the event it becomes necessary for the City Manager or his/her designate to undertake the removal of the litter from any private lot within the City, the City Manager or his/her designate shall have the right at reasonable times to enter into and upon the property to remove the litter.

(2) Cost to Become a Lien. Upon completion of the removal of the litter and in the event that the costs of the removal are not paid within 30 days, the City Manager or his/her designate shall file with the City Recorder and thereafter present to the City Council an itemized statement of the costs thereof. The City Council shall, thereafter, by ordinance determine the reasonableness of the cost which shall be an obligation owed to the City by the owner of the real property involved, and the City shall have a lien upon the real property for said sum and the lien shall be entered in the lien docket and enforced against the property in the manner provided for the enforcement of City liens. (Ord. 5026 § 1, 1993; Ord. 4552 § 1, 1983).

7.72.010 Interference with police.

A person commits a crime of interference with police if he/she intentionally interferes with any police officer or person duly empowered with police authority who is acting in the discharge of his/her duty if he/she:

- (1) Knows, or has reason to know, a crime has been committed and:
 - (a) Warns a person who has committed a crime of impending discovery or apprehension, or
 - (b) Prevents or obstructs by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person, or
 - (c) Suppresses by any act of concealment, alteration or destruction, physical evidence which might aid in the discovery or apprehension of such person, or
 - (d) Knowingly makes a false oral or written statement to a police officer who is then in the course of conducting a criminal investigation;
- (2) Offers or endeavors to assist any person in the custody of a police officer or a person duly empowered with police authority to escape or attempt to escape from such custody;
- (3) Impersonates, falsely assumes or pretends to be a law enforcement officer;
- (4) Uses or permits the use of property for planning or promoting criminal activities or violation of City ordinances;
- (5) Operates any generator or electromagnetic wave or causes a disturbance of such magnitude as to interfere with the proper functioning of any police radio communication system of the City;
- (6) Knowingly makes or files with the Police Department of the City any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime. (Ord. 5026 § 1, 1993; Ord. 4395 § 1, 1980; Ord. 2823 § 15, 1958).

7.72.020 Interference with Fire Department.

(1) No person shall intentionally give any false alarm of fire or aid or abet in the commission of such an act.

(2) It is unlawful for any person or persons to knowingly or willfully interfere with any member of the Fire Department in the lawful performance of their duties. For the purpose of this section, all members of the Fire Department are endowed with the same powers of arrest as those conferred upon peace officers for violations of the City ordinances.

(3) It is unlawful for any person or persons to tamper with any fire alarm boxes or with the wire or fastenings or any of the apparatus connected with the fire alarm system or with the fire engines, heaters, leaders, water supply, or anything connected with or pertaining to the City fire apparatus or wantonly to injure or impair the same of the City, or for any person to turn in any false fire alarm.

(4) It is unlawful for any person to lead, ride, or drive any horse or other animal or to operate any vehicle over or upon any fire hose or to disturb or injure in any manner any hose, engine, appliance or apparatus belonging to or used by the Fire Department. (Ord. 4536 § 1, 1982; Ord. 2823 § 16, 1958).

7.72.030 Resisting arrest.

(1) A person commits the crime of resisting arrest if he/she intentionally resists a person known by him/her to be a peace officer in making an arrest.

(2) "Resists," as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer. The behavior does not have to result in actual physical injury to the arresting officer. Passive resistance does not constitute behavior intended to prevent being taken into custody.

(3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided he/she was acting under the color of his/her official authority. (Ord. 5026 § 1, 1993; Ord. 4918 § 2, 1990; Ord. 3603 § 17, 1972).

7.72.040 Assaulting a public safety officer.

(1) A person commits the crime of assaulting a public safety officer if the person intentionally or knowingly causes physical injury to another person, knowing the other person to be a peace officer, corrections officer, or firefighter, and while such other person is acting in the course of official duty.

(2) Notwithstanding any other provisions of the Albany Municipal Code, a person convicted of assaulting a public safety officer shall be sentenced to not less than seven days of imprisonment and shall not be granted bench parole, probation or suspension of sentence before serving at least seven days of the sentence. (Ord. 4497 § 1, 1982).

7.94 Railroad Crossings

7.94.010 Definitions.

(1) "Railroad." The term "railroad" shall mean and refer to any corporation or other legal entity, installing, owning and operating and maintaining the operation of railroad transportation system in, upon or across and over the streets in the City of Albany.

(2) "Street." The term "street" shall mean any public thoroughfare more than 20 feet in width.

(3) "Railroad Crossing—Type A." All street crossings of railroad tracks in this class shall provide a smooth surface through the use of "Steel Flangeway Guards" and asphaltic surface material. The following provisions shall be standard for the construction and maintenance of Type A crossings:

(a) The end blocks of the guard rails shall extend beyond the face of curb if projected into the crossings.

(b) Paving material shall be compacted in flangeway area to the top of spacer blocks.

(c) A minimum of 12 inches of base rock shall be placed between the right of way lines to a width equivalent to the paved width of the crossing street and in accordance with the standard City specifications. If the soil conditions dictate the use of a greater thickness of base rock, the City Engineer may so direct.

(d) A minimum of three inches of asphaltic surface material shall be placed within the right-of-way lines and between the tracks and rails to an equivalent to the paved width of the crossing street.

(e) Standard City curb and gutters shall be placed to within 10 feet of the center lines of the outside tracks when they are in place on the crossing street.

(4) "Railroad Crossing Type B." All street crossings of railroad tracks in this class shall provide a smooth surface through the use of "planking and paving" as a minimum standard, however, the standards as set forth under Type A crossings may be used. The following provisions shall be standard for the construction and maintenance of Type B crossings:

(a) The area between the rails of each track and for a minimum distance of 16 inches on the outside of the rails shall be planked.

(b) The planking shall be extended beyond the curb lines if projected into the crossings.

(c) All other area within the right-of-way and to a width equivalent to the paved width of the crossing street shall be paved by placing a minimum of eight inches of base rock and at least three inches of asphaltic concrete surfacing in accordance with the City specifications. If the soil conditions dictate the use of a greater thickness of base rock, the City Engineer may so direct.

(d) Standard City curb and gutters shall be placed within 10 feet of the center line of the outside tracks when they are in place on the crossing street.

(5) "Railroad Crossing Type C." All street crossings or railroad tracks in this class shall be of a solid creosoted timber and paved highway crossing as provided in those plans and specifications of Southern Pacific Lines entitled "Solid Creosoted Timber and Paved Highway Crossing Supersedes Drawing 55152 and entitled Drawing No. 56079", dated July 5, 1956. A copy of said Drawing No. 56079 herein referred to shall be kept in the City Engineer's office of the City of Albany and be available to public inspection and said drawing and specifications shall be a part of this chapter as though fully set forth herein. (Ord. 3005 § 1, 1962; Ord. 2854 § 1, 1959).

7.94.020 Designation of type of railroad crossing to be maintained.

The City Council shall, by resolution, designate the type of railroad crossing that should be maintained by the railroads within the City of Albany. (Ord. 2854 § 2, 1959).

7.94.030 Notice.

Within 30 days after the passing of any resolution designating the type of railroad crossing to be maintained by railroads operating within the City of Albany, the City Recorder shall forward notice to the local agent for the railroad company of the designation of the type of railroad crossing to be maintained. (Ord. 2854 § 3, 1959).

7.94.040 Commencement of construction of railroad crossing and maintenance thereof.

A railroad, upon receiving notice of designation of a railroad crossing upon their property in the City of Albany, shall within 90 days after receipt of said notice, commence construction and proceed to maintain such designated railroad crossing in conformance with the type designated pursuant to the resolution of the City Council. The railroad crossing shall be completed within 90 days after notification has been given to the local agent of the railroad by the City Recorder as herein provided. (Ord. 2902 § 1, 1960; Ord. 2854 § 4, 1959).

7.94.050 Penalties for violation.

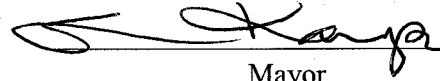
In the event that any railroad company does not maintain a street crossing of railroad tracks in the manner as herein provided and has taken no affirmative action to maintain the crossing as herein provided for 30 days after receiving notice from City Recorder, then and in that event, it shall be deemed in violation of this ordinance and shall be subject to fine of not more than \$500.00. Each week of failure to take action by the railroad company shall be deemed as a separate offense. (Ord. 2854 § 5, 1959).

Section 2: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effect immediately upon its passage by the Council and approved by the Mayor.

Passed by the Council: March 28, 2012

Approved by the Mayor: March 28, 2012

Effective Date: March 28, 2012



Mayor

ATTEST





Deputy City Clerk