

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE TITLE 7 BY ADDING A NEW SECTION 300 TO CHAPTER 7.84 ENTITLED IMPROPER USE OF TRANSIT SHELTERS AND DECLARING AN EMERGENCY.

WHEREAS, the City of Albany is adding Albany Municipal Code Section 7.84.300, Improper Use of Transit Shelters, to improve City transit service for the public at bus shelters and the train depot making it safe, cost-effective and efficient; and

WHEREAS, only persons who are boarding, disembarking or waiting for public transportation and have tickets are allowed to remain upon or occupy public transit shelters; and

WHEREAS, no person shall place object(s) or substance(s) on the seats of any transit shelter and will not lie down on or across seats or floors when it inhibits, obstructs or blocks the proper use of such seats; and

WHEREAS, it is in the best interest of public safety to maintain safe and orderly transit shelters.

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

Section 1. Amending Albany Municipal Code Title 7. The Albany Municipal Code Title 7 is hereby amended in Chapter 7.84 with Section 7.84.300 entitled Improper Use of Transit Shelters as follows:

- Sections:
- 7.84.310 Purpose.
  - 7.84.320 Definitions.
  - 7.84.330 Improper Use of Transit Shelter.
  - 7.84.340 Exclusions.
  - 7.84.350 Issuance of Exclusion Notice.
  - 7.84.360 Procedure for Exclusion.
  - 7.84.370 Appeal and Variance

**7.84.310 Purpose.**

The purpose of this Chapter is to provide for the safety, convenience, and comfort of transit passengers, for safety of City of Albany personnel, for the preservation of service quality in the City's ability to provide a cost-effective source of reliable transportation, and to prevent transit system security vulnerabilities. Therefore, it is necessary to establish rules and regulations governing conduct on City of Albany property.

**7.84.320 Definitions.**

"Transit Shelter" shall mean any and all City-owned or managed bus shelters, train shelters, non-covered bench areas related to bus or train transportation and the train depot.

**7.84.330 Improper Use of Transit Shelter**

No person shall:

- (1) Enter or remain upon, occupy or use a bus shelter for purposes other than boarding, disembarking or waiting for an approved City bus service;
- (2) Enter or remain upon, occupy or use the Train Depot, adjacent buildings including, but not limited to, interior or exterior seating areas for purposes other than boarding, disembarking or waiting for transit service;

- (3) Lie down on or across the seats or the floor of a bus shelter or train depot seating;
- (4) Remain in or within 20 feet of a bus shelter or train depot seating for a period in excess of one hour within a twenty-four hour period; however, a person in possession of a paid or issued train ticket for the date of the alleged violation of this ordinance shall be exempt from this sub-section up until the departure time as stated on the ticket or as may be modified by the service operator;
- (5) Place any object or substance on the seats of a bus shelter or train depot seating that inhibits the proper use of such seats; or
- (6) Block or obstruct the use of the seats or floor area of a bus shelter or train depot seating.

#### **7.84.340 Exclusions**

In addition to other measures provided for in violation of this section, any other Albany Municipal Code Ordinance, or the laws of the State of Oregon, the City may exclude an individual from any or all transit shelters for a violation of any provision of this section, or a violation of any criminal law of the State of Oregon while in or within 20 feet of a transit shelter for a period not to exceed 180 days.

#### **7.84.350 Issuance of Exclusion Notice**

The Chief of Police is designated as the person in charge of civil exclusion zones for the purpose of issuing exclusion notices in accordance with this chapter. The Chief of Police may authorize employees of the Albany Police Department to issue exclusion notices in accordance with this chapter.

#### **7.84.360 Procedure for Exclusion**

Upon the first violation of this ordinance, a party may be verbally warned of the offense. Upon a second violation within a twelve- (12) month period, a person in violation may be excluded from all transit shelters for a period of 90 days. All subsequent violations will carry a 180-day exclusion from the date of the violation.

At the time a person is verbally warned, cited to appear, arrested or otherwise taken into custody for violating any of the offenses specified herein, the officer making such warning, arrest or citation may deliver to that person a written notice excluding that person from any or all transit shelters and the area within 20 feet of the shelter. The exclusion shall take place immediately and apply to all City-owned transit shelters. A violation of a second or subsequent offense of this ordinance may result in a charge of Criminal Trespass in the Second Degree (ORS 164.245).

The notice shall specify the area from which the person is excluded, the length of the exclusion, the penalty for entering the excluded area and contain information concerning the right to appeal the exclusion to the Judge of the Municipal Court.

#### **7.84.370 Appeal and Variance**

- (1) The person to whom an exclusion notice is issued shall have the right to appeal the issuance of the notice. The exclusion notice will notify the person of the right to appeal and the process for such appeal.
  - (a) An appeal of the exclusion must be filed, in writing, within five (5) business days from the date of the issuance of the notice of exclusion. The appeal must be filed with the Municipal Court. A hearing on the appeal shall be held before the Judge of the Albany Municipal Court. The exclusion shall be stayed during the pendency of the appeal.
  - (b) The City shall have the burden to show by a preponderance of evidence that the exclusion was based upon the conduct proscribed in the citation. Copies of documents in its control and which are intended to be used by the City at the hearing shall be made available to the

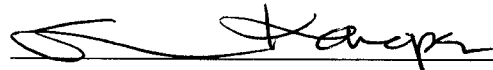
- appellant upon written request prior to the hearing.
- (c) A determination by a court having jurisdiction of the matter that the officer who issued the exclusion notice at the time had probable cause to arrest or cite the person to whom the exclusion notice was issued for the conduct described therein shall be prima facie evidence that the exclusion was based on conduct prohibited by those statutes.
- (2) An individual with a disability who is transit-dependant shall not be issued a complete exclusion from the transit shelters unless the person engaged in violent, seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if the Albany Municipal Court determines that a violation was more probable than not, the Albany Municipal Court shall order a qualified exclusion to permit the person with a disability to use the transit system for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.
- Any person asserting the right to a qualified exclusion on the basis of transit dependence shall have the burden of establishing transit dependence by a preponderance of the evidence.
- (3) Any variance may be granted at any time during the exclusion period by the Chief of Police, his or her designee or by the Municipal Court.
- (4) All variances shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated in the variance.
- (5) The person shall keep the variance on his or her person at all times the person is within the area of exclusion.
- (7) In the event a person is found to be outside the scope of the terms of the variance, the variance shall immediately become void and that person is subject to arrest for the crime of Criminal Trespass in the Second Degree (ORS 164.245) and/or Interfering with Public Transportation (ORS 166.116).

Section 2. Emergency Clause. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

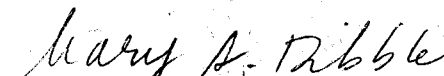
Passed by Council: May 14, 2014

Approved by Mayor: May 14, 2014

Effective Date: May 14, 2014

  
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 Mayor

ATTEST:

  
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 City Recorder