



ORDINANCE NO. 5991

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 8, BY THE CREATION OF CHAPTER 8.01 PUBLIC NUISANCES.

WHEREAS, the City of Albany is adding AMC Chapter 8.01, Public nuisances, to allow individuals simplified access to the community livability codes; and

WHEREAS, community livability codes were found throughout multiple titles of the Albany Municipal Code; and

WHEREAS, reorganizing the code will allow for greater transparency and ease of locating information.

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

Section 1. AMC 7.84.020, Imminent nuisance; 7.84.030, Debris, garbage, and junk deemed nuisance; 7.84.040, Prohibited; 7.84.050 Exceptions; 7.84.060, Attractive nuisances; 7.84.070, Injurious substances on street; 7.84.080, Animal carcasses; 7.84.090, Deposit of offensive substances; 7.84.100 Drainage of surface waters; 7.84.110, Creating a hazard; 7.84.120 Noxious vegetation, weeds, and tall grass; 7.84.130 Notice to property owner for noxious vegetation, weeds, and tall grass; 7.84.140, Abatement; 7.84.150, Imminent nuisance abatement; 7.84.160, Regular abatement; 7.84.170, Costs to become a lien; 7.84.180, Ongoing sale of household items (garage sales) deemed a nuisance; 7.84.190, Requirements for shopping cart providers; 7.84.200, Retrieval and disposal of carts – Fees and penalties; and 18.30.095, Holes, tanks, and traps, are hereby repealed.

Section 2. Amending AMC Title 8, Community Livability. AMC Title 8 is hereby amended to add Chapter 8.01 AMC titled Public Nuisances:

Sections:

Article I. Administration

8.01.005 Definitions.

Article II. Nuisances

- 8.01.010 Imminent nuisance.
- 8.01.015 Attractive nuisance.
- 8.01.020 Debris, garbage, and junk.
- 8.01.025 Noxious vegetation, weeds, and tall grass.
- 8.01.030 Holes, tanks, and traps.
- 8.01.035 Deposit of offensive substances.
- 8.01.040 Drainage of surface waters.
- 8.01.045 Creating a hazard.
- 8.01.050 Injurious substance on street.
- 8.01.055 Ongoing sale of household items (garage sales) deemed a nuisance.
- 8.01.060 Abatement

Article III. Shopping Carts

- 8.01.065 Requirements for shopping cart providers.
- 8.01.070 Retrieval and disposal of carts – fees.

Article I. Administration

8.01.005 Definitions.

For the purpose of the Albany Municipal Code, the following definitions apply:

- (1) "Person in charge of property" means an owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of real property.
- (2) "Place" or "property" means any premises, room, house, building or structure, or any separate part or portion thereof, whether permanent or not, or the real property itself.
- (3) "Street" means the portion of a road ordinarily used for vehicular travel, including the shoulder, and all public street right-of-way regardless of whether improved or unimproved.

Article II. Nuisances

8.01.010 Imminent nuisance.

No person in charge of property may permit, or no person may cause to exist, any thing, substance, or act that is an imminent threat to public health, safety, or welfare. An imminent nuisance is unlawful and may be summarily abated as provided in AMC 8.37.020. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the City Manager or their designee.

8.01.015 Attractive nuisances.

It is unlawful for any owner, lessee, occupant, or any person having control or custody or management of any premises to suffer or permit to remain unguarded upon such premises any machinery, equipment, or other device having the characteristics of an attractive nuisance or which is liable to attract children. It is further unlawful for any such owner, lessee, occupant, or person having control or custody or management of any such premises to suffer or permit to remain unguarded upon the premises any pit, quarry, cistern, well, or other excavation.

8.01.020 Debris, garbage, and junk.

- (1) It is hereby determined and declared that the keeping of any debris, garbage or junk out of doors on any street, public sidewalk, lot, or premises within the City, is a nuisance and is unlawful.
- (2) The following shall be removed, and shall be kept removed, unless specifically authorized by ordinance to do otherwise:
 - (a) Debris.
 - (i) Accumulations of litter, scrap materials (such as wood, metal, paper, glass and plastics), empty containers (such as glass, plastic, or metal), pieces of asphalt, concrete, lumber or other building supplies, junk, combustible materials, and stagnant water.
 - (ii) All dead bushes, dead trees, stumps, and yard clippings or cuttings of plant material; except for such material which:
 - (A) Is being maintained as part of a naturescaped property;
 - (B) Does not result in a nuisance as otherwise defined in this code; and
 - (C) Is located on a property which is otherwise substantially in compliance with this chapter.
 - (iii) The remains of something broken down or destroyed; or the accumulations of any other items not designed for outdoor storage.
 - (b) Garbage.
 - (i) All household garbage, offal, dead animals, animal and/or human waste, food waste, refuse, rubbish, trash, and all other useless or discarded material.
 - (c) Junk.
 - (i) Accumulations of wood pallets.
 - (ii) All firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property.
 - (iii) All inoperable motor vehicles, in which multiple major components are defective or removed for more than 30 consecutive days; any motor vehicle which has been unlicensed

for more than 30 consecutive days; defective motor vehicle parts, abandoned automobiles, used tires, inoperable and defective machinery, or parts thereof, inoperable and defective appliances and parts thereof, metal portions of inoperable machinery.

(iv) All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration, which are reasonably expected to be used at the site.

(v) All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.

(vi) All furniture, except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.

(vii) All empty glass, plastic, or metal containers.

(viii) All other non-trash items which:

(A) Are of a type or quantity inconsistent with normal and usual use; or

(B) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

(3) When it is determined that a nuisance caused by the presence of debris, garbage or junk exists and there is no imminent danger to human life, safety or to property, the City Manager or their designee shall issue a citation to the owner or person in charge of property.

(a) Upon the first offense, a 30-day notice shall be issued, with the citation, to allow the owner or person in charge of the property to abate the nuisance. If the owner or person in charge of the property completes abatement of the nuisance within the 30 days, the courts shall dismiss the citation.

(b) If special circumstances exist, a one time, up to 30-day extension may be granted to abate the nuisance.

(c) Any additional offenses by an owner or person in charge of a property shall remove the possibility of citation dismissal and abatement extension.

(d) When an owner or person in charge of property does not abate the nuisance, as defined in subsection (3)(a), (b) or (c) of this section, the City Manager or their designee should proceed with abatement as set forth in Chapter 8.37 AMC.

(4) This provision does not apply to junk kept at a duly licensed junk yard or automobile wrecking house.

8.01.025 Noxious vegetation, weeds, and tall grass.

(1) It is hereby determined and declared that weeds, tall grass, or other noxious vegetation are a public nuisance under any of the following conditions:

(a) When excess vegetation is determined by the Fire Chief or their designee to be a fire hazard,

(b) When vegetation creates a public safety concern such as, but not limited to, blocking the view of oncoming traffic, blocking the public right-of-way, or blocking vision clearance areas around intersections and driveways; or

(c) When grass is in excess of 10 inches.

(i) Exceptions can be granted for parcels of land used for agricultural purposes.

(2) It is unlawful for the owner or any person in possession or control of any lot or premises within the City to maintain a lot or premises which is determined to be a fire hazard or safety hazard as defined above.

(3) Violation of this section shall be an infraction.

8.01.030 Holes, tanks, and traps.

All holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors, and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property should be removed or filled, where filling will abate the nuisance.

8.01.035 Deposit of offensive substances.

It is unlawful for any person to put any animal carcass or part thereof, or any excrement, or any putrid, nauseous, decaying, deleterious, or offensive substances in any stream, well, spring, brook, ditch, pond, or

other inland waters within the corporate limits of the City, or to place any such substance in such position that high water or natural seepage will carry the same into any such waters.

8.01.040 Drainage of surface waters.

It is unlawful for the owner, lessee, or occupant of any building or structure to suffer or permit rainwater, ice, or snow to fall from any such building or structure upon any street or sidewalk or to flow across any such sidewalk, and every such owner, lessee, or occupant shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system sufficient to carry to the street, or other approved drainage facility, any overflow water accumulating on the roof or about such building.

8.01.045 Creating a hazard.

A person commits the crime of creating a hazard if:

- (1) It is unlawful for any person to create a hazard.
- (2) They intentionally maintain or leave in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or
- (3) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more and they intentionally fail or refuse to cover or fence it with a suitable protective construction.

8.05.050 Injurious substances on street.

It is unlawful for any person, firm, or corporation to permit to accumulate in or upon any yard, lot, or place, or premises on any street, alley, or sidewalk adjacent to or abutting upon any lot, block, place, or premises owned or controlled by them, any stagnant water or filth of any kind or to suffer or permit such premises to be or remain in such condition as to cause or produce or create noisome or offensive smell.

8.01.055 Ongoing sale of household items (garage sales) deemed a nuisance.

- (1) It is unlawful to offer, from a residential address, household items for sale to the general public more than three times per calendar year and in excess of three consecutive days per event.
- (2) Items offered for sale shall not be displayed or stored in the public right-of-way, in a clear vision area, or on another's property without the owner's permission.
- (3) Signs advertising garage sales shall not exceed two on-premises and two off-premises signs measuring no more than four square feet per face and four feet in height. Signs shall not be erected in the public right-of-way. Signs shall be erected no more than one day prior to the event and shall be removed not later than one day after.
- (4) The prohibitions set forth above shall apply jointly and severally to each owner or occupant of the real property used in the commission of the violation and/or any person who offers goods for sale.
- (5) Violation of this section shall be an infraction.

8.01.060 Abatement

In addition to penalties provided per AMC 1.04.010, the city may abate listed violation as allowed through Chapter 8.37 AMC.

Article III. Shopping Carts

8.01.065 Requirements for shopping cart providers.

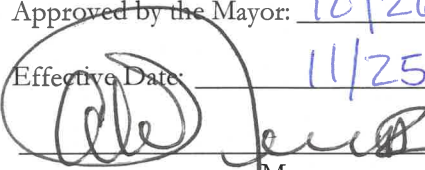
A person that supplies shopping carts for public use at the person's business shall:

- (1) Post signs in sufficient number to give notice to members of the public entering onto or leaving the business premises that unauthorized appropriation of a shopping cart is a crime under ORS 164.015 and provide a toll-free or local telephone number that members of the public may use to report abandoned shopping carts.
- (2) Identify the person's business on each shopping cart and post a sign on the shopping cart that:
 - (a) Notifies any member of the public using the shopping cart that unauthorized appropriation of a shopping cart is a crime under ORS 164.015;

- (b) Provides a toll-free or local telephone number for use in reporting an abandoned shopping cart.
- (3) Establish, maintain, and make available to the public, at the person's own expense, a toll-free or local telephone line for the purpose of reporting abandoned shopping carts. The person shall forward each report the person receives concerning an abandoned shopping cart to the owner of the shopping carts and to the Albany Police Department Community Resource Unit.
- (4) Retrieve abandoned shopping carts.

8.01.070 Retrieval and disposal of carts – fees.

- (1) A person may agree with other persons to share and to pay expenses related to the toll-free or local telephone line described in AMC 8.01.065(3). The agreement shall provide that any person designated to operate the toll-free or local telephone line and receive reports concerning abandoned shopping carts must forward the reports in accordance with AMC 8.01.065(3).
- (2) A person shall retrieve a shopping cart that the person owns within 72 hours after receiving notification that the shopping cart has been abandoned.
- (3) If the City identifies, salvages, or reclaims an abandoned shopping cart, it shall use the toll-free or local telephone line described in AMC 8.01.065(3) to report the existence and location of an abandoned shopping cart, if the owner is identifiable.
- (4) The City may take custody of an abandoned shopping cart and impose a fine of \$50.00 on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the City makes a report under subsection (3) of this section or after the owner receives a report under AMC 8.01.065(3).
- (5) The City may release a shopping cart in the City of Albany's custody to the owner upon payment of the \$50.00 fine.
- (6) The City may take title to a shopping cart in the City of Albany's custody and dispose of the shopping cart as the City of Albany deems appropriate if the owner does not claim the cart within 30 days.

Passed by the Council: 10/26/2022
Approved by the Mayor: 10/26/2022
Effective Date: 11/25/2022


Mayor

ATTEST:



City Clerk

