

ORDINANCE NO. 4901

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE 1.04.010, GENERAL PENALTY, PENALTY FOR VIOLATION, AND DECLARING AN EMERGENCY.

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

Section 1: Albany Municipal Code 1.04.010, Penalty for Violation, is hereby amended to read as follows:

1.04.010 Penalty for violation. (1) Except as provided in Section 2 hereof:

(a) Whenever in this code or in any ordinance of the City of Albany, an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, the violation of any such provision of the Albany Municipal Code or any other ordinance of the City of Albany shall be either a misdemeanor or an infraction, and shall be punished as provided in this section.

(b) Maximum penalties for offenses shall be as follows:

(1) Infraction - a civil penalty of \$500, or such lesser sum as may be provided in the ordinance defining the offense.

(2) Misdemeanor - a fine of not more than \$2,500 or imprisonment not to exceed one (1) year, or both such fine or imprisonment.

(c) Where an offense is defined in the Albany Municipal Code or any other ordinance of the City of Albany, and no penalty is provided, the offense shall be deemed a misdemeanor.

(d) Every day, or portion thereof, during which any violation of any provision of the Albany Municipal Code or any ordinance of the City of Albany is committed, continued or permitted, shall be a separate offense.

(e) An infraction, as classified in the Albany Municipal Code, is declared to be an offense, but not a crime. It is intended to be an offense which can be disposed of in all respects as a civil proceeding and not governed by procedural, evidentiary, substantive and constitutional rules applicable to criminal charges and proceedings. A person adjudged responsible for an infraction shall not be deemed "guilty" of the infraction and a judgment of responsibility shall not be deemed a "conviction" for any purpose.

(f) Notwithstanding anything in this section or any other ordinance to the contrary, no greater penalty shall be imposed for any violation of the Albany Municipal Code or any ordinance of the City of Albany than the maximum penalty prescribed under Oregon Statute for the same act or omission.

(g) For the purpose of facilitating disposition of infractions, the Municipal Judge may promulgate a schedule of forfeitures for particular infractions, and the person charged with such an infraction may deposit with the court the amount so scheduled, waive further appearance, and have the sum so deposited forfeited as a plea of "no contest." The court shall not, however, be bound by the schedule on appearance and admission by the person charged, or on trial and judgment against the person charged; the court in such a case may impose any forfeiture allowed by subsection (a) of this section."

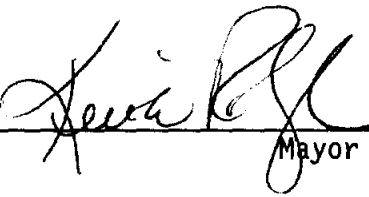
(2) Violation of Albany Municipal Code Chapter 10.08 through Chapter 10.12 shall be adjudicated and punished as provided in AMC 10.12.060, Enforcement, and 10.12.070, Penalties.

Section 2. Emergency Clause. It is hereby adjudged and declared that the existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the City of Albany, and 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 March 14, 1990

Approved by the Mayor: March 15, 1990

Effective Date: March 14, 1990



Mayor

ATTEST:



City Recorder