

ORDINANCE NO. 4907

AN ORDINANCE AMENDING AMC CHAPTERS 1.04 AND 1.05 TO SET FORTH A PROCEDURE BY WHICH MISDEMEANORS MAY BE PROSECUTED AS INFRACTIONS; RECLASSIFYING INFRACTIONS AS MISDEMEANORS; AND DECLARING AN EMERGENCY.

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

Section 1: Procedure for the prosecution of certain misdemeanors as infractions.

AMC Chapter 1.04 is amended by the addition of AMC 1.04.020 as follows:

1.04.020 Procedure for the Prosecution of Certain Misdemeanors as Infractions. (a) Upon or before the appearance of the defendant upon any of the misdemeanor charges enumerated in AMC 1.04.030, before the court receives the defendant's plea, the City Attorney, or his or her designee, shall declare, in open court or in writing, the intention whether or not to treat the offense in the case as a violation subject to the infraction penalty and procedures set forth in this code. The case shall proceed as a violation, subject to the infraction penalty and procedures, unless the City Attorney affirmatively states, in open court or in writing, that the case shall proceed as a misdemeanor. If the case proceeds as a violation, the accusatory instrument shall be deemed amended to denominate the offense as an infraction and the offense, for purposes of the case, shall thereafter be treated as an infraction, subject to the penalty provided in AMC 1.04.010. If the City Attorney, or his or her designee, declares an intention to treat the offense as a misdemeanor, the offense in the case shall thereafter continue to be treated as a crime. If the offense is denominated an infraction pursuant to this subsection, the court shall, when it enters judgment in the case, clearly denominate the offense as an infraction in the judgment order.

(b) Conviction of an infraction does not give rise to any disability or legal disadvantage based upon conviction of a crime.

Section 2: Amendment of AMC 1.04 to enumerate the misdemeanors which may be prosecuted as infractions.

1.04.030 Misdemeanors Which May Be Prosecuted and Punished as Infractions. Violation of the following sections of the Albany Municipal Code shall be misdemeanors which may be prosecuted and punished as infractions, pursuant to AMC 1.04.020, above.

- (a) Title 6, Animals.
- (b) Chapter 7.28, Park Regulations.
- (c) Chapter 7.52, Littering.
- (d) Chapter 7.84, Public Nuisances.
- (e) Title 20, Section 1.060, Development Permits Required.
- (f) Title 20.18, The Albany Sign Code.
- (g) Title 20, Article 16, Home Occupations.
- (h) Title 20, Article 21.110, Violation of a Development Permit.
- (i) Title 20, Article 8, Environmental Performance Standards.

Section 3: Recriminalization of present infractions.

AMC Chapter 1.05.060 is amended to read as follows:

1.05.060 List of Infractions. Violation of the following sections of the Albany Municipal Code shall be infractions:

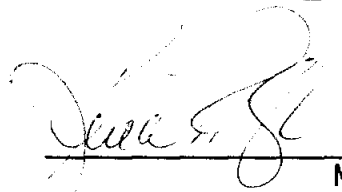
- (a) Section 7.36.020, Lodging Accommodations.
- (b) Chapter 7.68, Obstruction of Passageways.
- (c) Section 7.80.080, Unlawfully Using Slugs.
- (d) Section 17.28.150, Fireworks.
- (e) Title 20, Article 6, Development Siting Requirements - Lot Size, Density, Setbacks, Coverage and Height Limitations.
- (f) Title 20, Article 7, Site Improvements - Landscaping, Buffering, Fences, Parking, Driveways.
- (g) Section 13.36.180, Motor Vehicle Use for Sleeping or Housekeeping Purposes.
- (h) Chapter 13.22, Traffic Congested Thoroughfares.

Section 4: 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, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Passed by Council: May 9, 1990

Approved by Mayor: May 10, 1990

Effective Date: May 9, 1990



Mayor

ATTEST:



City Recorder