

**CITY OF ALBANY
TRAFFIC AND SAFETY COMMISSION
STAFF REPORT**

Agenda date: December 4, 2012
Prepared by: JB

ITEM/ 6-3

SUBJECT: Discussion of Potential Amendments to the Municipal Code Related to Parking, Bicycles, and Other Traffic and Safety Improvements in the Public Right-Of-Way.

STAFF RECOMMENDATION

Discuss potential topics for possible revision and provide direction to staff.

BACKGROUND/PROJECT DESCRIPTION

Attached are excerpts from the Municipal Code related to Traffic and Safety Commission activities. In summary, the Code includes:

- Chapter 2 (Administration) – Excerpts from Chapter 2 that describes City Engineer and Commission responsibilities.
- Chapter 8 (Law Enforcement) - Section 8-12 regulates bicycles
- Chapter 9 (Motor Vehicles and Traffic) – Chapter 9 is attached in its entirety. Significant changes to this Chapter, particularly as they related to the California Vehicle Code and Police Department enforcement, will require consultation with the Police Department.
- Chapter 14 (Work on Public Property) – Excerpts are attached that related to sidewalks and use of the right-of-way.

DISCUSSION OF KEY ISSUES

Most of these regulations were adopted in the 1950s through 1970s, and thus may not reflect current practice. As an initial point of departure for discussions, staff would suggest Commissioners review the current Municipal Code sections and discuss potential prioritization for policy initiatives. With direction from the Commission, staff would begin to research potential updates. As Commission agenda allow, results of the research would be brought back for discussion. Currently, the issues that are coming up most frequently are parking standards and design standards for bikeways. In addition, the City is required to adopt “complete streets” standards in the near future.

It also should be noted that the city's General Plan will be updated over the next several years. Major policy initiatives that affect the physical layout of the City can be folded into the General Plan.

In addition to specific policy refinements, it may be useful for the City Council to consider adopting procedural guidelines and decision criteria for processing various types of requests. These guidelines would identify the public noticing requirements, decision-making authority, appeal process, etc.

SUGGESTED OUTLINE FOR POTENTIAL UPDATES

Phase 1 – Update Commission Administration

Traffic and Safety Commission

- Name
- Ex-Officio membership
- Statement of powers and duties
- Statement of residency requirements

Commission Procedures for Review of Transportation-Related Public Improvements and Policies

- Scope of review
- Public notice
- Environmental review
- Standards for review
- Authority for modifications to approved projects

Commission Procedures for Review of Planning and Zoning Applications

- Scope of review
- Public notice
- Standards for review
- Authority for modifications to approved projects

Procedures for Appeal of Staff and Commission Actions

- Rights of Appeal
- Time Limits
- Procedures

Phase 2 – Parking

On-Street Parking

- Permit parking
- Loading zones
- Electric vehicle charging
- Disabled parking standards and procedures

Off-Street Parking (Planning and Zoning Code)

- Off-Street parking

- Bicycle parking
- Electric vehicle charging

Phase 3 - Sidewalks

- Maintenance and repair of sidewalks
- Standards and procedures for encroachments onto sidewalks in commercial zones
- Design standards

Phase 4 - Transportation Policies

- Complete Streets
- Transportation demand management program
- Transit stops
- Truck routes
- Operations of bicycles
- Signage and striping
- Pedestrian safety
- Traffic calming

Phase 5 - Engineering Standards

Attachments:

1. Excerpts from Albany Municipal Code

CHAPTER II ADMINISTRATION

2-6 CITY ENGINEER.^{1[2]}

2-6.1 Appointment and Tenure.

The City Engineer shall be appointed by the Council and serve at its pleasure. (Ord. #533, §1; 1958 Code §2.23)

2-6.2 Qualifications.

The City Council hereby established the qualifications of the City Engineer. The City Engineer shall possess all of the following:

- a. Certification of registration as a Civil Engineer issued by the State;
 - b. Any combination of education and experience equivalent to graduation from college in civil engineering or a related field and five (5) years of responsible public works engineering experience, including two (2) years in a supervisory or an administrative capacity;
 - c. Knowledge of public works; engineering, economics, design and construction principles, materials, equipment and methods;
 - d. Knowledge of State and Federal laws governing joint programs for public works improvement;
 - e. Ability to plan public works programs;
 - f. Ability to plan and design public works programs;
 - g. Ability to schedule and coordinate personnel and equipment and to effectively conduct public works maintenance programs;
 - h. Ability to establish and maintain effective relationships with the public, groups and other public agencies.
- (Ord. #533, §1; Ord. #75-09, §1; 1958 Code §2.24)

2-6.3 Compensation.

The compensation of the City Engineer shall be determined by the Council. (Ord. #533, §1; 1958 Code §2.25)

2-6.4 Determination of Official Elevations, Lines and Grades.

It shall be the duty of the City Engineer to determine and fix all official elevations, lines and grades pertaining to the activities of the Bureau of Public Works in such a manner as to best serve the interests of the citizens of the City.

For the purpose of carrying out the provisions of this section and to harmonize with Federal government standards, the base of elevations for this City shall be the United States geological survey datum as shown on that certain concrete monument located near the southeast corner of the intersection of San Pablo Avenue and Washington Street by a United States Coast and geodetic survey standard disk stamped 46-819 U.S.G.S.B.56 and all other elevations taken therefrom. (Ord. #533, §§5, 6; 1958 Code §2.26)

2-6.5 To Be Governed by State and Federal Law.

The City Engineer, in the discharge of his duties, shall be governed not only by this Code but also by the laws of the State and Federal governments so far as they apply to his office and his department. (Ord. #533, §7; 1958 Code §2.27)

2-6.6 Advice and Reports to Council.

It shall be the duty of the City Engineer to advise the Council in all matters pertaining to his office and to submit required reports on his activities. (Ord. #533, §3; 1958 Code §2.28)

2-20 TRAFFIC AND SAFETY COMMISSION.

2-20.1 Created; Composition.

There shall be and hereby is created a Traffic and Safety Commission within the City. There shall be five (5) voting members of the Commission, with each member of the City Council having the power to appoint one (1) voting member to the Commission. (Ord. #60-010, §1; Ord. #71-024, §1; 1958 Code §20.9-1)

2-20.2 Ex-Officio Members.

Ex-officio members of the Traffic and Safety Commission shall be the Chief of Police, the Fire Chief and the City Engineer. (Ord. #60-010, §2; 1958 Code §20.9-2)

2-20.3 Rules of Conduct and Procedure.

Rules of conduct and procedure for the Traffic and Safety Commission may be prepared by the Commission and shall become effective upon approval by the Council of the City. (Ord. #60-010, §3; 1958 Code §20.9-3)

CHAPTER VIII LAW ENFORCEMENT

8-12 BICYCLES.

8-12.1 Safe Mechanical Condition Required.

It shall be unlawful for any person to ride or operate a bicycle in the City unless it is in safe mechanical condition. (Ord. #759, §15; 1958 Code §6.2)

8-12.2 Siren or Whistle Prohibited.

It shall be unlawful to equip a bicycle with a siren or whistle. (Ord. #759, §14; 1958 Code §6.5)

8-12.3 Handlebar Grips.

Every bicycle that is equipped with handlebar grips must have the grips securely glued or cemented to the handlebars. (Ord. #759, §14; 1958 Code §6.6)

8-12.4 Operation Regulations.

a. *Speed and Operation Generally.* No person shall ride or operate a bicycle faster than is reasonable and proper, and every bicycle shall be operated with reasonable regard to the safety of the operator and other persons upon the streets, sidewalks and public highways of the City.

b. *Riding on Sidewalks.* No person shall ride or operate a bicycle on any sidewalk in the City except that juveniles under the age of sixteen (16) years, exercising due care and giving the pedestrian the right-of-way, may ride and operate their bicycles upon the sidewalk, except such sidewalks as are in front of schools, stores or buildings used for business purposes.

c. *Group Riding.* Persons riding or operating bicycles in the City shall not ride more than two (2) abreast, except on paths or parts of a roadway set aside for the exclusive use of bicycles; provided, however, that persons riding bicycles on the sidewalk shall do so in single file.

d. *Towing Other Vehicles.* No person riding or operating a bicycle in the City shall tow any other vehicle or person, except that bicycle trailers used for the delivery of newspapers, magazines or merchandise may be towed when being used in such delivery service.

e. *Passengers.* No person riding or operating a bicycle in the City shall carry another person on such bicycle, unless such person or passenger is seated upon an individual seat or carrier separate from that intended to be used by the operator.

No person shall ride upon a bicycle as a passenger, unless he is seated upon an individual seat or carrier separate from that intended to be used by the operator.

f. *Races and Endurance Contests.* No person riding or operating a bicycle upon a public highway or street shall participate in any race, speed or endurance contest unless such race or endurance contest has the written permission of the City Council and is conducted under the supervision of the Chief of Police.

g. *Trick Riding.* No person riding or operating a bicycle shall perform or attempt to perform any acrobatic, fancy or stunt riding upon any public highway or street in the City.

h. *Riding in Playgrounds, Parks or School Ground.* No person shall ride or operate a bicycle upon any playground, park or school ground where children are playing, without permission of the person having supervision thereof.

i. *Turning.* Every person riding or operating a bicycle upon the streets and highways of the City shall turn only at intersections, except as otherwise provided in the following subsections.

j. *Right Turns.* Every person riding or operating a bicycle intending to turn to the right at an intersection or into an alley or driveway, shall approach the turning point in the line of traffic nearest the righthand curb of the street.

k. *Right Turns Against Red.* The operator of a bicycle which is stopped as close as practicable to the entrance of an intersection in obedience to a red light or "Stop" signal may make a right turn but shall yield the right of way to pedestrians and other traffic proceeding as directed by the signal at the intersection unless a sign has been posted prohibiting such turn.

l. *Left Turns.* Every person riding or operating a bicycle intending to turn left at an intersection or to enter an alley or driveway shall approach the point of turning in the line of traffic nearest to the center of the roadway. The operator or a bicycle in turning left at an intersection shall pass to the right of the center of the intersection before turning unless otherwise directed by markers, buttons or signs.

m. *"U" Turns.* No bicycle shall be turned in any business district so as to proceed in the opposite direction, except at intersections.

No bicycle operated in a residence district shall be turned so as to proceed in the opposite direction when any other vehicle is approaching from either direction within two hundred (200') feet, except at an intersection.

n. *Turning and Stopping Signals.* No person shall turn a bicycle or stop a bicycle which he is riding or operating unless such movement can be made with safety, and then only after giving an appropriate signal during the last fifty (50') feet traveled by the bicycles before turning or stopping. Such signals shall be as follows:

1. Left Turn. Every person signaling a left turn shall do so by extending his left hand and arm horizontally beyond the side of the bicycle.

2. Right Turn. Every person signaling a right turn shall do so by extending his left hand and arm upward beyond the side of the bicycle.

3. Stop or Sudden Decrease of Speed. Every person signaling a stop shall do so by extending his left hand and arm downward beyond the side of the bicycle.

o. *Entering Sidewalk or Street from Alley or Driveway.* The operator of a bicycle, on leaving an alley or driveway, when his view of either the sidewalk or street area is obstructed shall stop such bicycle immediately prior to riding upon such sidewalk or street area.

p. *Passing and Meeting Vehicles.* Every person operating a bicycle shall pass to the left when passing vehicles going in the same direction, and shall pass to the right when meeting vehicles going in the opposite direction.
(Ord. 759, §16; 1958 Code §§6.10 to 6.30)

8-12.5 Procedure in Case of Accident.

The operator of any bicycle involved in an accident shall take reasonable steps to ascertain whether or not anyone was injured, and he shall give his name, address and license number of his bicycle to the person with whom he was in collision, and he shall obtain the same information from the other person.

It shall be the duty of the bicycle operator to make a written report of any accident resulting in death or injury, to the Police Department within twenty-four (24) hours of such accident. (Ord. #759, §17; 1958 Code §6.31)

8-12.6 Police Department Serial Number.

If the serial number of any bicycle is obliterated or defaced, and the possessor has satisfactory proof of ownership, the Chief of Police is hereby authorized to place a Police Department serial number thereon. (Ord. #759, §39; 1958 Code §6.32)

8-12.7 Abandoned and Unidentified Bicycles.

All abandoned bicycles and unidentified bicycles remaining in the hands of the Chief of Police shall, at the end of three (3) months, be sold at auction. (Ord. #759, §40; Ord. #61-012, §1; Ord. #71-02, §1; Ord. #71-020, §1; 1958 Code §6.35)

8-12.8 Registration and Licensing.

a. *Required; Exceptions.* It shall be unlawful for any person to operate or use a bicycle in the City which has not been registered, and for which a license has not been obtained.

Any nonresident of the City may operate in the City any bicycle which is duly licensed and registered in another municipality, and which is equipped with license plates, without obtaining an Albany license; provided, that such other municipality wherein the bicycle is licensed extends the same privilege to residents of this City.

b. *Application.* Every person desiring a bicycle license in the City shall make application to the Chief of Police upon blanks furnished by him. Such application must be filed in duplicate and shall contain such information as may be required by the Chief of Police as to the applicant and the description of the bicycle sought to be licensed.

c. *Examination of Applicant.* Upon making an application for his first bicycle license, registration card and license plates, the applicant may be required to be examined by an examining officer designated by the Chief of Police. The Chief of Police may further designate the manner of examination. Upon completion of the examination, the Chief of Police may refuse to issue a license to the applicant if the examination discloses to the Chief of Police that the applicant does not have a reasonable knowledge of the provisions of this section, the provisions of Section 452 of the Vehicle Code of the State or that the applicant is unable to exercise reasonable control in operating a bicycle.

d. *Fee.* Every person desiring a bicycle license shall pay to the Chief of Police a license fee of one (\$1.00) dollar, payable in advance at the time the application is made.

e. *Safe Condition of Bicycle Prior to Issuance of License.* No license required by this section shall be issued unless the bicycle complies with the requirements of this section as to its safe mechanical condition.

f. *Issuance of Sticker and Registration Card; Term.* Upon approval of the application for a bicycle license and payment of the license fee, the Chief of Police shall issue a bicycle license sticker and registration card, which shall be effective until voided.

g. *Sticker to be Displayed.* It shall be unlawful for any person required by this section to obtain a bicycle license to operate a bicycle without displaying thereon a current license sticker issued under this section.

(Ord. #759, §§2-7; 1958 Code §§6.37-6.43; New)

8-12.9 Removing or Destroying Plates or Registration Card.

No person shall remove, destroy, mutilate or alter any license plate or registration card during the period in which such license plate or registration card is operative. (Ord. #759, §37; 1958 Code §6.47)

8-12.10 Procedure When Bicycle Sold or Junked.

Every person other than the operator of a bicycle establishment as defined in subsection 5-18.1 of this Code, who sells or transfers ownership of any bicycle shall report such sale or transfer of ownership to the Chief of Police, and shall return the registration card issued to such person to the Chief of Police, together with the name and address of the person to whom the bicycle was sold or transferred, within ten (10) days from the date of sale or transfer; provided, however, that if the sale or transfer is made to the operator of a bicycle establishment, then such registration card shall be given to the owner of the bicycle establishment, who shall then forward the registration card to the Chief of Police.

License sticker shall not be transferable from one bicycle to another or from one owner to another. A license shall be deemed to be canceled when the bicycle is sold, exchanged, junked or is disposed of in any other manner by the person to whom the license was originally issued.

It shall be the duty of the purchaser or transferee of such bicycle to deliver such license plate to the Chief of Police and make application for a new license and registration card within ten (10) days of such purchase or transfer.

Upon dismantling and disposing of bicycles as junk, the licensee shall turn in his registration card and license plate to the Chief of Police. (Ord. #759, §§33, 34, 36; 1958 Code §6.48; New)

8-12.11 Impoundment of Unlicensed Bicycles.

The Chief of Police shall have the power to pick up and hold all bicycles that have not been properly licensed in the City. This right does not extend to any bicycle from any area outside the City. (Ord. #759, §11; 1958 Code §6.49)

8-12.12 Loss of Sticker.

Upon loss of a bicycle license sticker, the licensee shall be required to report its loss or theft within ten (10) days. Upon receipt of such report, the Chief of Police shall cancel the old license and issue a new license sticker to the licensee, upon receipt of a fee of one (\$1.00) dollar. (Ord. #759, §12; 1958 Code §6.50; New)

8-12.13 Duplicate Registration Card.

Upon loss of a registration card issued under this section, the licensee shall make application for a duplicate card, which shall be issued to him free of cost. (Ord. #759, §13; 1958 Code §6.51)

CHAPTER IX MOTOR VEHICLES AND TRAFFIC^{1[1]}

9-1 GENERAL PROVISIONS.

9-1.1 Definitions.²

²Editor's Note: For State law definitions contained in Vehicle Code, see Veh. C.A. §§100 to 676.

a. Whenever any words or phrases used in this Chapter are not defined herein, but are now defined in the Vehicle Code, such definitions are incorporated herein and shall be deemed to apply to such words and phrases used in this Chapter as though set forth in this subsection in full.

b. The following words and phrases when used in this Chapter shall, for the purposes of this Chapter, have the meanings respectively ascribed to them in this subsection:

Holidays where used in this chapter or on official signs, shall mean the following days:

^{1[1]}Editor's Note: For State law as to uniformity of State traffic laws and applicability to municipalities, see Veh. C.A., §1 et seq. As to powers of local authorities to regulate traffic, see Veh. C.A., §21100 et seq.

As to location of billboards near intersections, see Section 8-16 of this Code. As to bicycles, see Section 8-12 of Chapter VIII. As to vehicles used to transport garbage, see subsection 15-3.19. As to interference with traffic by distributors of racing forms, see subsection 5-14.6. As to license tax on vehicles used for advertising purposes, see subsection 5-2.2. As to transporting persons for immoral purposes, see subsection 8-8.3. As to vehicles for hire generally, see Section 5-7.

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For establishment of Traffic and Safety Commission, see Section 2-20 of Chapter II Administration.

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- New Year's Day (January 1)
- Martin Luther King, Jr. Day (third Monday in January)
- President's Day (third Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (first Monday in September)
- Columbus Day (second Monday in October)
- Veterans Day (November 11)
- Thanksgiving Day (fourth Thursday in November)
- Christmas Day (December 25)

If any of the holidays enumerated above shall fall upon a Sunday, then the Monday following shall be considered as the holiday.

Loading Zone shall mean the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Official time standard. Whenever certain hours are named in this Chapter, they shall mean Standard Time or Daylight Saving Time, as may be in current use in the City.

Oversized vehicles shall mean any vehicle or combination of vehicle and trailer or dolly the dimension of which exceed twenty-two (22') feet in length, or ninety (90") inches in width, or ninety-six (36") inches in height or has a gross vehicle weight of eight thousand (8,000) pounds or greater.

Park shall mean to stand or leave standing any vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in loading or unloading of passengers or materials.

Parkway shall mean that portion of a street other than a roadway or a sidewalk.

Passenger loading zone shall mean the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Pedestrian shall mean any person afoot.

Police Officer shall mean every Officer of the Police Department of this City, or any Officer authorized to direct or regulate traffic or to make arrests for violation of traffic regulations.

Recreational Vehicle shall mean both of the following:

a. A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed primarily for human habitation for recreational, emergency, or other occupancy that meets all of the following criteria:

1. It is built on a single chassis.

2. It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

b. A park trailer, as defined in Section 18009.3 of the Health and Safety Code. (Amended Sec. 2, Ch. 566, Stats. 2000. Effective January 1, 2001.)

Stop when required, shall mean complete cessation of movement.

Stop or stand when prohibited shall mean any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the direction of a Police Officer or official traffic-control device.

(Ord. #58-016, Art. I, §§1 to 8, 10, 11; 1958 Code §20.1; New; Ord. #97-08; Ord. #2010-05, §1)

9-1.2 Reserved.

9-1.3 Decrease of Speed Limits on Solano and Washington Avenues.

That the maximum speed limit on Solano Avenue between Fillmore Street and Cerrito Street shall be fifteen (15) miles per hour, and the maximum speed limit on Washington Avenue from a point two hundred seventy (270') feet easterly of Pierce Street, being opposite the westerly property line of 818 Washington Avenue, to one hundred thirty-five (135') feet westerly of Polk Street, being opposite the westerly property line of 851 Washington Avenue, is hereby fixed at fifteen (15) miles per hour. (Ord. #59-025, §3; Ord. #60-07, §1; 1958 Code §20.2-1; Ord. #88-004, §1)

9-1.4 Speed Limits on Frontage Roads.

a. *Pierce Street.* The prima facie speed limit on Pierce Street from a point nine hundred (900') feet northerly of the northerly right-of-way of Washington Avenue to the Contra Costa County line, is hereby fixed at twenty-five (25) miles per hour.

b. *Cleveland Avenue.* The prima facie speed limit on Cleveland Avenue from the Contra Costa County line southerly to a point nine hundred (900') feet northerly of the northerly line of Washington Avenue, is hereby fixed at twenty-five (25) miles per hour.

c. *Eastshore Frontage Road (aka East Shore Highway).* The prima facie speed limit on the Eastshore Frontage Road from the Berkeley City limits to the end of the Eastshore Frontage Road, is hereby fixed at twenty-five (25) miles per hour. (Ord. #62-06, §2; 1958 Code §20.2-8; Ord. #86-06, §1; Ord. #08-012)

9-1.5 Unlawful Use of Vehicles on Unimproved Property.

It shall be unlawful for any person to operate, park, or otherwise store a motorcycle, motor vehicle or a motor-driven vehicle on unimproved private property within the City without first having obtained the prior written permission of the owner thereof. (Ord. #70-02, §1; 1958 Code §20-2.3; Ord. #87-020, §1)

9-1.6 Speed Limits Near Children's Playgrounds.

a. *Buchanan Street.* The prima facie speed limit on Buchanan Street from the easterly curb line of Madison Street to the westerly curb line of Fillmore Street, is hereby fixed at twenty-five (25) miles per hour between sunrise and 10:00 p.m. (Ord. #92-04)

9-2 TRAFFIC ADMINISTRATION.

9-2.1 Police Administration.

There is hereby established in the Police Department of the City a Traffic Division to be under the control of an Officer of Police appointed by and directly responsible to the Chief of Police. (Ord. #58-016, Art. 3, §1; 1958 Code §20.10)

9-2.2 Duty of Traffic Division.

It shall be the duty of the Traffic Division, with such aid as may be rendered by other members of the Police Department, to enforce the street traffic regulations of the City and all of the State vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate traffic accidents, to cooperate with the City Traffic Engineer and other Officers of the City in the administration of the traffic laws and in developing ways and means to improve traffic conditions and to carry out those duties specifically imposed upon such division by this Chapter and other traffic ordinances of the City. (Ord. #58-016, Art. 3, §2; 1958 Code §20.11)

9-2.3 Traffic Accident Studies.^{2[2]}

Whenever the accidents at any particular location become numerous, the Traffic Division shall cooperate with the City Traffic Engineer in conducting studies of such accidents and determining remedial measures. (Ord. #58-016, Art. 3, §3; 1958 Code §20.12)

^{2[2]}Editor's Note: For State law as to accidents generally, see Veh. C.A. §20000 et seq. For State law as to accidents involving property damage, see Veh. C.A., §481. See also, Veh. C.A., §482.

9-2.4 Traffic Accident Reports.^{3[3]}

The Traffic Division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the City Traffic Engineer. (Ord. #58-016, Art. 3, §4; 1958 Code §20.13)

9-2.5 Traffic Division to Submit Annual Traffic Safety Reports.

The Traffic Division shall annually prepare a traffic report which shall be filed with the City Council. Such a report shall contain information on traffic matters in the City as follows:

- a. The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent traffic accident data;
- b. The number of traffic accidents investigated and other pertinent data on the safety activities of the Police;
- c. The plans and recommendations of the division for future traffic safety activities. (Ord. #58-016, Art. 3, §5; 1958 Code §20.14)

9-2.6 City Traffic Engineer.

a. *Office Established; Powers and Duties Generally.* The office of City Traffic Engineer is hereby established. The City Engineer shall serve as City Traffic Engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic, as provided in this Chapter.

b. *Additional Powers and Duties.* It shall be the general duty of the City Traffic Engineer to determine the installation and proper timing and maintenance of traffic-control devices and signals, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering and traffic investigations of traffic conditions, to cooperate with other City officials in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by this Chapter and other ordinances of the City. (Ord. #58-016, Art. 3, §§6, 7; 1958 Code §§20.15, 20.16)

9-3 ENFORCEMENT OF AND OBEDIENCE TO TRAFFIC REGULATIONS.

9-3.1 Authority of Police and Fire Department Officials.

^{3[3]}Editor's Note: For State law as to accident reports generally, see Veh. C.A. §§20008 to 20014.

a. It shall be the duty of the officers of the Police Department or such officers as are assigned by the Chief of Police to enforce all street traffic laws of the City and all of the State vehicle laws applicable to street traffic in the City.

b. Officers of the Police Department, Auxiliary Police and all other persons as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand or other signal in conformance with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

c. Officers of the Fire Department, when at the scene of a fire or when in the course of their duties they are protecting the personnel or equipment of the Fire Department, may direct or assist the Police in directing traffic.
(Ord. #58-016, Art. 4, §1; 1958 Code §20.17)

9-3.2 Required Obedience to Chapter.4⁴

It is an infraction for any person to do any act forbidden or fail to perform any act required in this Chapter. (Ord. #58-016, Art.4, §2; 1958 Code §20.18; New)

9-3.3 Obedience to Police and Fire Department Officials.5⁵

No person shall wilfully fail or refuse to comply with any lawful order of a Police Officer or Fire Department official when directing traffic. (Ord. #58-016, Art. 4, §3; 1958 Code §20.19)

9-3.4 Reserved.

9-3.5 Public Employees to Obey Traffic Regulations.6⁶

The provisions of this Chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, or any county or City, and it shall be unlawful for any such driver to violate any of the provisions of this Chapter, except as otherwise permitted in this Chapter or by the Vehicle Code of the State. (Ord. #58-016, Art. 4, §6; 1958 Code §20.22)

⁴Editor's Note: For State law as to required obedience to traffic laws, see Veh. C.A., §450.

⁵Editor's Note: For State law as to obedience to Police, see Veh. C.A., §451. As to required obedience to Firemen in absence of Police, see Veh. C.A., §451.1.

⁶Editor's Note: For State law as to applicability of traffic laws to operators in course of public employment, see Veh. C.A., §453.

9-3.6 Exemption of City Officers and Employees from Certain Traffic Regulations Authorized.

The City Council may, by resolution, exempt City officials and City employees from operation of such necessary provisions of this Chapter as it shall deem proper, so as to permit such officials and employees to stop and park vehicles operated by them while on duty on business of the City in that area or parking space directly in front of the City Hall, and to this effect, appropriate signs or notices shall be placed in such area. (Ord. #58-016, Art. 17, §1; 1958 Code §20.23)

9-3.7 Exemptions to Certain Vehicles.

a. The provisions of this Chapter regulating the operation, parking and standing of vehicles shall not apply to any vehicle of the Police or Fire Department, any public ambulance, or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this subsection is operated in the manner specified in the Vehicle Code of the State^{7[7]} in response to an emergency call.

b. The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his wilful disregard of the safety of others.

c. The provisions of this Chapter regulating the parking or standing of vehicles shall not apply to any vehicle of a City department or public utility while necessarily in use for construction or repair work or any vehicle owned by the United States while in use for the collection, transportation or delivery of United States Mail.
(Ord. #58-016, Art. 4, §7; 1958 Code §20.24)

9-4 TRAFFIC-CONTROL DEVICES.^{8[8]}

9-4.1 Authority to Install Traffic-Control Devices.^{9[9]}

a. The City Traffic Engineer shall have the power and duty to place and maintain, or cause to be placed and maintained, official traffic-control devices when and as required under this Chapter and other traffic ordinances of the City to make effective the provisions of this Chapter and such ordinances.

^{7[7]}Editor's Note: See Veh. C.A., §454.

^{8[8]}Editor's Note: For State law as to traffic signs, signals and markings, see Veh. C.A., §§465 to 478. For requirement that signs conform to uniform standards, see Veh. C.A., §465.9.

^{9[9]}Editor's Note: For State law authorizing local authorities to regulate traffic by means of signaling devices, see Veh. C.A., §459.

b. Whenever the Vehicle Code of the State requires for the effectiveness of any provision thereof that traffic-control devices be installed to give notice to the public of the application of such law, the City Traffic Engineer is hereby authorized to install, or cause to be installed, the necessary devices, subject to any limitations or restrictions set forth in the law applicable thereto.

c. The City Traffic Engineer may also place and maintain or cause to be placed and maintained such additional traffic-control devices as he may deem necessary to regulate traffic or to guide or warn traffic, but he shall make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations and rules as may be set forth in this Chapter or other traffic ordinances of the City or as may be determined by ordinance or resolution of the legislative body of the City. (Ord. #58-016, Art.5, §1; 1958 Code §20.26)

9-4.2 When Traffic-Control Devices Required for Enforcement Purposes.

No provision of the Vehicle Code of the State or of this Chapter for which signs are required shall be enforced against an alleged violator unless appropriate signs are in place and sufficiently legible to be seen by an ordinarily observant person, giving notice of such provisions of the traffic laws. (Ord. #58-016, Art. 5, §2; 1958 Code §20.27)

9-4.3 Obedience to Traffic-Control Devices.^{10[10]}

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this Chapter or other traffic ordinances of the City, unless otherwise directed by a Police Officer, subject to the exceptions granted the driver of an authorized emergency vehicle when responding to emergency calls. (Ord. #58-016, Art. 5, §3; 1958 Code §20.28)

9-4.4 Installation of Traffic Signals.

a. The City Traffic Engineer is hereby directed to install and maintain official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.

b. The City Traffic Engineer shall ascertain and determine the locations where such signals are required by resort to field observation, traffic counts and other traffic information as may be pertinent and his determinations therefrom shall be made in accordance with those traffic engineering and safety standards and instructions set forth in the Planning Manual of Instructions, Part 8, "Traffic," issued by the Division of Highways of the State Department of Public Works.

^{10[10]}Editor's Note: For State law as to obedience to traffic signals, see Veh. C.A., §475.

c. Whenever the City Traffic Engineer installs and maintains an official traffic signal at any intersection, he shall likewise erect and maintain at such intersection street name signs visible to the principal flow of traffic, unless such street name signs have previously been placed and are maintained at any such intersection. (Ord. #58-016, Art. 5, §4; 1958 Code §20.29)

9-4.5 Lane Markings.

The City Traffic Engineer is hereby authorized to mark center lines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway. (Ord. #58-016, Art. 5, §5; 1958 Code §20.30)

9-4.6 Distinctive Roadway Markings.^{11[11]}

The City Traffic Engineer is authorized to place and maintain distinctive roadway markings as described in the Vehicle Code of the State on those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. Such marking or signs and markings shall have the same effect as similar markings placed by the State Department of Public Works pursuant to provisions of the Vehicle Code of the State. (Ord. #58-016, Art. 5, §6; 1958 Code §20.31)

9-4.7 Authority to Remove, Relocate or Discontinue Traffic-Control Devices.

The City Traffic Engineer is hereby authorized to remove, relocate or discontinue the operation of any traffic-control device not specifically required by State law or this Chapter, whenever he shall determine in any particular case that the conditions which warranted or required the installation no longer exist or obtain. (Ord. #58-016, Art. 5, §7; 1958 Code §20.32)

9-4.8 Hours of Operation of Traffic-Control Devices.

The City Traffic Engineer shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this Chapter. (Ord. #58-016, Art. 5, §8; 1958 Code §20.33)

9-4.9 Traffic Barriers.

No person shall operate a vehicle contrary to the directions or provisions of any barrier or sign erected:

a. Pursuant to the provisions of this Chapter or any ordinance of the City;

^{11[11]}Editor's Note: For State law as to power of local authorities to place distinctive roadway markings, see Veh. C.A., §525.2.

- b. By any public utility;
- c. By any department of the City; or,
- d. By any other person pursuant to law or contract with the City; nor shall any unauthorized person move or alter the position of any such barrier or sign.
(Ord. #58-016, Art. 5, §9; 1958 Code §20.34)

9-5 TURNING MOVEMENTS.

9-5.1 Authority to Place and Obedience to Turning Markers.^{12[12]}

a. The City Traffic Engineer is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and the City Traffic Engineer is authorized to allocate and indicate more than one (1) lane of traffic from which drivers of vehicles may make right or left-hand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

b. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.
(Ord. #58-016, Art. 6, §1; 1958 Code §20.35)

9-5.2 Authority to Place Restricted Turn Signs.^{13[13]}

The City Traffic Engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event, the same shall be plainly indicated on the signs or they may be removed when such turns are permitted. (Ord. #58-016, Art. 6, §2; 1958 Code §20.36)

9-5.3 Obedience to No-Turn Signs.

Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Ord. #58-016, Art. 6, §3; 1958 Code §20.37)

^{12[12]}Editor's Note: For State law as to power of local authorities to place signs, etc., indicating turns at intersections, see Veh. C.A., §540.

^{13[13]}Editor's Note: For State law as to power of local authorities to prohibit the making of turning movements at intersections, see Veh. C.A., §459.1.

9-5.4 Authority to Prohibit Right Turns Against Traffic Stop Signal.

The City Traffic Engineer is hereby authorized to determine those intersections within any business or residence district at which drivers of vehicles shall not make a right turn against a red or stop signal and shall erect proper signs giving notice of such prohibition. No driver of a vehicle shall disobey the directions of any such sign. (Ord. #58-016, Art. 6, §4; 1958 Code §20.38)

9-6 ONE-WAY STREETS AND ALLEYS.^{14[14]}

9-6.1 Erection and Contents of Signs.

Whenever any ordinance or resolution of the City designates any one-way street or alley, the City Traffic Engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Ord. #58-016, Art. 7, §1; 1958 Code §20.39)

9-7 SPECIAL STOPS.

9-7.1 Erection and Location of Stop Signs.

Whenever any ordinance or resolution of the City designates and describes any street or portion thereof as a through street, or any intersection at which vehicles are required to stop at one (1) or more entrances thereto, or any railroad grade crossing at which vehicles are required to stop, the City Engineer shall erect and maintain stop signs as follows:

A stop sign shall be erected on each and every street intersecting such through street, or portion thereof, so designated and at those entrances of other intersections where a stop is required and at any railroad grade crossing so designated. Every such sign shall conform with and shall be placed as provided in Section 471 of the Vehicle Code of the State. (Ord. #58-016, Art. 8, §1; 1958 Code §20.40)

9-7.2 Emerging from Alley, Driveway^{15[15]} or Building.

^{14[14]}Editor's Note: For State law as to power of local authorities to designate one-way streets, see Veh. C.A., §459.

^{15[15]}Editor's Note: For State law as to vehicles emerging from private roads or driveways see Veh. C.A., §21101.

a. The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway.

b. In addition to any of the provisions contained herein, the owner of any property located in the C-2 district on San Pablo Avenue with the property containing a zero setback and a driveway of less than one and one-half (1-1/2) car widths shall do one of the following:

1. Place a noise device in the driveway, alleyway or garage entrance which shall automatically sound to warn pedestrians prior to the time a vehicle would cross the sidewalk; or,

2. Place a sign in an appropriately visible place directing the driver of any vehicle in a driveway, alleyway or garage entrance to sound his horn prior to entering the sidewalk area.

(Ord. #80-03; 1958 Code §20.41)

9-8 MISCELLANEOUS DRIVING RULES.

9-8.1 Driving Through Funeral Processions.^{16[16]}

No driver of a vehicle shall drive between vehicles comprising a funeral procession while they are in motion and when the vehicles in such procession are conspicuously so designated. (Ord. #58-016, Art. 9, §1; 1958 Code §20.42)

9-8.2 Roller Skates, Skateboards and Toy Vehicles.

a. No person shall ride upon a skateboard, roller skates, or coaster or propel any such device on the street portion of Marin Avenue, San Pablo Avenue or Solano Avenue or on the sidewalks on Solano Avenue east of Adams within the City limits, except when crossing at a crosswalk.

b. Riding or propelling a skateboard, coaster, or other similar device shall be undertaken in an upright position, and it shall be unlawful for any person to ride any such vehicle on any public street or sidewalk in a prone, kneeling, or other than upright position.

c. No person on a skateboard, roller skates, coaster, toy vehicle, or any such similar device shall grab onto, attach himself/herself onto, or in any way affix himself/herself onto a moving or operating motor vehicle.^{17[17]}

^{16[16]}Editor's Note: For State law as to power of local authorities to regulate processions, see Veh. C.A., §21100.

^{17[17]}Editor's Note: For State law as to unlawful riding on portions of vehicles not designed or intended for passengers, see Veh. C.A., §21712.

d. No person shall use a skateboard, coaster, or other similar device at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the street or sidewalk, or in any event at a speed which endangers the safety of any person or property.

e. Any person (rider) riding a skateboard, coaster or similar device shall at all times accord the right-of-way to any persons on foot. Without limitation of the foregoing, whenever any of the following conditions exist, a rider shall dismount at a safe distance and proceed on foot until such condition ceases to exist, which distance must be equal to or greater than fifteen (15') feet from such condition:

1. When the rider approaches any pedestrian and there is insufficient area for the rider to pass such person safely;

2. When the rider approaches any person who, due to apparent physical condition, disability or frailty, may be intimidated by the approach or passage of the rider; or

3. When approaching two (2) or more persons on foot who are within ten (10') feet of each other.

f. No rider shall ride within three (3') feet of the front of any commercial building. If, in doing so, the rider is unable to pass on the curb side of any approaching foot traffic, the rider shall dismount and proceed on foot until that condition ceases to exist. (Ord. #58-016, Art. 9, §2; 1958 Code §20.43; Ord. #86-07, §1)

9-8.3 New Pavement.

No person shall ride or drive any animal or any vehicle over or across any newly made pavement or freshly-painted marking in any street when a barrier or sign is in place warning persons not to drive over or across such pavement or marking, or when a sign is in place stating that the street, or any portion thereof, is closed. (Ord. #58-016, Art. 9, §5; 1958 Code §20.46)

9-8.4 Restricted Access.

No person shall drive a vehicle onto or from any limited-access roadway, except at such entrances and exits as are established by public authority. (Ord. #58-016, Art. 9, §6; 1958 Code §20.47)

As to clinging to moving vehicles by persons riding bicycles, see subsection 8-12.4 of this Code.

9-9 PEDESTRIANS.^{18[18]}

9-9.1 City Traffic Engineer to Establish Crosswalks.^{19[19]}

a. The City Traffic Engineer shall establish, designate and maintain crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway as follows:

Crosswalks shall be established and maintained at all intersections where the City Traffic Engineer determines that there is particular hazard to pedestrians crossing the roadway, subject to the limitation contained in paragraph b of this subsection.

b. Other than crosswalks at intersections, no crosswalk shall be established in any block which is less than four hundred (400') feet in length; provided, that a crosswalk at an intersection may be relocated to a location other than such intersection, where the City Traffic Engineer and the Chief of Police determine that there exists extenuating circumstances to justify such relocation. Elsewhere not more than one (1) additional crosswalk shall be established in any one (1) block and such crosswalk shall be located as nearly as practicable at mid-block.

c. The City Traffic Engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing that pedestrians shall not cross in the crosswalk so indicated. (Ord. #58-016, Art.10 §1; Ord. #71-08, §1; 1958 Code §20.49)

9-9.2 When Pedestrians Must Use Crosswalks.

No pedestrian shall cross a roadway other than by a crosswalk in any business district. (Ord. #58-016, Art. 10, §2; 1958 Code §20.50)

9-9.3 Crossing at Right Angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a marked crosswalk. (Ord. #58-016, Art. 10, §3; 1958 Code §20.51)

9-9.4 Standing in Roadways.^{20[20]}

^{18[18]}Editor's Note: For State law as to pedestrians, see Veh. C.A., §§21950 to 21965.

^{19[19]}Editor's Note: For State law as to power of local authorities to establish crosswalks, see Veh. C.A., §21106.

^{20[20]}Editor's Note: For State law as to standing in roadways for purpose of soliciting rides, see Veh. C.A., §21957.

No person shall stand in any roadway other than in a safety zone or in a crosswalk if such action interferes with the lawful movement of traffic. This subsection shall not apply to any public officer or employee, or employees of a public utility, when necessarily upon a street in line of duty. (Ord. #58-016, Art.10, §4; 1958 Code §20.52)

9-10 STOPPING, STANDING AND PARKING.^{21[21]}

9-10.1 Application of Regulations.

a. The provisions of this Chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a Police Officer or official traffic-control device.

b. The provisions of this Chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code of the State, or of this Code or other ordinances of the City, prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.
(Ord. #58-016, Art. 11, §1; 1958 Code §20.53)

9-10.2 Standing in Parkways Prohibited.

No person shall stop, stand or park a vehicle within any parkway. (Ord. #58-016, Art. 11, §2; 1958 Code §20.54)

9-10.3 Parking for Certain Purposes Prohibited.

No person shall park a vehicle upon any roadway for the principal purpose of:

- a. Displaying such vehicle for sale.
- b. Greasing or repairing such vehicle, except repairs necessitated by an emergency.
(Ord. #58-016, Art.11, §3; 1958 Code §20.55)

9-10.4 Parking Parallel with Curb.

a. Subject to other and more restrictive limitations, a vehicle may be stopped or parked within eighteen (18") inches of the left-hand curb facing in the direction of traffic movement upon any one-way street, unless signs are in place prohibiting such stopping or standing.

^{21[21]}Editor's Note: For State law as to parking, standing and stopping generally, see Veh. C.A., §§22500 to 22521.

b. In the event a highway includes two (2) or more separate roadways and traffic is restrictive to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway, unless signs are in place permitting such standing or parking.

c. The City Traffic Engineer is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way street or when standing or parking may be permitted upon the left-hand side of any one-way roadway of a highway having two (2) or more separate roadways and shall erect signs giving notice thereof.

d. The requirement of parallel parking shall not apply in the event any commercial vehicle is actually engaged in the process of loading or unloading freight or goods, in which case, that vehicle may be backed up to the curb; provided, that such vehicle does not extend beyond the center line of the street and does not block traffic thereby.

e. When signs or markings are in place indicating parallel parking as herein provided, no person shall park or stand a vehicle other than in the space so marked or designated and in such a manner that the vehicle be within eighteen (18") inches of the curb, adjacent to such marked or designated parking spaces.

(Ord. #58-016, Art. 11, §4; Ord. #65-011, §1; 1958 Code §20.56)

9-10.5 Signs or Markings Indicating Angle Parking.^{22[22]}

a. Whenever any resolution or ordinance of the City designates and describes any street, or portion thereof, upon which angle parking shall be permitted, the City Traffic Engineer shall mark or sign such street indicating the angle at which vehicles shall be parked.

b. When signs or markings are in place indicating angle parking as herein provided, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Ord. #58-016, Art. 11, §5; 1958 Code §20.57)

9-10.6 Parking Adjacent to Schools.

a. The City Traffic Engineer is hereby authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

b. When official signs are erected indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.

(Ord. #58-016, Art. 11, §6; 1958 Code §20.58)

^{22[22]}Editor's Note: For State law as to power of local authorities to permit angle parking, see Veh. C., §22503.

9-10.7 Parking Prohibited on Narrow Streets.

a. The City Traffic Engineer is hereby authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed twenty (20') feet, or upon one (1) side of a street as indicated by such signs or markings, when the width of the roadway does not exceed thirty (30') feet.

b. When official signs or markings prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign or marking.

(Ord. #58-016, Art. 11, §7; 1958 Code §20.59)

9-10.8 Parking on Hills.^{23[23]}

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding three (3%) percent within any business or residential district, without blocking the wheels of such vehicle by turning them against the curb or by other means. (Ord. #58-016, Art. 11, §8; 1958 Code §20.60)

9-10.9 Unauthorized Parking on Private Property Prohibited.

No person shall park a vehicle in a private driveway or on private property without the direct or implied consent of the owner or person in lawful possession of such driveway or property. (Ord. #58-016, Art. 11, §9; 1958 Code §20.61)

9-10.10 Parking on City Property.

a. Whenever the Chief of Police shall determine that the orderly, efficient conduct of the City's business requires that parking or standing of vehicles on City property be prohibited, limited or restricted, the Chief of Police shall have the power and authority to order signs to be erected or posted indicating that the parking of vehicles is thus prohibited, limited or restricted.

b. When signs authorized by the provisions of this subsection are in place, giving notice thereof, no person shall park or stand any vehicle contrary to the directions or provisions of such signs. (Ord. #58-016, Art. 11, §10; 1958 Code §20.62)

9-10.11 No-Parking Zones to Prevent Flooding.

In order to prevent flooding of adjacent property, the City Traffic Engineer shall designate established no-parking zones by placing and maintaining appropriate signs indicating that parking of vehicles is prohibited and indicating the hours and days when parking is prohibited.

^{23[23]}Editor's Note. For State law as to local regulation of parking on hills, see Veh. C., §22509.

During the hours and on the days designated on the signs, it shall be unlawful for the operator of any vehicle to park such vehicle on any of the streets, or parts of streets, established by resolution of the Council as such no-parking zones. (Ord. #58-016, Art. 11, §11; 1958 Code §20.63)

9-10.12 Vehicles Not to Interfere with Work on Streets.

No person shall place, put, leave or park any vehicle of any kind upon any part of any street that is under construction or repair, in any manner so that it might or does become a hindrance or obstruction to the proper prosecution of the work. (Ord. #533, §20; 1958 Code §20.64)

9-10.13 Stopping or Parking at Hazardous Places Prohibited by Signs.

The City Traffic Engineer shall appropriately sign or mark at any place where the City Traffic Engineer determines that it is necessary in order to eliminate dangerous traffic hazards, so that stopping, standing or parking a vehicle shall be prohibited. (Ord. #58-016, Art. 11, §12; 1958 Code §20.65)

9-10.14 Reserved.^{24[24]}

9-10.15 Emergency Parking Signs.

a. Whenever the Chief of Police shall determine that an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings, or functions, or for other reasons, the Chief of Police shall have the power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the Chief of Police shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency and the Chief of Police shall cause such signs to be removed promptly thereafter.

b. When signs authorized by the provisions of this subsection are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs.
(Ord. #58-016, Art. 11, §14; 1958 Code §20.67)

9-10.16 Display of Warning Devices When Commercial Vehicle Disabled.

Every motor truck having an unladen weight of four thousand (4,000) pounds or more, and every truck tractor, irrespective of weight, when operated upon any street or highway during

^{24[24]}Editor's Note: Former subsection 9-10.14, Unlawful Parking of Vehicles of Peddlers, Vendors, previously codified herein and containing portions of 1958 Code §20.66 and Ordinance Nos. 58-016, 73-07, 92-05 and 97-11 was repealed in its entirety by Ordinance No. 98-03. For regulations regarding parking of vehicles by peddlers and vendors see subsection 14-2.3.

the time specified in Section 618 of the Vehicle Code of the State shall be equipped with and carry at least two (2) flares or two (2) red lanterns, or two (2) warning lights or reflectors, which reflectors shall be of a type approved by the Department of Highway Patrol of the State. When any vehicle above mentioned or any trailer or semitrailer is disabled upon any street or highway outside of any business or residence district within the City and upon which street or highway there is insufficient street lighting to reveal a vehicle at a distance of two hundred (200') feet during any time mentioned in Section 618 of the Vehicle Code of the State, a warning signal of the character indicated above shall be immediately placed at a distance of approximately one hundred (100') feet in advance of, and one hundred (100') feet to the rear of, such disabled vehicle by the driver thereof. The continuous flashing of at least four (4) approved type class A-type 1 turn signal lamps, at least two (2) toward the front and at least two (2) toward the rear of the vehicle, shall be considered to meet the requirements of this subsection until the devices mentioned above can be placed in the required locations. The warning signals herein mentioned shall be displayed continuously during the times mentioned in Section 618 of the Vehicle Code of the State while such vehicle remains disabled upon such street or highway. (Ord. #58-016, Art. 11, §15; 1958 Code §20.68)

9-10.17 Curb Markings to Indicate No Stopping and Parking Regulations.

a. The City Traffic Engineer is hereby authorized, subject to the provisions and limitations of this Chapter, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and such curb markings shall have the meanings as herein set forth.

1. Red. Shall mean no stopping, standing or parking at any time, except as permitted by the Vehicle Code of the State, and except that a bus may stop in a red zone marked or signed as a bus zone.

2. Yellow. Shall mean no stopping, standing or parking at any time between 7:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays for any purpose other than the loading or unloading of passengers or materials; provided, that the loading or unloading of passengers shall not consume more than three (3) minutes nor the loading or unloading of materials more than twenty (20) minutes.

3. White. Shall mean no stopping, standing or parking for any purpose, other than the loading or unloading of passengers or for the purpose of depositing mail in an adjacent mailbox, which shall not exceed three (3) minutes, and such restrictions shall apply between 7:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays and except as follows:

(a) When such zone is in front of a hotel or in front of a mailbox, the restrictions shall apply at all times.

(b) When such zone is in front of a theatre the restrictions shall apply at all times except when the theatre is closed.

4. Green. Shall mean no standing or parking for longer than twenty (20) minutes during the time and days that are posted and marked by suitable signs giving notice of the parking limitations. The time limit may be shortened to less than twenty (20) minutes at the direction of the Traffic Engineer so long as the limits are posted and marked by suitable signs.

5. Blue. Shall mean disabled persons' parking only; the locations and time restrictions shall be set forth by resolution of the City Council. No person shall park or stand any vehicle in a disabled persons' parking zone, (blue curb), unless the vehicle bears a special license or displays a special placard, issued under the provisions of Section 9105 or Section 22511.5 of the California Vehicle Code.

b. When the City Traffic Engineer as authorized under this Chapter, has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this subsection.

(Ord. #58-016, Art. 12, §2; Ord. #70-06, §1; Ord. #71-03, §1; Ord. #78-012; 1958 Code §20.70; Ord. #86-06, §2)

9-10.18 Parking Time Limited in Business Districts.

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle within a business district between the hours of 8:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays for a period of time longer than ninety (90) minutes. (Ord. #58-016, Art. 13, §1; 1958 Code §20.78; Ord. #04-06, §1)

9-10.19 Parking Time Limited on Certain Enumerated Streets.

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on any of the streets enumerated for a period of time longer than the time posted on the sign. The City Council, by resolution, may designate the time periods during which and the streets on which there shall be limited parking. (Ord. #80-06; 1958 Code §20.79)

9-10.20 Parking Prohibited at All Times on Certain Streets.^{25[25]}

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets designated by resolution of the City Council as streets where no parking is permitted. (Ord. #58-016, Art. 13, §3; 1958 Code §20.80)

9-10.21 Parking of Oversized Vehicles Prohibited.

a. *Parking Prohibitions.* Except as provided herein, no person shall park any oversized vehicle as defined in subsection 9-1.1 on any public street or highway within the

^{25[25]}Editor's Note: For State law as to power of cities to prohibit parking, see Veh. C.A., §459.8.

City. Further, no dolly or trailer not connected to a towing vehicle shall at any time be parked or left standing on any public street or highway within the City.

b. *Exemptions.* This subsection shall not apply in the following situations:

1. Any resident with a permit issued by the City of Albany Police Department whose oversized recreational vehicle or trailer is parked for a period not to exceed forty-eight (48) consecutive hours in front of his or her residence for the purpose of loading or unloading before or after a trip. The term "trip" does not refer to daily use of the vehicle but instead refers to an extended overnight use of the vehicle which requires additional time to prepare the vehicle. The term loading or unloading means the packing of food, clothing and supplies, and preparing the vehicle's refrigeration, and unpacking the vehicle after the trip.

2. Vehicles actively being used in repairs to public facilities.

3. Any bona fide guest of a resident who has secured a permit for the parking of an oversized recreational vehicle from the City. A permit not to exceed three (3) days will be issued if:

(a) The bona fide guest is not a resident of the City, and

(b) The vehicle is not registered to an address within the City.

4. Any person who is actually engaged in making emergency repairs thereon.

5. Any oversized vehicle making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on a public street or delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon a street or highway for which a building permit has previously been obtained.

6. Any oversized vehicle used for the movement of commercial or residential property, (i.e., moving trucks or vans), while making pickups or deliveries of property and/or valuables.

7. Any oversized vehicle or trailer designed and used for the hauling of special purpose equipment while such equipment is being operated in an area immediately adjacent to the location of the parked oversized vehicle or trailer.

8. Any person living in Albany before July 1, 2010 who owns an oversized recreational vehicle before July 1, 2010 is authorized to park his/her oversized recreational vehicle on the public street or highway on his/her block of residence. Only one (1) oversized recreational vehicle per household is excepted under the provisions of this section. This "Albany Resident" exception will expire on July 1, 2015.

Any Albany resident seeking an exception under the provisions of this section bears the burden of proof in establishing said residency and ownership.

9. The provisions of this section shall not apply to vehicles owned by the City or used by agents of the City, or any public agency while engaged in the legitimate activity of said agency.

10. Any commercially manufactured motor vehicle designed and equipped primarily for the safe and efficient day-to-day transportation needs of disabled persons.

11. The Chief of Police may consider authorizing other exemptions on a case by case basis.

c. *No Exception.* The exceptions listed in this subsection shall not apply to any oversized vehicle, oversized recreational vehicle or trailer parked within one hundred (100') feet from the street corner or in such a manner as to obstruct and prevent free use of sidewalks. (Ord. #67-013, §1; Ord. #71-01, §1; 1958 Code §20.80A; Ord. #2010-02, §1)

9-10.22 Parking Space Markings.

The City Traffic Engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs where authorized parking is permitted. (Ord. #58-016, Art. 13, §4; 1958 Code §20.81)

9-10.23 Parking Prohibited Outside of Spaces.

The operator of a motor vehicle shall park a vehicle entirely within the designated or lined pavement markings for diagonal or parallel parking spaces. Any person who fails to park within such designated spaces shall be subject to citation for a violation of this subsection. (Ord. #85-07; 1958 Code §20.81A)

9-10.24 Temporary Modification.

The Chief of Police is authorized temporarily to suspend the restrictions contained in this section for the purpose of allowing construction or repair work to be expedited. (Ord. #58-016, Art. 13, §5; 1958 Code §20.82)

9-10.25 Interference with Officers in the Enforcement of Chapter and Removal of Marks, Etc., in Connection with Parking Regulations.

It shall be unlawful for any person to interfere with or obstruct in any way any Police Officer or other Officer or employee of the City in the enforcement of the provisions of this Chapter.

The removal, obliteration, or concealment of any chalk mark or other distinguishing mark used by any Police Officer or other employee or Officer of the City in connection with the enforcement of the parking regulations of this Chapter shall constitute such interference or obstruction. (Ord. #60-012, §1; 1958 Code §20.82A)

9-10.26 Bicycle Parking Zones.

When the City Traffic Engineer shall determine that the establishment of a bicycle parking zone is reasonably necessary or desirable for the regulation of traffic or to provide facilities for the temporary parking of bicycles being operated upon the public streets, or to safeguard life or property, he is hereby authorized to set aside a space on the street not more than thirty-six (36') feet in length for the parking of bicycles during such hours of such days as are found by him to be best suited for the accomplishment of the purposes set forth in this subsection. When a bicycle parking zone is so established, the Traffic Engineer shall cause appropriate signs to be posted thereat during such hours, giving notice that parking of other vehicles is prohibited. No person shall stop, stand or park any other vehicle in front of such zone while such signs are in place. (Ord. #58-016, Art. 12, §9; 1958 Code §20.77)

9-11 LOADING ZONES.^{26[26]}

9-11.1 Authority to Establish Loading Zones.

a. The City Traffic Engineer is hereby authorized to determine and to mark loading zones and passenger loading zones as follows:

1. At any place in the business district.

2. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.

b. In no event shall more than one-half (1/2) of the total curb length in any block be reserved for loading zone purposes.

c. Loading zones shall be indicated by a yellow paint line stenciled with black letters, "Loading Only", upon the top of all curbs within such zones.

d. Passenger loading zones shall be indicated by a white line stenciled with black letters, "Passenger Loading Only", upon the top of all curbs in such zones.
(Ord. #58-016, Art. 12, §1; 1958 Code §20.69)

9-11.2 Effect of Permission to Load or Unload.

^{26[26]}Editor's Note: As to stopping for loading or unloading of passengers by taxicabs and other vehicles for hire, see subsection 5-7.8 of this Code.

a. Permission herein granted to stop or stand a vehicle for purposes of loading or unloading of materials shall apply only to commercial vehicles and shall not extend beyond the time necessary therefor, and in no event for more than twenty (20) minutes.

b. The loading or unloading of materials shall apply only to commercial deliveries; also, the delivery or pick-up of express and parcel post packages and United States Mail.

c. Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage, but shall not extend beyond the time necessary therefor and in no event for more than three (3) minutes.

d. Within the total time limits above specified the provisions of this subsection shall be enforced so as to accommodate necessary and reasonable loading or unloading, but without permitting abuse of the privileges hereby granted.

(Ord. #58-016, Art. 12, §3; 1958 Code §20.71)

9-11.3 Standing for Loading or Unloading Only.

No person shall stop, stand or park a vehicle in any yellow loading zone for any purpose other than loading or unloading passengers or material for such time as is permitted in subsection 9-11.2 of this Chapter. (Ord. #58-016, Art. 12, §4; 1958 Code §20.72)

9-11.4 Standing in Passenger Loading Zones.

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than loading or unloading of passengers for such time as is specified in subsection 9-11.2 of this Chapter. (Ord. #58-016, Art. 12, §5; 1958 Code §20.73)

9-11.5 Standing in Any Alley.

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of persons or materials in any alley. (Ord. #58-016, Art. 12, §6; 1958 Code §20.74)

9-11.6 Bus Zones.^{27[27]}

a. The City Traffic Engineer is hereby authorized to establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers and to determine the location thereof, subject to the directives and limitations set forth herein.

b. The word "bus", as used in this subsection, shall mean any motorbus, motor coach, trackless trolley coach or passenger stage used as a common carrier of passengers.

^{27[27]}Editor's Note: For State law as to local regulation of bus stands, see Veh. C.A., §589.6.

c. No bus zone shall exceed eighty (80') feet in length, except that when satisfactory evidence has been presented to the City Traffic Engineer showing the necessity therefor, the City Traffic Engineer may extend bus zones not to exceed a total length of one hundred twenty-five (125') feet.

d. Bus zones shall normally be established on the far side of an intersection.

e. No bus zone shall be established opposite and to the right of a safety zone.

f. The City Traffic Engineer shall paint a red line stencil with white letters "No Standing", together with the words "Bus Zone", upon the top side of all curbs and places specified as a bus zone.

g. No person shall stop, stand or park any vehicle, except a bus in a bus zone. (Ord. #58-016, Art. 12, §7; 1958 Code §20.75)

9-11.7 Funeral Zones.

It shall be unlawful for the operator of any vehicle to stop, stand or park such vehicle for any period of time longer than is necessary for the loading or unloading of passengers and not to exceed three (3) minutes at any place between the limit markers or signs placed within the projected real property boundaries of any undertaking establishment, private residence, or any public or private place at any time during or within forty (40) minutes prior to the beginning of any funeral or funeral service, unless the operator of such vehicle is directed by or has received permission from the director or other person in charge of such funeral or funeral service to park such vehicle in such place; provided, that such director or person in charge shall have placed and maintained prior to and during the time limit herein specified two (2) approved portable signs, one at each extremity of such place, upon the sidewalk or pavement area and within two (2') feet of the curb. (Ord. #58-016, Art. 12, §8; 1958 Code §20.76)

9-12 PERMIT PARKING.

9-12.1 Intent, Purpose and Authority.

This section sets forth procedures pursuant to Vehicle Code Section 22507 for the establishment of permit parking areas in order to alleviate, in certain areas and neighborhoods, more vehicle congestion caused by long-term parking by nonresidents of those areas and neighborhoods. In order to protect the health, safety and welfare of residents and merchants of areas and neighborhoods affected by long-term parking and to protect and promote the integrity of these areas and neighborhoods, it is necessary to establish the procedures herein. (Ord. #84-02; 1958 Code §20.82-1)

9-12.2 Establishment of Permit Parking Zones.

a. *Designation by Resolution.* The City Council may designate by resolution certain residential streets, or any portions thereof, as permit parking zones for residents adjacent thereto in which zoned vehicles displaying a permit or other authorized indicia may be exempt from parking prohibitions or restrictions otherwise posted, marked or noticed. This resolution shall state the applicable time limitation(s) and the period(s) of the day(s) of the week for its application.

b. *Evaluation Criteria.* In determining whether an area may be designated as a permit parking area, the following criteria shall be included in the review and consideration:

1. The extent of the desire and need of the residents for permit parking and their willingness to bear the costs associated therewith.

2. The extent to which legal on-street parking spaces are occupied by motor vehicles during the period(s) proposed for parking restrictions.

3. The extent to which vehicles parking in the area during the period(s) proposed for parking restriction are vehicles belonging to nonresidents rather than residents.

4. The extent to which motor vehicles registered to residents in the area cannot be accommodated by the number of available off-street parking spaces.

5. The location and number of spaces available as alternative parking locations for vehicles of nonresidents which are to be displaced in the proposed permit - parking area.

c. *Administrative Procedure.* The Traffic Engineer shall coordinate the preparation of administrative procedures by the City departments to implement this section.

d. *Findings.* Each permit parking zone shall be designated only upon findings which may include: such zone is required to enhance or protect the quality of life in the area of the proposed zone threatened by noise, traffic hazards, environmental pollution, or devaluation of real property resulting from the vehicles of commuters or those whose final destination is not within the zone; that such zone is necessary to provide reasonable, available and convenient parking for the benefit of the residents within the zone; that the proposed zone is desirable to encourage the use of car pooling and mass transit; that other alternatives do not exist or are not feasible; that the proposed zone creates no significant adverse effects on other parking needs.

In adopting a resolution establishing a permit parking zone, the Council shall include specific findings incorporating any of the above general findings as well as others which may be applicable. Notwithstanding the above criteria and findings, the decision to establish a permit parking zone is the prerogative of the Council.

(Ord. #84-02; 1958 Code §20.82-2)

9-12.3 Designating Process.

a. *Application.* Any resident of Albany may request consideration of a permit parking zone by submitting an application to the City Council including the following elements:

1. A letter describing the parking problem, its cause and worst time periods.
2. A map describing the proposed zone boundaries.
3. A petition signed by residents of not less than fifty (50%) percent of the dwelling units in the proposed zone. The petition signatures shall be on a form supplied by the Traffic Engineer which shall disclose to residents the nature of a permit parking zone and the cost of resident and guest permits.

b. *Evaluation.* Upon receipt of an application, the City Council shall forward it to the appropriate City departments for review and recommendation. Evaluation shall include at least the following elements:

1. Occupancy rate of on-street parking at a "peak parking period" mutually agreed upon by staff and the applicant shall be calculated, and must exceed seventy-five (75%) percent for the zone in order for the application to be further considered.
2. Evaluation as to whether a substantial number of vehicles parked in the zone belong to nonresidents.
3. Evaluation of appropriate zone boundaries, based on parking study findings and addresses on signed petitions.
4. Evaluation of the cause of the parking problem and alternative solutions.
5. Referral of the application and staff evaluation to the Traffic and Safety Commission for discussion and recommendation to the City Council.
6. Adverse impacts on other parking needs.

c. *City Council Consideration.* The City Council shall set the matter for a public hearing with public notification by mailing notices to the affected property addresses within the zone, by publication in a local newspaper, and by such other notification as the City Council directs. Following the public hearing, Council may enact a resolution establishing a permit parking zone, or may reject the application. If a permit parking zone is to be established, the resolution shall incorporate specific findings, zone boundaries, regulations, time restrictions and other particulars relevant to the establishment of the zone.

d. *Number of Zones.* There is no limit to the number of permit parking zones which may be established under this section. However, in order for the City to properly evaluate the impacts and effectiveness of a zone established pursuant to the section, Council may not adopt a

second zone in the City until one (1) year after adoption of the resolution establishing the first permit parking zone.

e. *Annual Evaluation.* Permit parking zones shall be evaluated after six (6) months and, thereafter, annually as to effectiveness of the designated parking requirements and analysis of the relationship between program cost and revenue.

f. *Modification or Revocation.* The City Council may, by resolution, modify the boundaries, regulations or other aspects of a permit parking zone, or may eliminate a zone completely. Either action may be taken only after thorough evaluation by the City Council.

g. *Signs.* No permit parking zone established by resolution shall apply until signs or other markings giving adequate notice thereof have been placed.
(Ord. #84-02; 1958 Code §20.82-3)

9-12.4 Resident Parking Permits.

a. *Issuance.* The Treasurer's Office is responsible for issuing parking permits for specific vehicles to residents of a zone established pursuant to this section. An applicant shall provide proof of residence within the zone, proof of current vehicle registration, and proof of ownership or primary use of the vehicle for which a permit is issued. There is no limit to the number of permits which may be issued. Permits may not be issued for inoperative vehicles or trailers. A permit is valid for the calendar year for which it is issued, and is not transferable.

b. *Fee.* The annual permit fee shall be established by a resolution of the City Council.

c. *Records.* The Treasurer's office shall maintain a record of the number of parking permits issued to each location, the names of permit holders, the license numbers of vehicles for which a permit has been issued, the preprinted number of the permit, and a notation of the documents checked to establish residence and vehicle ownership.

d. *Display.* Permits issued by the Treasurer's office shall be affixed to the left rear bumper of the vehicle for which it was issued.

e. *Revocation.* Individual parking permits remain the property of the City and remain valid only as long as the conditions of its issuance remain satisfied. The Treasurer's office may revoke permits for due cause in accordance with the administrative procedures.
(Ord. #84-02; 1958 Code §20.82-4)

9-12.5 Guest Parking Permits.

a. *Issuance.* Guest parking permits shall be issued by the Treasurer's office during working hours and by the Police Department during other hours. Five (5) free guest permits will be issued with each annual resident vehicle permit. Thereafter, additional permits in unlimited

quantities may be purchased in sheets of five (5) at a cost established by Council resolution. Purchasers must prove residence in the permit parking zone.

b. *Use.* Although issued to the resident rather than to a specific vehicle, each guest permit may be used only once. When used, a guest permit shall be placed on the driver's side dash and shall show in indelible ink the date used and vehicle's license plate number.
(Ord. #84-02; 1958 Code §20.82-5)

9-12.6 Violations.

a. *Parking.* No person shall park a motor vehicle on a street within the permit parking zone during the effective times and days established by Council resolution without a valid permit properly displayed.

b. *False Information.* No person shall falsely represent himself as eligible for a parking permit, or shall furnish false information in an application for a permit.

c. *Wrong Vehicle.* No person shall use or display, or allow the use or display of, a valid resident parking permit on a motor vehicle other than that for which the permit was issued.

d. *False Copy.* No person shall knowingly use or display a facsimile or counterfeit parking permit.

e. *False Display.* No person shall knowingly use or display a facsimile or counterfeit parking permit in order to evade time limitations on parking applicable in the permit parking area.

f. *Sold Vehicle.* No person shall sell or otherwise dispose of a vehicle with a parking permit without destroying that permit, and no subsequent owner of the vehicle shall use a permit issued to a previous owner.

g. *Other.* No person shall knowingly commit any act prohibited by this Chapter, or aid or abet another to do so.
(Ord. #84-02; 1958 Code §20.82-6)

9-12.7 Exemptions.

Emergency vehicles, utility company vehicles, and vehicles on City or official Government business are exempt from these permit requirements.
(Ord. #84-02; 1958 Code §20.82-7)

9-13 IMPOUNDMENT OF ILLEGALLY PARKED VEHICLES.^{28[28]}

9-13.1 Definitions.

As used in this section:

Vehicle shall mean a device in, upon or by which any person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

(Ord. #760, §5; 1958 Code §20.83)

9-13.2 General Authority of Police.

The Police Department may remove and impound any vehicle under the following circumstances:

a. When any vehicle is left standing on any street in the City for a period of seventy-two (72) consecutive hours or more. Movement of a vehicle for a distance less than twenty-five (25') feet or removal of the vehicle from the location for a period of less than two (2) hours for the purpose of defeating the intent of this subsection shall be without effect and shall not relieve the vehicle or the owner thereof from the provisions of this section or from the penalty prescribed in Section 1-9 of this Code.

b. When a vehicle is illegally parked on any street in the City in violation of any City ordinance forbidding standing or parking and the use of a street or a portion thereof is necessary for the cleaning, repair or construction of the street or the installation of underground utilities and signs giving notice that such a vehicle may be removed are erected or placed at least twenty-four (24) hours prior to the removal.

c. Where the use of the street or any portion thereof is authorized by City authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles or structures of unusual size and the parking of such vehicles would prohibit or interfere with such use or movement and signs giving notice that such vehicles may be removed are erected or placed at least twenty-four (24) hours prior to the removal.

d. Where any vehicle is parked or left standing where City authorities, by resolution or ordinance, have prohibited such parking and have authorized the removal by ordinance. No vehicle may be removed unless signs are posted giving notice of the removal.

e. The Police Department shall be authorized to levy a twenty-five (\$25.00) dollar processing fee to the owner of any vehicle impounded for a violation of this section. This fee

^{28[28]}Editor's Note: For State law as to removal of certain parked vehicles, see Veh. Code, §§22650 to 22658. As to local impounding ordinances, see Veh. Code, §§22652, 22850 to 22854.

shall be in addition to any fines, towing and storage charges incurred as a result of a violation of this subsection.

(Ord. #796, §1; Ord. #63-06, §1; Ord. #65-05, §1; 1958 Code §20.84; Ord. #87-016, §1)

9-13.3 Removal to Garage.

When any vehicle is impounded by the Police Department as provided in subsection 9-13.2, the officer so impounding the vehicle shall remove it from the street wherein it is located to the nearest garage or other place of safety or to a garage designated or maintained by the City. (Ord. #760, §2; 1958 Code §20.85)

9-13.4 Notice to Owner.

Whenever an officer of the Police Department removes a vehicle as authorized in this section, and the officer knows or is able to ascertain from the registration record in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal, the grounds thereof and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage. (Ord. #760, §3; 1958 Code §20.86)

9-13.5 Report to State Department of Motor Vehicles.

Whenever an officer of the Police Department removes a vehicle under this section and does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in subsection 9-13.4 and in the event the vehicle is not returned to the owner within a period of one hundred twenty (120) hours, the officer shall immediately send or cause to be sent a written report of such removal by mail to the State Department of Motor Vehicles and shall file a copy of such report with the proprietor of any public garage in which the vehicle may be stored. Such report shall be made in accordance with the provisions of Section 585 of the Vehicle Code of the State. (Ord. #760, §3; 1958 Code §20.87)

9-13.6 Garage Keeper's Lien.

Whenever any vehicle has been removed to a garage under the provisions of this section, and the keeper of such garage has received the notices provided for from the arresting officer, such keeper shall have a lien dependent upon possession for his compensation for towage and for caring for and keeping safe such vehicle for a period not exceeding ninety (90) days. (Ord. #760, §4; 1958 Code §20.88)

9-14 ABANDONED VEHICLES.^{29[29]}

9-14.1 Declared a Nuisance.

In addition to and in accordance with the determination made and the authority granted by the State under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the Council hereby makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property including highways is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof on private or public property including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this section. (Ord. #67-015, §1; Ord. #71-09, §2; 1958 Code §20.88-1; Ord. #93-012)

9-14.2 Definitions.

As used in this section:

Highway shall mean a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

Owner of the land shall mean the owner of the land on which the vehicle or parts thereof is located, as shown on the last equalized assessment roll.

Owner of the vehicle shall mean the last registered owner and legal owner of record.

Public property shall not include "highway".

Vehicle shall mean a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

(Ord. #67-015, §1; Ord. #71-09, §2; 1958 Code §20.88-1)

9-14.3 Exceptions to Applicability of Section.

This section shall not apply to:

^{29[29]}Editor's Note: See Veh. C., §22660.

- a. A vehicle or part thereof which is located behind a solid fence six (6') feet in height or which is not plainly visible from a highway;
- b. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- c. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this subsection shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this section.
(Ord. #67-015, §1; 1958 Code §20.88-2)

9-14.4 Supplemental to Other Laws.

This section is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction. (Ord. #67-015, §1; 1958 Code §20.88-3)

9-14.5 Enforcement.

Except as otherwise provided herein, the provisions of this section shall be administered and enforced by the Police Department. In the enforcement of this section, such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle declared to be a nuisance pursuant to this section. (Ord. #67-015, §1; 1958 Code §20.88-4)

9-14.6 Franchised Person to Have Rights of Entry to Abate Nuisances.

When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this section. (Ord. #67-015, §1; 1958 Code §20.88-5)

9-14.7 Administrative Costs.

The City Council shall determine and fix an amount to be assessed as administrative costs under this section. (Ord. #67-015, §1; 1958 Code §20.88-6)

9-14.8 Abatement and Removal Procedure; Notice to Owner of Land.

9-14.9 Public Hearing Before Police Chief or Designated Abatement Hearing Officer; Conduct of Hearing; Conclusions and Orders.

All hearings under this section shall be held before the Police Chief or designated abatement hearing officer who shall hear all facts and testimony he or she deems pertinent. Such facts and testimony he or she may include testimony on condition of the vehicle parts thereof and the circumstances concerning its location on such private property. The Police Chief or designated abatement hearing officer shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The Police Chief may impose such conditions and take such other actions as it deems appropriate under the circumstances to carry out the purpose of this section. It may delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the Police Chief or designated abatement hearing officer may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the Police Chief or designated abatement hearing officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the Police Chief or designated abatement hearing officer but does not appear, he shall be notified in writing of the decision. (Ord. #67-015, §1; Ord. #71-09, §5; 1958 Code §20.88-9; Ord. #96-012)

9-14.10 Removal of Vehicle; Time Limit.

Five (5) days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five (5) days from the date of mailing of notice of the decision, if such notice is required by subsection 9-14.9, the vehicles or parts thereof may be disposed of by removal to a scrapyards or an automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable and the City of Albany shall arrange for the disposal of said vehicle or parts thereof. (Ord. #67-015, §1; 1958 Code §20.88-10; Ord. #96-013)

9-14.11 Notification of Department of Motor Vehicles and Department of Justice of Removal and Abatement.

Within five (5) days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. In addition, pursuant to Section 22853 of the California Vehicle Code, the Department of Justice must be advised of the abatement of a vehicle. (Ord. #67-015, §1; 1958 Code §20.88-11; Ord. #93-012)

9-14.12 Costs That Are Assessed Against Land.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to subsection 9-14.9 are not paid within thirty (30) days of the date of the order, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the Tax Collector for collection. Such assessment shall have the same priority as other City taxes. (Ord. #67-015, §1; 1958 Code §20.88-12)

9-14.13 Refusal to Remove Constitutes Misdemeanor.

It shall be unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this section or State law where such State law is applicable. (Ord. #71-09, §6; 1958 Code §20.88-12)

9-15 RESTRICTED USE OF CERTAIN STREETS.^{30[30]}

9-15.1 Truck Routes.

a. The Director of Public Works is hereby authorized to designate the following streets by appropriate signs as a "Truck Route" for the movement of vehicles exceeding a maximum gross weight limit of five (5) tons.

1. On Cleveland Avenue from the north city limit to Buchanan Avenue;
2. On Buchanan/Marin Avenue from Cleveland Avenue to San Pablo Avenue; and
3. On Solano Avenue from San Pablo Avenue to the east city limit.

^{30[30]}Editor's Note: Subsections 9-15.3 through 9-15.6 previously contained in this Section, have been repealed in their entirety by Ordinance No. 90-02, §1.

b. When any such "Truck Route" is established and designated by appropriate signs, the operator of any vehicle exceeding a maximum gross weight of five (5) tons shall drive on such route and none other, except that nothing in this subsection shall prohibit the operator of any vehicle exceeding a maximum gross weight of five (5) tons coming from a "Truck Route" having ingress and egress by direct route to and from restricted streets when necessary for the purpose of making pick-ups or deliveries of goods, passengers, wares and merchandise from or to any building or structure located on such restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted streets for which a building permit has previously been obtained therefor.

c. The provisions of this subsection shall not apply to:

1. Passenger buses when traveling on a scheduled bus route; and
2. Any vehicle owned by a public utility while in use in the construction, installation or repair of any public utility.
3. When designated truck routes have been closed due to an emergency. In which case, the alternative route shall be as directed by the Police Chief.

d. *Penalties.* Penalties for violations of this Section 9-15 shall be imposed in accordance with Vehicle Code Section 42030 and any modifications thereto. (Ord. #84-08; 1958 Code §20.89; Ord. #89-010; Ord. #90-09)

9-15.2 Regulations for Interstate Truck Terminal.

a. *Intent and Purpose.* It shall be the intent and purpose of this section to provide for the public necessity, health, safety, or general welfare through the establishment of procedures for terminal designation and truck route designation to terminals for interstate trucks.

b. Since STAA1982 and AB 866 revised current State law on truck combinations' length and width and implements Federal requirements dealing with access to the Federally designated system by interstate trucks, it is required that the City enact an ordinance delineating the process of application for terminal and/or route designation within the bounds of the City limits by citizens/business establishments requiring the service of the interstate trucks off the Federally designated system (i.e., I-80 and I-580/Hoffman).

c. *Application Process.*

1. Those persons qualifying as a "terminal" as defined in this section and requiring terminal access from Federally designated highways shall submit an application and appropriate fee to the Public Works Department, City Hall, City of Albany, 1000 San Pablo Avenue, CA 94706. The application shall be on a form provided by the Public Works Department.

2. Upon receipt of the application, the Director of Public Works will determine the applicant's conformance with the "terminal" designation and if so approved, will then determine the capability of the route requested and/or alternate routes. Capability will be determined by the adequate turning radius and land widths of ramps, intersections and highways. Also a determinant factor will require CALTRANS (District 04) approval.

3. If the requested route passes through several jurisdictions (i.e. County or other municipality), applicant shall comply with that jurisdiction's application process. Coordination will be the responsibility of the entity which controls the terminal's land use.

d. *Definitions.* As used in this section:

Interstate truck shall mean tractor semis or doubles with unlimited length as regulated by CVC 35401.5 (a) (1) & (2).

Terminal shall mean a facility at which freight is consolidated to be shipped or where full load consignments may be loaded and off-loaded or at which the vehicles are regularly maintained, stored, or manufactured.

e. *Cost Recovery.*

1. Fees/costs for the application of a terminal designation. A non-refundable application fee shall be charged to cover the cost of reviewing route(s) and terminal designation and shall be established by City Council resolution.

2. If the application for a terminal designation is approved, the applicant will be required to pay for the purchase and installation of terminal access signs and trailblazer signs. Trailblazer signs will be required at every decision point on the route to the terminal. The costs shall be determined by the Director of Public Works.

f. *Revocation of Route.* The Director of Public Works is authorized to revoke any approved route if the route proves to be a safety hazard for any vehicular traffic. A safety hazard is defined as inability of the interstate trucks to negotiate route and/or the trucks causing unsafe driving conditions for other vehicular traffic and/or pedestrians.

g. *Appeals Process.*

1. If the Director of Public Works denies terminal designation and/or route feasibility or revokes a previously approved route per paragraph f above, the applicant/terminal owner, within ten (10) days following the date of a decision of the Director of Public Works on a revocation of terminal access or terminal designation may appeal the decision to the City Council. An appeal shall be made on a form prescribed by the Department of Public Works and shall be filed with the City Clerk. The appeal shall state specifically wherein there was an error or abuse of discretion by the Director of

Public Works or wherein its decision is not supported by the evidence in the record. Within five (5) days of the filing of an appeal, the Director of Public Works shall transmit to the City Clerk the terminal application, the sketches of the revoked route and all other data filed therewith, the report of the Director of Public Works, the findings of the Director of Public Works and his decision on the application.

2. The City Clerk shall give notice to the applicant and to the appellant (if the applicant is not the appellant) and may give notice to any other interested party of the time when the appeal will be considered by the City Council.

3. If CALTRANS District 04 and not the Director of Public Works denies or revokes terminal access from Federally designated highways, no appeal may be made to the City Council, but must be made to the CALTRANS District 04.

h. *Retrofitting Ramps, Intersections and Roadways.* If all feasible routes to a requested terminal are deemed unsatisfactory by the Director of Public Works, the applicant may request retrofitting the deficiencies, but all costs of engineering, construction, and inspection will be borne by the applicant. Upon requests, the City may form a benefit district to assist in cost recovery by any other "terminal(s)" using the improved route. The benefit district costs would be in proportion to the section of route utilized.

(Ord. #84-08; 1958 Code §20.89-1)

9-16 SCHEDULES.

9-16.1 Schedules of Streets to be Designated by Ordinance or Resolution.

One-way streets, through streets, stop intersections, railroad stops, locations for angle parking, limited parking (time areas), prohibited parking limited or restricted areas required shall be designated by ordinance or resolution of the City Council. (Ord. #58-016, Art. 16, §1; 1958 Code §20.93)

9-17 TRIP REDUCTION REQUIREMENTS.

9-17.1 Declaration of Policy.

It is hereby declared to be the policy of the City of Albany to implement a trip reduction and travel demand ordinance pursuant to California Government Code Section 65089. This policy is also consistent with the California Clean Air Act and the Federal Clean Air Act. (Ord. #92-08, §1)

9-17.2 Definitions.

a. *Albany commute alternatives program manager* shall mean the person designated by the City to manage the program developed under this section.

- b. *City* shall mean the City of Albany.
- c. *Commute alternatives* shall mean carpooling, vanpooling, transit, bicycling, telecommuting and walking as commute modes.
- d. *Commute Alternatives Appeals Board* shall mean the City Council, which shall hear appeals to requirements of this section.
- e. *Commute Alternatives Information Program* shall mean a program to provide information about any reasonable method or approach for providing, supporting, subsidizing, and/or encouraging the use of commute alternatives, including but not limited to matching and placement services for carpools and vanpools; provision of carpool and vanpool vehicles; carpool and vanpool operating subsidies; carpool and vanpool preferential parking location and/or fees; fees for employee parking; provision of and/or placement services for subscription buses; provision of shuttle services; transit fare subsidies; on-site waiting and loading facilities for transit; travel allowances for bicyclists and pedestrians; on-site paths, parking, showers and lockers for bicyclists and pedestrians; guaranteed ride home and guaranteed transportation in emergencies for users of commute alternatives; on-site child care and other service convenience facilities which lessen the need for personal vehicle at the place of employment; telecommuting; and teleconferencing.
- f. *Employee* shall mean any person who regularly works twenty (20) hours or more per week at a work site and normally travels between 6:00 a.m. - 10:00 a.m. or 3:00 p.m. - 7:00 p.m. and who normally works at least twenty-six (26) weeks per year.
- g. *Employer* shall mean any public or private employer who has a permanent worksite within the City of Albany. "Employer" shall not include contractors with no permanent place of business in the City or other businesses with no permanent workplace location.
- h. *Employer Commute Alternatives Program Manager* shall mean the person employed by an affected employer who is responsible for carrying out the employer requirements under the ordinance and the day-to-day administration of the Employer Commute Alternatives Information Program.
- i. *Worksite* shall mean the place of employment, base of operation, or predominant work location of an employee. It includes all of the employee's buildings or facilities located within the City of Albany.
(Ord. #92-08, §1)

9-17.3 Trip Reduction Program Requirements.

- a. *Applicability and Phasing of Program Requirements.* The section shall be applied to all employers with one hundred (100) or more employees during the first year following the date of adoption. Within three (3) years of the date of adoption, the ordinance shall be applied to all employers of fifty (50) or more.

b. *City Requirements.* The City shall designate an Albany Commute Alternatives Program Manager to serve as the City liaison and to provide guidance to employers subject to this section. The Commute Alternatives Program Manager shall be responsible for the following duties:

1. Provide employers with marketing materials and information about commute alternatives and how commute alternatives can reduce traffic congestion and air pollution.
2. Provide training for Employer Commute Alternatives Program Managers in fulfilling their responsibilities.
3. Collaborate with the Alameda County Congestion Management Authority in a Countywide baseline survey of commute patterns and transportation modes between home and work.
4. Develop a program for monitoring and enforcing compliance with the section.
5. Serve as the City's own Commute Alternatives Program Manager and fulfill all the responsibilities set forth in subsection 9-17.3c.

c. *Appeals Board.* The City Council shall serve as the Commute Alternative Appeals Board that will consider petitions brought by employers who are found to be in violation with the provisions of this section.

d. *Employer Requirements.* Within sixty (60) days following the adoption of this section, the City shall notify all employers who are subject to the provisions of this section about the following requirements:

1. The employer shall appoint a Commute Alternatives Program Manager within thirty (30) days following notice from the City. The Employer Commute Alternatives Program Manager shall complete a training course approved by the City unless it can be demonstrated to the City that the Program Manager has already completed comparable training elsewhere.
2. The employer shall submit a detailed information campaign plan to the City at the beginning of each calendar year, beginning in January, 1993. At the end of each calendar year, the employer must verify to the City that the campaign was carried out.
3. The employer shall inform all new employees about commute alternatives within two (2) weeks after the first day of employment. The employer shall file a copy of a signed statement from each employee with the City Commute Alternative Program Manager acknowledging that they have reviewed the commute alternatives available.

4. The employer shall develop a Commute Alternatives Information Program to inform all employees about the commute options available to them as defined in subsection 9-17.2 b. The information program may include but is not limited to letters to each employee, electronic mail, a detailed article in the company newsletter, and periodic meetings.

5. The employer shall post or otherwise distribute information on available commute alternatives that are supplied by the City and the Alameda County Congestion Management Authority.

6. The employer shall participate in any countywide survey originated by the Alameda County Congestion Management Authority.

(Ord. #92-08, §1)

9-17.4 Enforcement.

a. *Appeals.* If the Commute Alternatives Program Manager finds that an employer has failed to fulfill the section requirements set forth in subsection 9-17.3c., the Manager shall notify the employer in writing within thirty (30) days. The employer, may, within ten (10) calendar days of receipt of such notice, file a written application for an appeal with the City Council, stating specific grounds for the appeal, and including the applicable fee set forth by City Council resolution. Upon receiving the appeal, the City Council shall hear the appeal and render a decision within sixty (60) days. The opinion shall be filed with both the employer and City Commute Alternatives Program Managers.

b. *Penalties.*

1. *Civil Assessment.* An employer who fails to comply with the provisions of this section within ninety (90) days of written notice to comply, shall be liable to the City for a civil assessment in the amount of two hundred fifty (\$250.00) dollars per day for each day of noncompliance, commencing with the ninety-first (91st) day following receipt of notice of noncompliance.

2. *Injunction.* In addition to any other remedy which may accrue to the City hereunder, the City may use a civil injunction to enforce provisions of this section, or any regulation or order promulgated or issued, or any program approved, pursuant hereto.

3. *Date of Applicability of Penalties.* Enforcement provisions set forth in paragraphs a. and b. of this subsection shall be effective from and after one (1) year following the effective date of this section.

(Ord. #92-08, §1)

CHAPTER XIV WORK ON PUBLIC PROPERTY¹⁰¹

14-1 GENERAL.

14-1.1 Definitions.

As used in this Chapter:

Abandoned newsrack shall mean any newsrack which remains empty for ten (10) business days, except that a newsrack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned.

City shall mean the City of Albany, a municipal corporation of the State of California.

Commission shall mean the Public Utilities Commission of the State of California.

Council shall mean the City Council of the City of Albany.

Director shall mean the Director of Community Development and Environmental Resources, or his/her designee.

Freestanding newsrack shall mean any newsrack which is not a modular newsrack.

Modular newsrack shall mean an assembly which is of a type, design or model approved by the Director of Community Development and Environmental Resources or his/her designee and which contains one (1) or more self-service or coin-operated boxes, containers, storage units or other dispensers installed, used or maintained for the display and sale or the distribution without charge of newspapers, news periodicals or other news publications, and which is attached to the sidewalk, street or public right-of-way in accordance with this section.

Newsrack shall mean any self-service or coin-operated box, container, storage unit, or other dispenser installed, used, or maintained for the display and sale or distribution without charge of newspapers, periodicals or other publications.

Newsrack specifications shall mean regulations which contain permit procedures, design specifications for newsracks, standards for design, maintenance.

Owner shall mean and include the legal owner of real property fronting on any street of the City; and lessee of such owner.

¹⁰¹Editor's Note: Ordinance No. 98-03 amended the title of Chapter XIV. Prior ordinance history includes 1958 Code §§11.1—11.17, 24.10—24.12, 24.20—24.25, 24.30—24.32, 24.34—24.41, 24.50—24.56 and Ordinance Nos. 574, 58-043, 87-05, 88-006, 94-03 and 97-01.

Poles and overhead wires and associated overhead structures shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground upon, along, across or over the public streets, alleys and ways of the City and used or useful in supplying electric, communication or similar or associated service.

Public property shall mean any land in which the City exercises the right of ownership, land dedicated to public use, easements or rights-of-way in favor of the City, land under the dominion and the control of the City for the use and benefit of the public and all other real property that is not private property.

Sidewalk shall mean any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians.

Street tree shall mean any tree located within the right-of-way of a public street.

Structure shall mean that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner, including walls, steps, garages and fences. For purposes of Section 14-2 only, "structure" shall include hedges, but not sidewalks, driveways or private sanitary sewer or storm drains.

Temporary newsrack shall mean any newsrack privately maintained in the public right-of-way for a trial period of up to forty-five (45) days.

Utility shall mean and include all persons or entities supplying gas, water, electric, communication, or similar or associated service by means of materials or devices.
(Ord. #98-03, §1)

14-1.2 Damage to Public Property.

It shall be unlawful for any person to deface, mar, or destroy in any manner any street, sidewalk, curb or gutter or any other public property. It shall further be unlawful for any person to deposit any material in a street gutter except as allowed by an encroachment permit issued pursuant to this section. (Ord. #98-03, §1)

14-1.3 Obstructions.

No person shall cause to be placed or place upon any public street, sidewalk or way anything which shall obstruct or prevent the use of such streets or sidewalk for travel by the public, or which shall be hazardous to users of such public street, sidewalk or way, or which shall menace the health of users of such public street, sidewalk or way. (Ord. #98-03, §1)

14-1.4 Trees.

Property owner maintenance responsibility and duty to public.

a. The owner of a lot fronting on or adjacent to any portion of a street shall cause to have maintained any trees, shrubs, hedges or other landscaping along said street or within the street right-of-way adjacent to his or her property in such non-dangerous condition that the trees, shrubs, hedges or other landscaping will not interfere with the public convenience or safety in the use of the streets and sidewalks. No maintenance to any tree within the public right-of-way may be performed without first obtaining an encroachment permit from the City.

b. For purposes of this section, maintenance of trees includes but is not limited to: root and/or branch pruning, installing root barriers, fertilizing, pest control, and removal of branches, and leaves.

c. Property owners required by this section to maintain trees, shrubs, hedges and other landscaping shall owe a duty to members of the public using public streets and sidewalks to maintain such trees, shrubs, hedges or other landscaping in a safe and non-dangerous condition for users of the public streets and sidewalks

d. If any property owner fails to maintain any adjacent trees, shrubs, hedges or other landscaping in a non-dangerous condition as required by this section, and any person suffers damage or injury to person or property, the property owner shall be liable for all damages or injuries caused by the failure of the owner to maintain these areas.^{2[2]}
(Ord. #98-03, §1)

14-1.5 Maintenance and Repair of Sidewalks.

a. Anything in this Chapter to the contrary notwithstanding, the maintenance and repair of sidewalk areas and the making, confirming and collection of assessments for the cost and expense of said maintenance and repair may be done and the proceedings therefor may be had and taken in accordance with this Part and the procedure therefor provided in Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the State as the same is now in effect or may hereafter be amended. In the event of any conflict between the provisions of said Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the State of California and provisions of the Albany Municipal Code, the provisions of the Albany Municipal Code shall control.

b. The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and/or expenses therefor, including a charge for the City of Albany's costs of inspection and administration whenever the City awards a contract for such maintenance and repair and including the costs of collection of assessments for the costs of maintenance and repair under paragraph a. of this subsection or handling of any lien placed on the property due to failure of the property owner to promptly pay such assessments.

^{2[2]}Editor's Note: Pursuant to Section 2 of Ordinance No. 98-05, this subsection shall apply to all actions in which the initial trial has not commenced prior to July 1, 1998.

c. For the purposes of this section, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including parking strips and curbs, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area. No maintenance shall be performed on any sidewalk, curb, or gutter without first obtaining an encroachment permit from the City.

d. Notwithstanding the provisions of the State of California Streets and Highway Code or any subsequent amendments thereof, the Director may in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must commence by a period of not to exceed seventy-four (74) days from the time of any repair notice previously issued.
(Ord. #98-03, §1)

14-1.6 Liability for Injuries to the Public.^{3[3]}

The property owner required by this Chapter, and in particular subsection 14-1.5, to maintain and repair the sidewalk area, shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a non-dangerous condition as required by this Chapter, and in particular subsection 14-1.5, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury.
(Ord. #98-03, §1)

14-2 USE OF RIGHT-OF-WAY.

14-2.1 Permit Required.

It shall be unlawful for any person to build, construct, maintain, occupy or use, or cause the same to be done, any structure over, under or upon public property of the City, without an encroachment permit to do so. (Ord. #98-03, §1)

^{3[3]}Editor's Note: Pursuant to Section 2 of Ordinance No. 98-05, this subsection shall apply to all actions in which the initial trial has not commenced prior to July 1, 1998.

14-2.2 Permit Issuance.

a. Application for an encroachment permit required by subsection 14-2.1 shall be made by the property owner to the Director, upon such forms as he/she shall prescribe, and shall be accompanied by the payment of a fee in an amount set by the Master Fee Schedule.

b. The Director shall review the application. If he deems it necessary, the Director may demand that a cash or surety bond be filed with the City in such an amount as set by the Master Fee Schedule. The Director may also impose an additional fee, if resurfacing of the work area by the City will be required.

c. The permit shall grant no right in or to the use or occupancy of public property, other than that explicitly contained therein, and shall not be construed as a grant of any right or interest in the property affected thereby.

d. The permittee shall indemnify and hold harmless the City in a manner approved by the City Attorney.
(Ord. #98-03, §1)

14-2.3 Peddlers and Vendors.

a. Except as otherwise provided in this subsection, no person shall stand or park any vehicle, wagon, pushcart, or other display stand from which goods, wares, merchandise, flowers, fruits, vegetables, or foodstuffs are sold, displayed, solicited, or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any portion of any street, including sidewalks within the City, without first obtaining an encroachment permit and a business license, which shall designate the specific location thereof; provisions of this paragraph shall not apply to persons delivering such articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution.

No more than four (4) permits issued pursuant to this subsection shall be in existence at any one (1) time.

b. Whenever any permit is granted under the provisions of this subsection and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, wagon, or pushcart on any location other than is designated in such permit; and, in no case, shall any vehicle, wagon, pushcart, or other display stand from which any food or beverage is dispensed be permitted to stand or park at any time within three hundred (300) feet from the property line of any school providing instruction to students in pre-kindergarten through twelfth grade, between the hours of 7:00 a.m. and 5:00 p.m. on school days.

c. Any person desiring to obtain a permit required by this subsection shall make a written application therefor with the Community Development and Environmental Resources Department. The application shall include:

1. The name and address of the applicant, and, if the same is a corporation, the names and addresses of its principal officers, or if the same is a partnership, association or fictitious company, the names and addresses of the partners or persons comprising the association or company, together with the name and address of the person actually making the application.

2. A statement as to the type, content, size, style and shape of the vending vehicle, wagon, pushcart, or display stand.

3. An accurate color copy or rendering of any proposed signage.

4. Location of activity.

5. Hours and days of activity.

d. Signs are limited to two (2) per vehicle or stand, no one of which sign may exceed four (4) square feet. Approval of all signage is at the discretion of the Director. (Ord. #98-03, §1; Ord. #06-013, §1)

14-2.4 Conformity of Encroachment.

Structures and uses located on public property shall conform to all the provisions of this Code and other ordinances, regulations and guidelines of the City. (Ord. #98-03, §1)

14-2.5 Responsibilities of the Owner.

It shall be the responsibility of the owner to properly maintain the permitted encroachment in a safe manner; failure to do so will be grounds for revocation. (Ord. #98-03, §1)

14-2.6 Permit to Alter.

No existing structure located on public property shall be altered, enlarged, rebuilt, remodeled, improved, or moved, without the approval of the Director, and issuance of an encroachment permit. (Ord. #98-03, §1)

14-2.7 Removal of Encroachment.

Any structure or use located on public property which, in the opinion of the City, interferes with the use of public property or violates provisions of the permit of this section, shall be removed from such public property by the owner thereof within fifteen (15) days after written notice or sooner as directed by the Director. These notices may be posted upon any real property of such owner in the City, or delivered to the owner personally. Upon the failure of such owner to remove the structure at his sole expense, the Council may cause the same to be done and assess the cost thereof against such owner and the same shall become a lien against the real property. (Ord. #98-03, §1)

14-2.8 Work by Utilities.

Utility companies holding franchises to operate in the City shall obtain encroachment permits and comply with all standards established by the Director. (Ord. #98-03, §1)

14-2.9 Compliance with Regulations.

All work for which a permit has been issued under this section shall comply with all City, County and State regulations regarding health and safety. (Ord. #98-03, §1)

14-2.10 Safety Provisions.

a. All work and use must conform with applicable sections of the City of Albany Standard Specifications.

b. It shall be unlawful for any person, other than an employee of the permit holder or of the City to remove, interfere with or go behind any barricade erected for public protection, and it shall be unlawful for any person, other than an employee of the permit holder or of the City to handle, remove or in any way interfere with any light placed for the public protection.

c. All work in the public right-of-way shall comply with any conditions listed on the encroachment permit.
(Ord. #98-03, §1)

14-2.11 Liability for Damage to Public Property.^{4[4]}

Any damage done to streets, curbs, gutters, sidewalks or other public property by any person doing work covered by this section, whether he is covered by a bond or not, and whether he has a permit for such work or not, shall be made good by such person. (Ord. #98-03, §1)

14-2.12 Liability for Damage to Persons and Private Property.^{5[5]}

As a condition to receiving a permit to do work or otherwise use the public right-of-way under this section, the person applying therefor shall safeguard the City from any and all liability or responsibility for damages to persons or property. (Ord. #98-03, §1)

14-2.13 Driveway Curb Cuts.

It shall be unlawful to create new or eliminate existing driveway approaches without an encroachment permit. (Ord. #98-03, §1)

^{4[4]}Editor's Note: Pursuant to Section 2 of Ordinance No. 98-05, this subsection shall apply to all actions in which the initial trial has not commenced prior to July 1, 1998.

^{5[5]}Editor's Note: Pursuant to Section 2 of Ordinance No. 98-05, this subsection shall apply to all actions in which the initial trial has not commenced prior to July 1, 1998.

14-2.14 Notice to Construct and Repair.

When, in the interests of public safety or convenience, it shall be found necessary to construct or repair any curbing, driveway, sidewalk or parking strip, it shall be the duty of the Director to notify the owners of abutting property when such construction or repairs are required. Such notice shall specify that, if the construction is not commenced within two (2) weeks after such notice is given, the Director shall make the construction or repair and the cost shall be a lien on such property. Such notice shall be mailed or delivered in person to the address of the person whose name and address is of record on the assessment rolls of the City.

Any property owner whose property is to be assessed to pay the costs and expenses of the proposed construction may make objection in writing to the Director within the two (2) week period before mentioned. Such objections will be scheduled for a hearing before the City Council prior to proceeding with the proposed construction. A failure to make objection within the specified time shall be deemed a waiver of all objection to the proposed construction. (Ord. #98-03, §1)