ORDINANCE NO. 2014-10

AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING
CHAPTER VIII, SECTION 8-4 OF THE ALBANY MUNICIPAL CODE

WHEREAS, Section 8-4 of the Albany Municipal Code provides regulations for the use
of City parks, recreation, open space, waterfront and Albany Hill areas within the City of
Albany; and

WHEREAS, the City Council wishes to establish additional regulations to govern
activities which are inconsistent with the peaceful use and enjoyment of these areas, including
but not limited to unauthorized operation and parking of motor vehicles, use of sound amplifying
equipment, building fires, using cooking appliances, and possession or firing of dangerous
weapons; and

WHEREAS, the City Council wishes to make certain clarifying revisions to Section 8-4;
and

WHEREAS, the City Council further wishes to establish penalty provisions which are
specific to Section 8-4.

NOW THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: CHAPTER VIII OF THE ALBANY MUNICIPAL CODE, SECTION
8-4, TITLED "PARKS, RECREATION, OPEN SPACE, WATERFRONT AND ALBANY
HILL AREAS," IS HEREBY AMENDED, TO READ AS FOLLOWS:
8-4 PARKS, RECREATION, OPEN SPACE, WATERFRONT AND ALBANY HILL AREAS.

8-4.1 Purpose.

The purpose of this Section is to provide regulations for the use of City parks, recreation, open space, waterfront and Albany Hill areas within the City of Albany.

8-4.2 Definitions.

a. *Albany Hill area* shall mean all the public areas on Albany Hill, including public property areas abutting and contiguous to Cerrito Creek, and the area known as Creekside Park.

b. *Bicycle* shall mean a device upon which any person may ride, propelled exclusively by human power through a system of belts, chains, or gears, and having one or more wheels. Bicycle does not include any authorized public safety bicycle.

c. *Motor Vehicle* shall include any vehicle that is self-propelled or a device by which any person or property may be propelled, moved, or drawn upon a street or highway. Motor vehicle includes but is not limited to a truck, passenger car, motorcycle, off-road vehicle, "dirt-bike," all-terrain vehicle, motorized skateboard, "Go-ped," motorized scooter, and any similar vehicle. Motor vehicle does not include a self-propelled wheelchair, motorized tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian. Motor vehicle does not include any authorized maintenance or public safety vehicle.

d. *Parks, recreation and open space areas* shall mean those park and recreation areas commonly known as Memorial Park, Middle School Park, Terrace Park, the Dartmouth-Talbot Tot Lot, the Ohlone Greenway, the Key Route Strip, the Pierce Street Park, and all other parks, recreation and open space areas of the City.

e. *Sound Amplifying Equipment* shall mean any machine or device for the amplification of the human voice, music, or any other sound. Sound amplifying equipment shall not include a standard automobile radio which cannot be heard outside the vehicle from 50 or more feet away. Sound amplifying equipment shall not include a warning device on an authorized emergency vehicle or horn or other warning device on any vehicle used only for traffic safety purposes.

f. *Waterfront areas* shall mean those public areas west of the freeway which lie between Albany's northern and southern borders.
8-4.3 Hours of Operation.

a. No person shall use, remain in, or enter upon any waterfront or Albany Hill area between 10:00 p.m. and 5:00 a.m., other than duly authorized City employees, persons participating in City sponsored activities or other activities which the City has provided prior written permission to utilize the waterfront area beyond the closing time. The hours of operation of specific facilities within any waterfront area may also be set by the Director of the Recreation and Community Services Department.

b. No person shall use, remain in or enter into Memorial Park between 11:00 p.m. and 5:00 a.m., other than duly authorized City employees, persons participating in City sponsored activities or other activities which the City has provided prior written permission to utilize Memorial Park beyond the closing time. The Director of the Recreation and Community Services Department is authorized to modify the hours of operation for specific facilities within Memorial Park.

c. The City Council, by resolution or ordinance, may set hours of operation at other City park, recreational or open space areas.

8-4.4 Camping.

No person shall camp in any park, recreation, open space, waterfront or Albany Hill area. Prohibited camping includes setting up, occupying or leaving tents, shacks, sleeping bags or any other shelters, structures or specialty vehicles (including but not limited to house trailers, camp trailers, camp wagons, and any other mobile or stationary campers) which are used or could be used for overnight camping in any park, recreation, open space, waterfront or Albany Hill area. The restrictions contained within this Section shall not apply to programs sponsored or co-sponsored by the City.

8-4.5 Fires.

a. No person shall build, maintain or light any open outdoor fire within any park, recreation, open space, waterfront or Albany Hill area except within those facilities and/or areas provided and designated for that purpose. Exceptions to this requirement must be approved by the Albany Fire Chief. No person shall leave a fire unattended on City owned property.

b. No person shall possess or use a personal cooking appliance such as a gas or propane camp stove, portable barbecue or hibachi or similar device in any waterfront or Albany Hill area. Exceptions to this requirement must be approved by the Albany Fire Chief.
8-4.6 Alcoholic Beverages.

The possession and consumption of alcoholic beverages and alcoholic beverage containers in park, recreation, open space, waterfront and Albany Hill areas shall be governed by the provisions of Albany Municipal Code Section 8-7. No intoxicated person shall enter, remain or be within any waterfront or Albany Hill area.

8-4.7 Unauthorized Activities.

Unless authorized by the City Manager or designee, it is unlawful to do any of the following in any park, recreation, open space, waterfront or Albany Hill area:

a. Dig or remove any soil, rock, stones, trees, shrubs, plants or other wood and/or materials, or make any excavation;

b. Construct or erect any building or structure of any kind, whether permanent or temporary, or run or string any public service utility into, upon, or across such areas;

c. Attach anything, whether rope, cable or otherwise, to any shrub, tree, fence rail, bridge, bench, or other structure;

d. Place or cause to be placed in any waters of any fountains, streams or any other body of any substance, matter, or thing, liquid or solid which may result in pollution of said water;

e. Fail to deposit refuse and/or rubbish in the receptacles provided. In the event receptacles are not available, all refuse and rubbish shall be carried away from such areas by the person responsible for its presence;

f. Possess or set off any fireworks, or other incendiary devices;

g. Store personal property; or

h. Use or possess a generator, solar panel, or similar device for generating electricity.

8-4.8 Motor Vehicles.

Unless authorized by the City Manager or designee, it is unlawful to do any of the following in any waterfront or Albany Hill area:
a. Operate any motor vehicle/bicycle in the Albany Hill open space area (except for City maintenance and emergency services), excluding when designated by the City the area for a motor vehicle/bicycle path along Cerrito Creek or any paved public streets.

b. Operate any motor vehicle in the Waterfront area (except for City maintenance and emergency services), excluding any paved public streets.

c. Park a motor vehicle, except when in compliance with the directions of a peace officer, in any of the following places:

1. In areas where prohibited by “No Parking” signs.
2. On any fire trail.
3. On any hiking trail
4. Blocking or obstructing any gate, entrance, or exit.
5. On any lawn or grassy area.
6. In any picnic area.
7. On any beach.
8. In such a manner as to take up more than one “marked” parking place in any authorized parking area.
9. In any area where such vehicle blocks or obstructs the free flow of traffic.
10. Adjacent to any curb or roadway striping painted red.
11. In any Waterfront area parking space for the purpose of commute parking.
12. In violation of posted parking restrictions or devices.
13. Outside a marked parking space.

d. No person shall park a motor vehicle beyond posted parking time limits.

e. Any motor vehicle parked or left standing in violation of this Section may be removed in accordance with the California Vehicle Code.

8-4.9 Dangerous Weapons

No person shall have in his/her possession within any park, recreation, open space, waterfront or Albany Hill area, nor shall any person fire or discharge, or cause to be fired or discharged, across, in, or into these places any gun or firearm, spear, bow and arrow, crossbow, sling shot, BB gun, pellet gun, air, gas, battery or spring powered weapon, or any other dangerous weapon.
8-4.10 Noise Regulations

a. It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet within any park, recreation, open space, waterfront or Albany Hill area or which causes discomfort or annoyance to any reasonable person of normal sensitivity using any of these areas.

b. It shall be unlawful for any person within any park, recreation, open space, waterfront or Albany Hill area to use or operate any sound amplifying equipment in such a manner as to disturb the peace, quiet and comfort of park users or any reasonable person of normal sensitivity using any of these areas.

c. A violation of this Section shall be deemed to exist when the noise produced can be heard at a distance in excess of fifty (50) feet from the source of the noise.

d. The restrictions contained within this Section shall not apply to programs sponsored, co-sponsored, or permitted by the City.

Section 8-4.11 Penalties

Notwithstanding the provisions of Section 1-9 of this Code, and except as otherwise provided under State law, any violation of any provision of this Section 8-4 shall be a misdemeanor, punishable by a fine not exceeding five hundred ($500.00) dollars or imprisonment for a term not exceeding six (6) months, or by both such fine or imprisonment. In the discretion of the City Attorney, misdemeanor violations may be chargeable as infractions.

For violations charged as infractions, the City Administrator or his/her designee may arrest a violator and issue a notice to appear in the manner prescribed by Chapters 5, 5c and 5d of Title 3, Part 2 of the Penal Code (or as the same may be hereafter amended). The immunities prescribed
in Section 853.9 of the Penal Code shall be applicable to public officers or employees pursuant
to this Section. Every day any violation of this Section continues shall constitute a separate
offense.

SECTION 2: SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is held to be
invalid, such decision shall not affect the validity of the remaining portions of the ordinance, and
each section, subsection, sentence clause or phrase thereof, irrespective of the fact that any one
or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 3: PUBLICATION AND EFFECTIVE DATE.

This ordinance shall be posted at three public places within the City of Albany and shall
become effective thirty days after the date of its posting.

PASSED AND ADOPTED by the City Council of the City of Albany at its meeting on
the 15th day of December, 2014, by the following vote:

AYES: Council Members Barnes, McQuaid, Pich, Vice Mayor Maass

NOES:

ABSENT: Council Member Nason

ABSTAIN:

[Signature], MAYOR
ORDINANCE NO. 2014-10

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,
the 15th day of December, 2014, by the following votes:

AYES: Council Members Barnes, McQuaid, Pilch, Vice Mayor Maass
NOES: none
ABSTAINED: none
ABSENT: Council Member Nason

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this
16th Day December, 2014.

Eileen Harrington
DEPUTY CITY CLERK

The City of Albany is dedicated to maintaining its small town ambiance, responding to the needs of a diverse community, and providing a safe, healthy and sustainable community.