

ORDINANCE NO. 1263

Introduced by All Commissioners

AN ORDINANCE AMENDING CHAPTER 9.04 "OFFENSES" AND CHAPTER 10.04 "TRAFFIC REGULATIONS" OF THE WARRENTON MUNICIPAL CODE AND ADDING SECTION 10.04.350 "HEARING TO CONTEST VALIDITY OF IMPOUNDMENT" AND CHAPTER 10.20 "UNLAWFUL TRANSFER ON A HIGHWAY OR STREET" TO THE WARRENTON MUNICIPAL CODE

**WHEREAS**, the City last addressed these chapters of the City's Municipal Code in 1989; and

**WHEREAS**, the language of the code needs to be updated to be consistent with current vehicle descriptions, current legal approaches, and current court rulings; and

**WHEREAS**, the city needs to be able to address and regulate activity that occurs on our streets, sidewalks, and public rights-of-way to promote health, safety, and the flow of pedestrian and vehicular traffic;

**NOW, THEREFORE**, the City of Warrenton ordains as follows:

**Section 1.** Warrenton Municipal Code Section 9.04.010 Oregon Criminal Code Adopted is hereby amended to read as follows:

9.04.010 Oregon Criminal Code Adopted.

- (A) Oregon Revised Statutes, Chapters 161, 162, 163, 164, 165, 166 and 167, except for any provision classified as a felony under state law, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this City.
- (B) The provisions of Oregon Revised Statutes, Chapter 161, relating to defenses, burden of proof, general principles of criminal liability, parties, and general principles of justification apply to offenses defined and made punishable by this chapter.
- (C) Except where the context clearly indicates a different meaning, definitions appearing in the general definitional and other particular sections of chapters adopted by subsection A of this section are applicable throughout this chapter.

**Section 2.** Warrenton Municipal Code Section 9.04.200 Prohibited Activity On Streets, Sidewalks, and Public Right-of-Way is hereby amended to read as follows:

9.04.200 Prohibited Activity On Streets, Sidewalks, and Public Right-of-Way.

No person shall use or occupy any portion of a street, sidewalk, or public right-of-way for the following purposes unless the person has first obtained a permit to do so from the City:

- (A) Selling or vending goods, wares, or merchandise.

- (B) Cooking or distributing food in connection with an event or other large gathering (ten or more individuals).
- (C) Distributing any other items for free or otherwise, except to the extent that such items are distributed as an expression of that person's freedom of speech, religion, or other expression protected by the First Amendment of the United States Constitution.

Notwithstanding the foregoing, the City shall not enforce this Section to restrict houseless individuals within City limits from using rudimentary forms of protection from the elements.

**Section 3.** Warrenton Municipal Code Section 10.04.020 Applicability of State Traffic Laws is hereby amended to read as follows:

10.04.020 Applicability of State Traffic Laws.

By virtue of the authority contained in Oregon Revised Statutes Section 221.330, Oregon Revised Statutes, Chapters 153, 743 and 801 through 823, inclusive, as now constituted, are adopted by this reference, section by section, word by word, in their entirety, except as expressly amended within this code, in all respects to the same legal force and effect as if set forth in full, and the City Municipal Court shall follow the procedure of such statutes with respect to traffic infractions, including for the disposition of abandoned vehicles.

**Section 4.** Warrenton Municipal Code Section 10.04.030 Definitions is hereby amended to read as follows:

10.04.030 Definitions.

- (A) In addition to those definitions contained in the Oregon Vehicle Code (ORS chapters 801 through 826), the following words or phrases in this Title 10, except where the context clearly indicates a different meaning, shall mean:

“Abandoned vehicle” means a vehicle that has been left in the same location, or within a five-hundred-foot radius of its earlier position on public property for at least twenty-four (24) consecutive hours and one or more of the following existing conditions:

- 1) The vehicle license plate or registration sticker has expired or has been canceled or altered, or the vehicle has a license plate from another vehicle.
- 2) The vehicle has no license plate or registration sticker.
- 3) The vehicle appears to be inoperative or disabled. A vehicle may be inoperative or disabled if it is affected by any one or more of the following conditions: (A) not in operating condition or apparently requires repairs to be in operating condition; (B) has broken headlights/taillights, broken windows, or flat tires, (C) is unable to move a distance of twenty (20) feet under its own power on a flat surface.
- 4) The vehicle appears to be wrecked, partially dismantled or junked including vehicles that lack an engine, transmission, wheel, tire, door, body panel, windshield, window, or any other part or equipment necessary to operate safely on the highways of this state.

- 5) The records of the Oregon Department of Transportation identify the vehicle as sold and the current owner of the vehicle has not registered the vehicle as required by state law.

“Bus stop” means a space on the edge of a roadway designated by sign for use by buses for loading and unloading of passengers.

“Electric assisted bicycle” or “E-bike” shall be as defined by ORS 801.258 (2020).

“Hazardous vehicle” means a vehicle left in a location or condition such as to constitute an immediate threat to public health and safety, the environment, or the safety of vehicular or pedestrian traffic, or in a manner prohibited code. Such locations and conditions include, but are not limited to:

- 1) The vehicle is blocking, impeding, or interfering with the vision or normal flow of vehicular, bicycle or pedestrian traffic on public streets and sidewalks;
- 2) The vehicle poses an immediate danger to the public or environmental safety, such as a vehicle with leaking gray or black water, or leaking other fluids that are at risk of entering into the public storm drains or causing a hazardous road condition;
- 3) The vehicle is subject to extreme vandalism (broken lamps, parts hanging off, slashed/damaged tires, safety equipment removed or damaged, etc.) or shattered glass;
- 4) The vehicle is parked or left standing on a street, public parking lot, or other area where immediate access is needed, or could be needed in the event of an emergency, by the fire department or the police department and their respective equipment;
- 5) The vehicle is parked or left standing on a street where snow removal equipment will soon clear the street and removal of the vehicle is reasonably necessary in order to clear the street;
- 6) The vehicle is blocking or within ten (10) feet of a fire hydrant.

“Highway, right-of-way, road or street” means the vehicular travel or turning lane or any associated shoulder, driveway or traffic divider area within the right-of-way where vehicles are reasonably expected to be encountered.

“Holiday” means New Year’s Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other proclaimed by the Commission to be a holiday.

“Loading zone” means a space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours or specified days.

“Motor vehicles” means a vehicle propelled or powered by a motor such as an automobile, bus, truck, tractor, farm machinery, motorcycle, two-wheeled scooter, moped, all-terrain vehicle, aircraft, recreational vehicle, golf cart, and go-cart. This definition includes a vehicle that is towed such as a trailer, camper shells, wheeled towing frames, semi-tractor trailers utility trailers, and towable boats.

This definition does not include electric assist bicycles, small engine lawn mowers, self-balancing personal transportation devices such as a Segway and devices of similar scale.

“Person” means a natural person, firm partnership, association or corporation.

“Storage” means the placing or leaving of a vehicle at the same location, or within a five hundred (500) foot radius of such location, for a period of time in excess of (A) seventy-two (72) consecutive hours if such vehicle or property is located adjacent to the owner’s address and meets the requirements of 10.04.140.B, and (B) twenty-four (24) consecutive hours for all other located vehicles [or personal property].

“Street” means highway, road or street as the same are defined in ORS 801.110, 801.305, 801.450 and 801.535, including the entire width of the right-of-way.

“Taxicab stand” means a space on the edge of a roadway designated by sign for use by taxicabs.

“Traffic lane” means that area of the roadway used for the movement of a single line of traffic.

“Vehicle,” as used in subsequent sections of this chapter, includes bicycles as well as electric assisted bicycles and any device in, upon or by which any person, animal or property is or may be transported, drawn or moved upon a street, highway, waterway or airway and includes vehicles that are propelled or powered by any means, including motor vehicles.

(B) As used in this chapter, the singular includes the plural, and the masculine includes the feminine.

**Section 5.** Warrenton Municipal Code Section 10.04.160 Prohibited Parking or Standing is hereby amended to read as follows:

10.04.160 Prohibited Parking or Standing.

In addition to the State motor vehicle laws prohibiting parking, as adopted pursuant to 10.04.020, no person shall park or stand:

- (A) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of thirty (30) consecutive minutes.
- (B) A vehicle upon a bridge, viaduct or other elevated structure used as a street, or within a street tunnel, unless authorized.
- (C) Any vehicle having an overall width in excess of six feet, six inches between the hours of 7:00 p.m. and 4:00 a.m. of the following day except for loading or unloading, or in an emergency, on any street in a residential zone. A vehicle described in the preceding sentence may park in an industrial or commercial zone during the hours described in the preceding sentence, unless the roadway width is less than thirty-four (34) feet from curb to curb.

(D) No person shall park a vehicle, whether occupied or not, or place any obstruction that would impede mail delivery or create a hazard, in front of or within 15 feet on either side of a curbside mailbox or other place where mail is received or deposited, on postal delivery days between 8:00 a.m. and 6:00 p.m., except in the following instances:

- 1) Except when necessary to avoid conflict with other traffic, or
- 2) In compliance with law or directions of a police officer or official traffic control device, or
- 3) Momentarily to pick up or discharge a passenger or passengers.

**Section 6.** Warrenton Municipal Code Section 10.04.170 Prohibited Practices is hereby amended to read as follows:

10.04.170 Prohibited Practices.

No person shall do any of the following upon a street, right-of-way, or other public property:

- (A) Displaying the vehicle for sale.
- (B) Repair or service a vehicle, except when repairs are necessitated by an emergency.

**Section 7.** Warrenton Municipal Code Section 10.04.260 Citation on Illegally Parked Vehicle is hereby amended to read as follows:

10.04.260 Citation on Illegally Parked Vehicle.

- (A) Whenever a vehicle without an operator is found parked in violation of a restriction imposed by any portion of this Title 10 chapter other than those provisions regarding abandoned vehicles, stored vehicles, or hazardous vehicles, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic citation instructing the operator to answer to the charge against him or her or pay the penalty imposed within 10 days during the hours and at a place specified in the citation.
- (B) Whenever a City officer finds an abandoned or wrongfully stored vehicle, the officer finding the vehicle shall, in either case, provide advance notice substantially similar to the form, substance, and time periods provided under ORS 819.110 and ORS 819.179.

**Section 8.** Warrenton Municipal Code Section 10.04.270 Failure To Comply with Traffic Citation Attached to Parked Vehicle is hereby amended to read as follows:

10.04.270 Failure To Comply with Traffic Citation Attached to Parked Vehicle.

- (A) For all violations of this Title 10 other than a violation due to an abandoned vehicle, stored vehicle, or hazardous vehicle, if the operator does not respond to a traffic citation affixed to a vehicle within a period of 10 days, the City Manager may send to the owner of the vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning him or her that in the event that the letter is disregarded for a period of 30 days.

- 1) The fine will be double.
- 2) If the vehicle has four or more outstanding citations or \$100.00 or more in unpaid fines, it may be impounded. Impounded vehicles shall only be released in accordance with Section 10.04.310.
- 3) For all violations due to an abandoned vehicle or a stored vehicle, if the operator does not respond within the required time period, the City may impound the vehicle according to Article VIII.

**Section 9.** Warrenton Municipal Code Section 10.04.310 Impoundment of Vehicles is hereby amended to read as follows:

10.04.310 Impoundment of Vehicles.

- (A) Notwithstanding Article VII, whenever a vehicle is a hazardous vehicle, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be immediately towed without notice and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner but subsequently became a hazardous vehicle. The City shall provide notice following such impoundment that is substantially similar to the form, substance, and time periods provided under ORS 819.110 and ORS 819.179.
- (B) After providing the notice required by this chapter and, if requested, a hearing as provided by this chapter, any abandoned vehicle, stored vehicle remaining in violation of this Title 10, or other vehicle remaining in violation of section 10.04.270 may be impounded in a manner that is consistent with ORS 819.110 through ORS 819.160 and ultimately disposed of in a manner that is consistent with ORS 819.210 through ORS 819.280.
- (C) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this chapter.
- (D) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

**Section 10.** Warrenton Municipal Code Section 10.04.340 Penalties is hereby amended to read as follows:

10.04.340 Penalties.

- (A) Violation of Sections 10.04.090 through 10.04.140 is punishable by a fine not to exceed \$100.00.
- (B) Violation of Sections 10.04.150 through 10.04.260 is punishable by a fine not to exceed \$50.00.
- (C) Violation of a provision identical to a state statute is punishable by a fine not to exceed the penalty prescribed by the state statute.

**Section 11.** Warrenton Municipal Code Section 10.04.350 Hearing to Contest the Validity of Impoundment is hereby added to read as follows:

10.04.350 Hearing to Contest the Validity of Impoundment

A person provided notice under this chapter, or any other person who reasonably appears to have an interest in the vehicle, may request a hearing under this section to contest the validity of the impoundment or the proposed impoundment by submitting a request for hearing with the municipal court not more than five business days after the mailing date of the notice. A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the removal of the vehicle is not justified. A hearing under this section shall comply with all of the following:

- (A) If the city proposes to remove a vehicle and receives a request for hearing before the vehicle is removed, the vehicle shall not be removed unless it constitutes a hazard.
- (B) The municipal court shall set a time for a hearing within seven business days after receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owner(s) of the vehicle and any lessors or security interest holders shown in the records of the department of motor vehicles, if not the same as the person requesting the hearing, and to the city attorney's office.
- (C) If the municipal court finds, after a hearing and by substantial evidence on the record, that the removal of a vehicle was or would be:
  - 1) Invalid, the municipal court shall order the immediate release of the vehicle to the owner or person with the right to possession. If the vehicle is released under this subsection, the person to whom the vehicle is released is not liable for any towing or storage charges accruing prior to the order of the municipal court. If the person has already paid such towing and storage charges on the vehicle, the city shall reimburse the person for the charges. The person shall be liable for any additional storage charges incurred after the order. New storage charges for the vehicle will not start to accrue until twenty-four (24) hours after the issuance of the order. If the vehicle has not yet been removed, the city shall not remove the vehicle.
  - 2) Valid, the municipal court shall order the vehicle to be held in custody until the costs of the hearing are paid by the person claiming the vehicle, and the person claiming the vehicle otherwise complies with any conditions of release of the vehicle. If the vehicle has not yet been removed, the city shall order its removal.
- (D) If the person requesting the hearing does not appear at the hearing, the municipal court may enter an order finding the removal to be valid and any applicable charges to be reasonable.
- (E) A person who fails to appear at a hearing under this section is not entitled to another hearing on the same matter unless the person provides reasons satisfactory to the municipal court for the person's failure to appear.
- (F) The city is only required to provide one hearing under this section for each time the city removes a vehicle or proposes to do so.
- (G) A hearing under this section may be used to determine the reasonableness of the charges for towing and storage of a vehicle. Towing and storage charges, set by law, ordinance, or rule, or that comply with law, ordinance, or rule, shall be deemed reasonable for purposes of this chapter. If the reasonableness of charges for towing and storage of a vehicle are contested through a hearing under this section, the municipal court shall enter an order setting forth the amount of towing and storage charges the court has determined to be reasonable.
- (H) The municipal court shall provide a written statement of the results of the hearing to the person requesting the hearing and to the city attorney's office.
- (I) The action of the municipal court is final, and no appeal can be taken from it.

**Section 12.** Warrenton Municipal Code Section 10.04.360 Abandoned Vehicles Prohibited is hereby amended to read as follows:

10.04.360 Abandoned Vehicles Prohibited.

- (A) No abandoned vehicle may be parked or left standing upon the right-of-way of any city, county, or state highway, street or alley or upon any city property.
- (B) Abandoned vehicle(s) will need to move more than one five hundred (500) feet to become compliant.
- (C) The City may impound and dispose of an abandoned vehicle by following the procedures in ORS 819.110 to ORS 819.440.
- (D) Any person found violating this section 10.04.350 shall be guilty of committing a traffic violation punishable by a fine not to exceed \$265 per occurrence.

**Section 13.** Warrenton Municipal Code Section 10.04.370 Hazardous Vehicles Prohibited is hereby amended to read as follows:

10.04.370 Hazardous Vehicles Prohibited.

- (A) No person shall store, or permit to be stored on a street, sidewalk, public right-of-way, or other public property without permission of the City for a period in excess of 24 hours.
- (B) A vehicle may be stored on the street adjacent to the address where the vehicle is registered for up to 72 consecutive hours, if parking is permitted on that street, the vehicle is not an abandoned or hazardous vehicle (as defined in 10.04.030), and the vehicle is otherwise compliant under this code.
- (C) If, due to a disaster situation, emergency situation, renovation or other work within a standard parking spot beyond the owner's control, or other circumstances beyond the vehicle owner's control, a vehicle must be stored on the street for longer than the prescribed time limits under this Section 10.04.380, then a person can obtain temporary storage permit for the vehicle from the City for longer than the prescribed time limits in this Section.
- (D) Vehicle(s) that are stored will need to move more than five hundred (500) feet in order to become compliant.
- (E) The City may impound or dispose of a stored vehicle in violation of this section following the procedures of Article VII and Article VIII. Officers shall make a reasonable attempt to contact the registered or current owner prior to removing or towing the vehicle and/or other personal property.
- (F) Any person found violating this 10.04.140 shall be guilty of committing a traffic violation punishable by a fine not to exceed \$100 per occurrence.

**Section 14.** Warrenton Municipal Code Chapter 10.20 Unlawful Transfer on a Highway or Street is hereby added to read as follows:

10.20 Unlawful Transfer on a Highway or Street.

10.20.010 Offenses

A person commits the offense of unlawful transfer on a highway or street if the person:



- (A) While a driver or passenger in a vehicle on a highway, right-of-way, road or street within the boundaries of the City of Warrenton, gives or relinquishes possession or control of, or allows another person in the vehicle to give or relinquish possession or control of, any item to a pedestrian; or
- (B) While a pedestrian, accepts, receives, or retains possession or control of any item from a driver or passenger in a vehicle on a highway, right-of-way, road or street within the boundaries of the City of Warrenton.

10.20.020

10.20.010 Applicability

The prohibitions of this section do not apply:

- (A) If the vehicle is legally parked during a law enforcement stop or action, or located on or off the right-of-way or during a law enforcement stop or action; or
- (B) If the vehicle is parked due to an emergency situation beyond the driver's reasonable control; or
- (C) To persons participating in a "pedestrian activity," as defined in OAR 734 Division 58, for which a permit has been issued by the Oregon Department of Transportation, so long as all terms of such permit are being met..

10.20.030

10.20.020 Penalty

Any person found violating this chapter 10.20 shall be guilty of committing a traffic violation punishable by a fine not to exceed \$100 per occurrence.

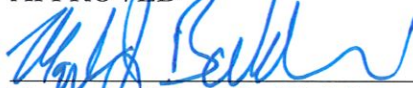
**Section 15.** This Ordinance shall become effective thirty days after its adoption.

First Reading: April 25, 2023

Second Reading: May 9, 2023

ADOPTED by the City Commission of the City of Warrenton, Oregon this 9<sup>th</sup> day of May 2023.

APPROVED



~~Henry A. Balensifer III, Mayor~~

Mark Baldwin, Mayor Pro Tem

ATTEST



Dawne Shaw, CMC, City Recorder