

**ORDINANCE NO. 1982**

(An ordinance amending Chapters 1.12, 2.16, Title 9 and Title 10 of the Hood River Municipal Code—Municipal Court Transition Project)

BY *JM* CODIFIED  
Date 2/16/10

WHEREAS, prior to the 2009-2010 fiscal year, both criminal and civil violations were cited into the Municipal Court of the City of Hood River;

WHEREAS, beginning with the 2009-2010 fiscal year, the City Council removed crimes from the Municipal Court’s jurisdiction and directed that all crimes be cited into the Circuit Courts for the State of Oregon;

WHEREAS, the following amendments to the Hood River Municipal Code update the Code consistent with this transition;

NOW, THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

**Section 1. Chapter 1.12 of the Hood River Municipal Code is amended to read as follows:**

**CHAPTER 1.12 - VIOLATIONS, PENALTY, ENFORCEMENT, DEFAULT**

SECTIONS:

- 1.12.010 Violations - Penalty
- 1.12.020 Offenses Separable
- 1.12.030 Enforcement Authority; Form of Citation
- 1.12.040 Default Judgment
- 1.12.050 Lien Filing and Docketing
- 1.12.060 Non-Exclusive Remedy

1.12.010 Violations - Penalty. Except as an ordinance may specifically provide otherwise, a violation of a city ordinance is a violation punishable by a fine in an amount set by City Council resolution. An ordinance may classify a violation of the ordinance as a Class A, Class B, Class C or Class D violation in addition to any other penalties provided for in that ordinance. The fine for each violation class is set by resolution of the City Council. If the ordinance does not classify the violation, the ordinance may set a maximum fine for a violation of the ordinance. In the absence of a classification or fine, violation is a Class B violation.

**Comment [BDL1]:** Looks like you’ve found all the ordinances that make reference to misdemeanor???. IF so this is fine.

1.12.020 Offenses Separable. Each and every day during any portion of which any provision of an ordinance is violated is a separate violation, unless the ordinance specifically provides otherwise.

1.12.030 Enforcement Authority; Form of Citation. All sworn law enforcement officers, including those designated by the city as code enforcement officers, are authorized to issue citations or summonses and complaints for all violations of city ordinances that provide for monetary penalties or for forfeiture of property or both. The form of citation or summons shall conform to the uniform citation form for violations as prescribed by the Oregon Supreme Court and the minimum requirements of ORS 153.045-153.051.

1.12.040 Default Judgment.

A. If a cited person fails to answer the summons and appear at a scheduled hearing as provided herein, a default judgment shall be entered on for the scheduled fine applicable to the charged violation. In addition, when a person fails to appear for a hearing, the security posted, or an amount equal to the security waived, shall be ordered forfeited. Nothing in this subsection shall be construed in any way to limit the contempt powers of the Municipal Judge, and the judge may exercise those powers as the judge considers necessary and advisable in conjunction with any matter arising under the procedures arising under this code.

B. The amount assessed pursuant to the default judgment shall be paid no later than ten days after the receipt of the final order declaring the default. The period may be extended upon order of the Municipal Judge.

C. Delinquent payments may be collected and enforced pursuant to ORS 30.310 or 30.315.

1.12.050 Lien Filing and Docketing.

A. When a judgment is given in Municipal Court in favor of the city for the sum of ten dollars or more, exclusive of costs and disbursements, the enforcement officer may, at any time thereafter while the judgment is enforceable, file with the City Recorder a certified transcript of all those entries made in the docket of the Municipal Court with respect to the action in which judgment was entered.

B. Upon receipt of the certified transcript, the City Recorder shall enter the judgment of the Municipal Court on the city lien docket.

C. From the time of entry of the judgment on the lien docket, the judgment shall be a lien upon the real property of the person against whom the judgment was entered. Except as provided in subsection D below, entry of the judgment in the city lien docket shall not thereby extend the lien of the judgment more than ten years from the original entry of judgment by the Municipal Court.

D. When a judgment of the Municipal Court entered on the city lien docket is renewed by the Municipal Court, the lien established under subsection C above is automatically extended ten years from the date of the renewal order.

E. The City Recorder may file the transcript of the judgment with the County Clerk for entry in the judgment docket of the Circuit Court.

1.12.060 Non-Exclusive Remedy. The procedures and remedies contained in this chapter shall not prohibited any alternative remedies set out in an ordinance or state statutes which are intended to alleviate ordinance violations or abate nuisances and the procedures set forth in this chapter shall not be prerequisites for utilizing any of said alternative remedies.

**Section 2. Chapter 2.16 of the Hood River Municipal Code is amended to read as follows:**

**CHAPTER 2.16 - MUNICIPAL COURT AND JUDGE**

\* For statutory provisions on the appointment of a municipal judge, see ORS 221.140; for provisions on municipal court jury trials, see ORS 221.349; for Charter provisions on the municipal judge, see City Charter Ch. V§21.

*Legislative History: Ord. 1066 (1956); Ord. 1545 (1984)*

**SECTIONS:**

- 2.16.010 Pro Tem Municipal Judge
- 2.16.020 Burden of Proof
- 2.16.030 Failure to Attend as Juror

2.16.010 Pro Tem Municipal Judge. The Mayor, with the consent of the Council, may appoint one or more judges pro tem who shall have all the powers and duties of the municipal judge in the absence of the municipal judge from the city or in the event the municipal judge is for some reason unable to act as municipal judge.

2.16.020 Burden of Proof. In any prosecution of a violation of a city ordinance the burden of proof is a preponderance of the evidence. A violation of an ordinance does not require pleading or proof of a culpable mental state as an element of the violation.

2.16.030 Failure to Attend as Juror. Failure of a person duly summoned to attend as a juror as required or to give a valid excuse therefor, is a Class D violation.

**Section 3. Title 9 of the Hood River Municipal Code is amended to read as set forth in Exhibit A.**

**Section 4. Title 10 of the Hood River Municipal Code is amended to read as set forth in Exhibit B.**

Read for the first time: December 28, 2009.

Read for the second time and passed: January 11, 2010, to become effective thirty (30) days hence.

Signed Jan. 11<sup>th</sup>, 2010.

  
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Arthur Babitz, Mayor

ATTEST:

  
\_\_\_\_\_  
Jennifer McKenzie, City Recorder

## EXHIBIT A

### CHAPTER 9.20 - OFFENSES AGAINST PUBLIC DECENCY

*Legislative History: Ord. 1455 (1979)*

#### SECTIONS:

9.20.010 Public Indecency

9.20.020 Soliciting Drinks

9.20.030 Penalty

9.20.010 Public Indecency. No person shall, while in, or in view of, a public place, perform:

- A. An act of sexual intercourse;
- B. An act of exposing their sex organs, or the areola of the female mamma;
- C. An act of urination or defecation, except in toilets provided for that purpose.

9.20.020 Soliciting Drinks. No person shall frequent, loiter, or be employed in a tavern, bar, nightclub, or cocktail lounge for the purpose of soliciting another person to purchase drinks. No proprietor of such establishment shall allow the presence in the establishment of persons who violate the provisions of bartenders, barmaids, waiters or waitresses.

9.20.030 Penalty. Violation of the provisions of this chapter is a Class A Violation.

### CHAPTER 9.36 - WEAPONS AND FIREWORKS

*Legislative History: Ord. 1455 (1979); Ord. 1575 (1986)*

#### SECTIONS:

9.36.010 Discharge of Weapons

9.36.020 Oregon Fireworks Law Adopted

9.36.030 Jurisdiction and Enforcement

9.36.010 Discharge of Weapons. Except at firing ranges approved by the chief of police,

no person other than a peace officer, shall fire or discharge a bow and arrow, including crossbow and bolt, slingshot, or a gun, including spring or air-actuated pellet guns, air guns, or BB guns, or other weapon which propels a projectile by use of gunpowder, explosive, jet, a gas or rocket propulsion.

9.36.020 Oregon Fireworks Law Adopted. The Oregon Fireworks Law, ORS 480.110 through ORS 480.160 including all amendments thereto is adopted by reference and made a part of this chapter.

9.36.030 Jurisdiction and Enforcement of Section 9.36.030. The Fire Chief, Fire Marshal and all full-time employees of the Fire Department as well as all peace officers of the City shall have jurisdiction of and may enforce the provisions of Section 9.36.020 subject to ORS 8.665, ORS 153.110 through ORS 153.310 and ORS 153.990 through ORS 153.995.

9.36.040 Violation. Violation of the provisions of this chapter is a Class A Violation.

## CHAPTER 9.40 - SOCIAL GAMES

*Legislative History: Ord. 1362 (1974); Ord. 1575 (1986)*

### SECTIONS:

9.40.010 Social Games Permitted

9.40.010 Social Games Permitted. Social games as defined in ORS 167.117 are permitted in a private business, private club or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

**Comment [A2]:** Social games are defined in ORS 167.117(21) as a game other than lottery in private homes where there are no house odds, bank or income. ORS 167.117(21) allows us to authorize social games in private clubs, businesses, or places of public accommodation. Social games are excluded from the definition of gambling in ORS 167.117, so there is no need to "pernit" them in private homes.

## CHAPTER 9.44 – POSSESSION OF MARIJUANA

*Legislative History: Ord 1803 (2000)*

### SECTIONS:

9.44.010 Definitions  
9.44.020 Possession of Marijuana  
9.44.030 Penalty  
9.44.040 Diversion

9.44.010 Definitions. For the purposes of this Chapter, the following definitions shall apply:

“Marijuana” shall mean all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound,

manufacture, salt, derivative, mixture or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

“Practitioner” shall mean a physician, dentist, veterinarian, scientific investigator, certified nurse practitioner, physician’s assistant, or other person licensed, registered or otherwise permitted by law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state, but does not include a pharmacist or a pharmacy.

9.44.020 Possession of Marijuana. No person shall knowingly or intentionally possess marijuana, in an amount up to one avoirdupois ounce, unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by State law.

9.44.030 Penalty. Violation of this chapter is a Class A Violation.

9.44.040 Diversion.

- A. A person charged with the offense of possession of less than an ounce of marijuana may be eligible for a diversion agreement, if the offense for which the defendant is before the court is the defendant’s first offense, and the defendant files with the court a petition for a possession of marijuana diversion agreement.
- B. Possession of marijuana diversion petitions shall be available to a defendant at the court. The petition form shall conform to the requirements of state law.
- C. Diversion procedures shall be as prescribed by state statutes for possession of marijuana diversion agreements.

**EXHIBIT B**

**CHAPTER 10.04 - FINES, IMPOUNDMENT, ENFORCEMENT**

*Legislative History: Ord 1280 (1970)*

**SECTIONS:**

- 10.04.010 Title
- 10.04.020 Fines
- 10.04.030 Impoundment of Vehicles

10.04.010 Title. The ordinance codified in this title may be cited as the "City of Hood River Uniform Traffic Code."

10.04.020 Fines. Unless a provision of this title specifically provides otherwise, the fine schedule for violations of the Traffic Code is set by resolution of the City Council.

Violations of specific Traffic Code ordinances are classified as follows; however, if the offense has a counterpart under Oregon State law, then the classification and fine per Oregon State law shall govern.

10.24.010 Obedience to traffic control device and officers	Class B
10.28.010 Rules of road	Class B
10.28.020 Crossing private property	Class B
10.28.030 Emerging from vehicle	Class C
10.28.040 Clinging to vehicles prohibited	Class C
10.28.050 Sleds and similar devices on streets prohibited	Class D
10.28.060 Obstructing streets prohibited	Class B
10.28.070 Damaging sidewalks and curbs prohibited	Class B
10.28.080 Removing glass and debris required when	Class C
10.28.090 Acts constituting unlawful riding	Class C
10.32.010 Careless driving	Class B
10.36.010 Parking methods and restrictions	Class D
10.36.020 Prohibited parking and standing	Class D
10.36.030 Parking for certain purposes prohibited	Class D
10.36.070 Parking or standing in loading zone restricted	Class D
10.36.080 Leaving unattended vehicle	Class D
10.36.100 Standing or parking of buses and taxicabs restricted	Class D
10.36.110 Bas and taxicab stands—use restricted	Class D
10.36.130 Commercial vehicle parking in residential zone	Class D
10.40.040 Deposit of coins required	Class D
10.40.050 Compliance with time limit required	Class D
10.40.090 Parking meter hoods—parking work permits—issuance	Class D
10.40.100 Parking meter hoods—use regulations	Class D
10.48.010 Equipment requirements [skateboards, bikes, etc]	Class D
10.48.020 Operating rules	Class D
10.48.030 [unlawful operation]—Impoundment—authorized when	Class D
10.50.020 Parking entirely within space required [city lots]	Class D
10.50.060 Failure to pay advance rental	Class D



10.52.010 Use of roadway prohibited when	Class D
10.52.020 Use of crosswalk required when	Class D
10.52.030 Crossing at right angle required	Class D
10.52.040 Obedience to traffic lights	Class D
10.56.010 Trains not to obstruct street	Class B
10.60.010 Funeral procession regulations	Class D
10.60.020 Parades—permit required when	Class D
10.60.060 Offenses against parade	Class D
10.68.030 Parking restrictions during a snow condition	Class D
10.68.040 Snow tires or chains required	Class D
10.68.050 Chains on large vehicles	Class D

10.04.030 Impoundment of Vehicles.

**Comment [A3]:** This section comes from 10.64.040 and no changes made.

- A. Whenever a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, 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 towed 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 an obstruction or hazard.
- B. The disposition of a vehicle towed and stored under authority of this section shall be in accordance with the provisions of Ordinance 1252 codified in Chapter 8.24 or this code, relating to impoundment and disposition of vehicles abandoned on the city streets.
- C. The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this title.
- D. Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.
- E. Whenever a police officer observes a vehicle parked in a public right-of-way within the City of Hood River, if the vehicle at that time has four or more unpaid parking violations outstanding against it, the officer may cause the vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this sub section shall be disposed of in the same manner as provided in subsection B of this section.

**CHAPTER 10.12 - STATE TRAFFIC LAWS**

**SECTIONS:**

- 10.12.010 Violations of State Traffic Laws Deemed Offenses
- 10.12.020 Imposing Additional Assessment for Violations

10.12.010 Violations of State Traffic Laws Deemed Offenses. Violation of a provision of

the Oregon Vehicle Code is an offense against this city. Fines for violations of the Oregon Vehicle Code are set in accordance with ORS Chapter 153.

10.12.020 Imposing additional assessment for violations. An additional assessment in an amount set by resolution of the City Council will be imposed on each violation of the Oregon Vehicle Code that results in an adjudicated verdict of guilty or a forfeiture of bail or security, and such additional assessment shall be directed to the Police Department of the City of Hood River to defray capital costs associated with the enforcement of the Code.

**Comment [A4]:** These offenses are crimes under State law and are cited as such.

## **CHAPTER 10.32 - RECKLESS DRIVING AND INTOXICATION**

*Legislative History:* Ord. 1280 (1970)

### **SECTIONS:**

10.32.010 Careless Driving

10.32.010 Careless Driving. No person shall operate a motor vehicle on other property open to public travel in a careless manner that endangers or would be likely to endanger any person or property.

## **CHAPTER 10.42 – RESIDENTIAL PARKING DISTRICTS**

*Legislative History:* Ord 1915 (2006)

### **SECTIONS:**

- 10.42.010 Council to Designate Residential Parking Districts
- 10.42.020 Designation Criteria
- 10.42.030 Public Hearing
- 10.42.040 Parking Restriction in Residential Parking Districts
- 10.42.050 Residency Required for a Permit
- 10.42.060 Permit Application
- 10.42.070 Residential Parking Permit; Short Term and Temporary Permits; Hardship Permit
- 10.42.080 Permit Fee and Term
- 10.42.090 Display of Permits
- 10.42.100 Expiration of Permits
- 10.42.110 Permit Transfers and Replacement
- 10.42.120 Penalties

### 10.42.120 Penalties.

A. Violation of any provision of this chapter is a Class D violation. Each time a permit

is used in violation of this chapter is considered a separate offense.

B. If the registered owner of the permit does not make payment within ten (10) days of the violation, the permit will be void and a new permit will not be issued for the vehicle until the fine is paid in full.

## **CHAPTER 10.50 - CITY-OWNED PARKING LOTS AND FACILITIES**

*Legislative History: Ord. 1654 (1992); Ord. 1946 (2008)*

### **SECTIONS:**

- 10.50.010 Lots and Facilities - Authority for Operation
- 10.50.020 Demarcation of Parking Spaces - Parking Entirely Within Space Required
- 10.50.030 Payment for Rental of Parking Space Required
- 10.50.040 Parking Spaces Allocated on a Space Available Basis
- 10.50.050 Advance Payment for Rental of Parking Space Required
- 10.50.060 Failure to Pay Advance Rental
- 10.50.070 Use of Rented Parking Spaces - Hours Allocated to Renter
- 10.50.080 Citation Procedure and Effect
- 10.50.090 Payment in Lieu of Answering Citation
- 10.50.100 Failure to Comply With Citation - Arrest Warrant Issuance When
- 10.50.110 Owner Responsibility for Offense
- 10.50.120 Registered Owner Presumption
- 10.50.130 Impoundment of Vehicles

10.50.090 Payment in lieu of answering citation. The owner or operator may, within twenty-four hours after the time in which the citation was attached to such vehicle as mentioned in Section 10.50.080, pay to the city recorder in full satisfaction of such violation a fine in an amount set by City Council resolution; provided, however, in the cases of repeated violations or in the case of failure to pay within twenty-four hours, the municipal court judge shall have authority to assess a larger sum for each such violation, but not in excess of one hundred dollars.

## **CHAPTER 10.68 – SNOW EMERGENCIES**

**Comment [A5]:** Enforcement and penalty provisions moved to 10.04