

# Ordinance No. 00543

[CITY COUNCIL MEETING MINTUES DECEMBER 5, 2011](#)

## ORDINANCE NO. 543

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending sections 10.16.010 and 10.16.15 of the Lakewood Municipal Code relative to Vehicles Parked in the Right-of-Way.

WHEREAS, Title 10.16.15 of the Lakewood Municipal Code authorizes removal of a vehicle parked upon a public right-of-way after 48 hours notice to the owner when specific facts exist creating a presumption that the vehicle parked in a right of way in a residential area is unauthorized; and

WHEREAS, the current language in the code restricts the actions of police, code enforcement and community resource officers by limiting their authority to taking action on abandoned vehicles under certain limited circumstances including proximity of the vehicle to the property of the complainant; and

WHEREAS, the proposed changes will result in a statutory change that more closely mirrors the language already used in RCW 46.55.085 and will result in more consistent enforcement, regardless of who makes the complaint or where the complaint lives;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Sections 10.16.010 and 10.16.015 are hereby amended to read as follows:

### **10.16.000 - Miscellaneous Traffic Violations**

Sections:

10.16.010 Parking on the roadway or in a manner which impedes traffic - Exceptions.

10.16.015 Parking in Public Right of Way.

10.16.020 Use of city right-of-ways - display of merchandise prohibited.

10.16.030 No oversize or commercial vehicles on residential streets.

10.16.040 Interference with postal service.

10.16.050 Pedestrian obstruction of traffic.

10.16.060 Parking restrictions - Authority to identify restrictive zones.

10.16.070 Avoidance of intersection penalty.

10.16.080 Inattentive Driving penalty.

### **10.16.010 - Parking on Roadway or in a Manner Which Impedes Traffic - Exceptions**

A. It shall be unlawful for any driver or operator of a vehicle to stop, park or leave standing any vehicle, whether attended or unattended, on the travel portion of any public roadway or park, stop or leave any motor vehicle in any other location which impedes, restricts or prevents travel over, or across any public roadway. Violation of this section shall constitute a traffic infraction punishable by a penalty not to exceed the amount of one hundred and twenty-four dollars (\$124.00), in addition to other costs and assessments provided by law.

B. The travel portion of any public roadway, for the purposes of this section, shall include any roadway median, center, merge or turn lane.

C. A law enforcement officer may immediately remove any vehicle that is unsafely parked, stopped or blocking traffic on a public street. Such removal may take place without notice to the driver or registered owner of the vehicle.

D. It is provided, however, that this Section of the Ordinance shall not apply to the driver of a public transit vehicle who temporarily stops the vehicle upon the roadway for the purpose of and while actually engaged in receiving or discharging passengers at a marked transit vehicle stop; and, this section shall not apply to the driver of a solid waste collection company or recycling company vehicle who temporarily stops the vehicle as close as practical to the right edge of the right-hand

shoulder of the roadway or right edge of the roadway if no shoulder exists for the purpose of and while actually engaged in collection of solid waste or recyclables, or both under RCW Chapter 81.77, 35.21, and 35A.21 or by contract under RCW 36.58.030.

E. A vehicle is defined as any device capable or designed to be capable of moving upon a public highway whether motorized or not; including vehicles towed by another vehicle such as trailers.

(Ord. 467 § 1, 2008; Ord. 35 § 1, 1996.)

#### **10.16.015 - Parking in Public Right of Way**

~~A. Consistent with the procedures and requirements of~~ Pursuant to the procedures and requirements of regulations stated in RCW 46.55.085, as now stated or hereinafter amended, a law enforcement officer discovering an unauthorized vehicle parked upon public right of way ~~may~~ shall attach to the vehicle ~~a readily visible notification sticker. The sticker shall contain the following information:~~

(1) The date and time the sticker was attached;

(2) The identity of the officer;

(3) A statement that if the vehicle is not removed within forty-eight (48) hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense;

(4) A statement that if the vehicle is not removed from the roadway, the registered owner will have committed the crime of littering, a Gross Misdemeanor; and

(5) The address and telephone number where additional information may be obtained about the notification.

- B. If the vehicle has a current vehicle license plate, the officer shall check the record to determine the identity of the registered owner and, if possible, contact the owner.

~~C. For purposes of this chapter, law enforcement officer shall include police officers as well as those employees who have special limited commissions such as Code Enforcement Officers and Community Service Officers. requesting that the vehicle be removed within 48 hours. Other than allow for removal within 48 hours, such notice shall conform in all other respects to the requirements stated in RCW 46.55.085. After the passage of 48 hours, the law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. determine if the vehicle should be lawfully removed or issue a civil infraction to the registered owner of the vehicle.~~

D. If the vehicle is not removed within forty-eight (48) hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. A vehicle that does not pose a safety hazard may remain on the roadside for more than forty-eight (48) hours if the owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance for removal of the vehicle. For the purposes of this section, the following instances create a presumption that a vehicle parked in a right of way in a residential area is unauthorized: (1) A complaint is received from a property owner regarding a vehicle that is parked in the right of way abutting or adjacent to the complaining property owner's private property; or, (2) The vehicle does not have a valid and current registration or cannot be lawfully operated upon the public roadways; or, (3) A complaint is received that a vehicle parked in the right of way in a residential area has been parked in one spot continuously for one week or longer and the address for the registered owner is more than one city block away from site where the vehicle is parked. E.G. In addition to posting and removal of the vehicle, a violation of this section shall constitute a traffic infraction punishable by a penalty not to exceed the amount of twenty dollars (\$20.00), in addition to other costs and assessments provided by law.

(Ord. 467 § 2, 2008.)

#### **10.16.020 - Use of City Right-of-Ways - Display of Merchandise Prohibited**

It is unlawful for any person to place or cause or suffer to be placed by any person in his or her employ or under his or her control, any vehicles, goods, wares, products, clothing, merchandise, produce, food products, or any other items of any type or nature, whether of the same description or not, on any City street, sidewalk, crosswalk or public right-of-way, whether in front of or alongside of his/her place of business or elsewhere on the public right-of-way, for the purpose of display, sale, presentation, or any other activity in connection with the intent to sell or offer the same for sale, other than actions while in the actual course

of receipt or delivery. It is unlawful for any person to use any portion of the City street, sidewalk, crosswalk or public right-of-way, whether in front of or alongside of his/her place of business or elsewhere on the public right-of-way for the purpose of measuring, packaging, weighing, storing or otherwise providing for and making available for sale. Violation of this section shall be a misdemeanor, punishable by a fine not to exceed \$1,000.00, in addition to other costs and assessments provided by law. (Ord. 35 § 2, 1996.)

**10.16.030 - No Oversize or Commercial Vehicles on Residential Streets**

No person shall park any vehicle which is more than eighty (80) inches in width or any commercial vehicle larger than a 3/4 ton pick-up on any street, alley or public right-of-way in any residential neighborhood in the City. For the purposes hereof, a residential neighborhood shall mean an area where the majority of property in the vicinity is used for residential purposes and/or open space uses and is zoned for residential purposes or open space uses; Provided that it shall be a defense to a violation of this section that the vehicle was parked directly adjacent to and on the same side of the street as property on which a commercial business, other than a Home Occupation, is located; and it shall be a defense to a violation of this section that during the entire time that the vehicle was parked in the residential neighborhood the operator of the vehicle was actively engaged in making a delivery or providing services to residents in the immediate vicinity of where the vehicle was parked. The penalty for parking in violation of this section shall be a fine of up to \$250.00, with a minimum fine of \$100.00 per violation, in addition to other costs and assessments provided by law. A violation of this section shall be considered an infraction and shall be processed in accordance with the state statutes regarding infractions. Each twenty-four hour period during which a violation occurs constitutes a separate infraction. (Ord. 140 § 1, 1997; Ord. 35 § 3, 1996.)

**10.16.040 - Interference With Postal Service**

It shall be unlawful for any person to park any vehicle in front of, adjacent or in such proximity to any mail box, postal drop box, or other similar postal receptacle so as to interfere with the delivery of mail by the United States Postal Service. The penalty for parking in violation of this section shall be thirty-five dollars (\$35.00), in addition to other costs and assessments provided by law. A violation of this section shall be considered an infraction and shall be processed in accordance with the state statutes regarding infractions. (Ord. 35 § 4, 1996.)

**10.16.050 - Pedestrian Obstruction of Traffic**

It shall be unlawful for any pedestrian to walk or be on a public roadway in a manner which unnecessarily or unreasonably interferes with, delays, obstructs or halts the travel of vehicles over and/or across the public roadway. Violation of this section shall constitute a misdemeanor punishable by a fine not to exceed \$1,000.00, in addition to other costs and assessments provided by law. (Ord. 35 § 5, 1996.)

**10.16.060 - Parking Restrictions - Authority to Identify Restrictive Zones**

The City Manager or designee is authorized to identify and designate by appropriate signage parking restrictions, time limitations and parking prohibitions for certain streets of the City, in order to provide for reasonable parking availability and safe use of City streets. The penalty for violations of posted parking restrictions, prohibitions, or time periods shall be \$10.00, in addition to other costs and assessments provided by law. A violation of this section shall be considered an infraction and shall be processed in accordance with the state statutes regarding infractions. It is provided however that the provisions of this section shall not apply to violations of parking regulations specifically set forth and provided for in other sections of the City Code. (Ord. 35 § 6, 1996.)

**10.16.070 - Avoidance of Intersections Penalty**

A. It is unlawful for any person operating a motor vehicle on the highways of the city to proceed across any private property for the purpose of avoiding any intersection or any traffic control device controlling the intersection, unless so directed by lawful authority.

B. A violation of this section shall be a traffic infraction punishable by a base monetary penalty of \$37.00 plus assessments with an increased base penalty of \$62.00 plus assessments if an accident occurs as a result of the underlying infraction pursuant to IRLJ 6.2d.

(Ord. 409 § 1 (part), 2006.)

**10.16.080 - Inattentive Driving Penalty**

A. It is unlawful for any person to operate a motor vehicle in an inattentive manner over the highways of the city.

B. For the purpose of this section, inattentive means the operation of a vehicle upon the public highways of the city in a lax,

slack or careless manner likely to cause an accident. Operation of a vehicle in a lax, slack or careless manner may be evidenced by activity which would have been avoidable but for the driver's divided attention, that does not necessarily rise to the level of negligent driving, but which endangers or is likely to endanger any person or property.

C. A violation of this section shall be a traffic infraction punishable by a base monetary penalty of \$37.00 plus assessments with an increase to \$62.00 plus assessments if an accident occurs as a result of the underlying infraction pursuant to IRLJ 6.2d.

(Ord. 409 § 1 (part), 2006.)

Section 2. Severability. If any one or more chapters, sections, subsections or sentences of this ordinance or held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 3. Effective date. This Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2011

CITY OF LAKEWOOD

\_\_\_\_\_  
Douglas G. Richardson, Mayor

Attest:

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Alice M. Bush, MMC, City Clerk

Approved as to Form:

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Heidi Ann Wachter, City Attorney