

ORDINANCE NO. 2016-11

AN ORDINANCE OF THE CITY OF LA PINE CONCERNING SNOW AND ICE REMOVAL WITHIN THE CITY OF LA PINE; PROHIBITING PARKING ALONG DESIGNATED SNOW ROUTES AND DURING EMERGENCY SNOW REMOVAL OPERATIONS; PROVIDING A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of La Pine ("City") has general responsibility for the maintenance of streets within City's incorporated limits; and

WHEREAS, the control and removal of snow and ice from City streets is a maintenance function and is necessary to provide safe movement of emergency vehicles, to permit the safe operation of school busses, and to facilitate the movement of people, goods, and services throughout City; and

WHEREAS, vehicles stopped, stalled, and/or parked on City streets during snow and/or ice removal operations constitute hazards to vehicular traffic, present risks to emergency vehicles, and inhibit snow and ice removal operations; and

WHEREAS, the La Pine City Council finds that it is in the best interests of the health, safety, and welfare of the citizens of City to (a) establish a policy concerning the control of snow and ice on, and removal of snow and ice from, City streets, and (b) provide a penalty for cars parked on City streets in violation of this Ordinance.

NOW, THEREFORE, THE CITY OF LA PINE ORDAINS AS FOLLOWS:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 2016-11 will be known as the "Snow and Ice Removal Ordinance" and will be cited and referred to herein as this "Ordinance."
3. Definitions. For purposes of this Ordinance, the following terms and phrases have the meanings assigned to them below:

"Council" means the La Pine City Council.

"Emergency vehicle" means a vehicle (a) that is equipped with lights and sirens as required under ORS 820.350 and 820.370, (b) operated by public police, fire, or airport security agencies, (c) designated as an emergency vehicle by a federal agency, and/or (d) designated as an emergency vehicle by the Oregon Director of Transportation.

"Manager" means City's then city manager or his or her designee.

"Owner" means (a) the person in whose name title to a vehicle is issued, and/or (b) any person who is entitled to possession and use of a vehicle either under a security instrument or a lease agreement.

"Park" or "parking" means the stopping, halting, and/or standing of a vehicle, whether occupied or not, for any purpose other than a purpose provided under ORS 811.560.

“Public media” includes, without limitation, radio, newspaper, City’s website, and/or other available media sources to City.

“Public works department” means City’s public works department.

“Public works manager” means City’s then public works manager or his or her designee.

“Shoulder” means the portion of a street, paved or unpaved, continuous to the street that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

“Sidewalk(s)” mean that part of the street right-of-way between the lateral lines of a roadway (curb-lines) and the adjacent property lines (including the curbs and any landscaping) and, as the context requires, any portion of the sidewalk fronting a private real property.

“Sidewalk ordinance” means City Ordinance No. 2016-07, as amended.

“Snow route(s)” refers to streets designated by the council under Section 5 as priority streets for snow removal operations.

“Street(s)” refers to (a) any City street, alley, avenue, road, highway, and/or other thoroughfare open, used, and/or intended for use of the public for vehicles and/or vehicular traffic as a matter of right, and/or (b) any Deschutes County road which City exercises jurisdiction over as the road authority. “Street(s)” includes the public right-of-way, including, without limitation, the shoulder and/or swales.

“Vehicle” means any device in, upon, or by which any person or property is or may be transported or drawn upon a street and includes vehicles that are propelled or powered by any means.

4. Authority of Public Works Department; Prohibited Deposits.

4.1 Authority. The public works department is responsible for snow and ice removal from streets. The public works manager reserves the right to determine the method of snow and ice removal and the equipment used for such removal, including, without limitation, the use of snowplows, truck plows, graders, front-end loaders, backhoes, snow blowers, salt, cinder, deicers, and/or other necessary equipment and/or materials. The public works manager may establish internal department policies for safe and orderly snow and ice removal operations.

4.2 Prohibited Deposits. No person will sweep, throw, shovel, push, plow, and/or otherwise deposit any snow and/or ice from private property, sidewalks, and/or driveways onto a street so as to obstruct gutters which has, is, and/or will be plowed, swept, cleaned and/or cleared by City for the passage of traffic. Snow removal from private property, sidewalks, and driveways will be in accordance with the sidewalk ordinance.

4.3 Temporary No Parking Areas. When the public works manager determines that it is necessary to remove snow from the vehicular traveled portion of a street, or that a street is sufficiently narrowed by excessive snow having been plowed toward the curbing so as to constitute a

public hazard impairing the movement of vehicular traffic, the public works manager may establish temporary "No Parking" zones on any streets where snow removal operations are necessary. Temporary "No Parking" areas will be marked with appropriate moveable signs not less than four hours prior to the commencement of the snow removal operation, and such streets may be closed off and blocked at all times during such snow removal operations.

5. Snow Routes.

5.1 Council Designation. Council, by resolution, may designate certain streets in City as snow routes for snow removal operations from time to time. Council may assign such routes as primary and secondary priority streets according to the level of service necessary for each street taking into account factors including, without limitation, traffic volumes, emergency access, public safety, and available equipment. All other streets not designated as primary or secondary will be plowed as time and conditions permit.

5.2 Parking. Whenever accumulation of snow reaches four inches (4") or more, parking will be prohibited on snow routes, except as allowed under ORS 811.560, as amended.

6. Emergency Snow Removal Operations.

6.1 Declaration; Termination. Whenever in the opinion of the manager winter weather conditions are severe, the manager may declare an emergency snow removal operation. Information on the existence of the emergency snow removal operation will be given by City by public announcement through such public media as the manager deems reasonable under the circumstances. The public announcement will specify the time and date when the emergency snow removal operation will commence and its duration. An emergency snow removal operation commenced under this Section 6 will remain in full force and effect until (a) such time as snow plowing operations have been declared complete, or (b) such other time designated by the manager. Information concerning the conclusion or termination of the emergency snow removal operation will be given on the same media as the initial public announcement. Winter weather conditions are "severe" when such conditions include, without limitation, falling snow, sleet, freezing rain, and/or formation of ice and such conditions impede and/or hinder (x) the safe movement of vehicular traffic over, across, and/or upon any street within City, and/or (z) the safe movement of emergency vehicles over, across, and/or upon any street within City.

6.2 Parking. During the period that an emergency snow removal operation is in effect, no person will park any vehicle on any City street, except as allowed under ORS 811.560, as amended. To the extent that any provision in this Section 6 conflicts with any other City parking regulation, the provisions of this Section 6 will govern during the period of time in which an emergency snow removal operation is in effect. Nothing in this Section 6 will be construed to permit parking at any time or place where it is unlawful by any other provision of law.

7. Removal of Vehicles Interfering with Snow and Ice Removal.

7.1 Authority to Remove Vehicle. A vehicle parked in violation of Section 5 and/or Section 6 may be removed, or caused to be removed, by the manager. Removal and storage of any vehicle under the provisions of this Ordinance will not prevent or preclude City from pursuing any and all rights and remedies available to City under applicable law.

7.2 Towing of Vehicles and Storage at Owner's Expense. The manager may remove, or cause to be removed, any vehicle parked in violation of this Ordinance to a location where the vehicle may be lawfully parked or to a privately-owned tow yard. The manager will maintain a record of all vehicles removed including, without limitation, (a) the date and time of removal, (b) the location where the vehicle was removed, (c) the place of storage, and (d) name of towing service and/or company. The costs and expense of removal and storage, including, without limitation, staff time, will be assessed to and paid by the owner of the vehicle.

7.3 Notice of Removal. Within twenty-four (24) hours of the removal of a vehicle pursuant to this Ordinance, the manager will make reasonable efforts to notify the owner of vehicle removed, and inform the owner of the location where the owner may retake possession of the vehicle. For the purposes of this Section 7.3, a telephone call to, or personal contact with, the owner of such vehicles will be deemed reasonable notification.

7.4 Requisites to Retake Possession. Before the owner of any vehicle removed and/or stored pursuant to this Ordinance will be permitted to retake possession of such vehicle, the owner will perform the following: (a) furnish satisfactory evidence to the manager and/or to the person in charge of the tow yard of the owner's identity and ownership of the vehicle; (b) pay all charges and expenses for towing, removing, and/or storing such vehicle; and (c) sign a written statement acknowledging delivery of such vehicle. Any charges made or incurred under this provision will not be construed to be a fine, penalty, or forfeiture.

7.5 Damage to Vehicle. City will not be liable for any damage to vehicles parked in violation of this Ordinance, or for any damaged caused during or by the removal and storage of any vehicle parked in violation of this Ordinance.

8. Penalties. Any violation of this Ordinance is punishable by a fine not to exceed \$500.00 per violation. City will be entitled to collect from any person violating this Ordinance City's attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance. Each violation, and each day that a violation continues, constitutes a separate civil infraction. The remedies available under this Ordinance are not exclusive of any other remedies available under any applicable federal state, and/or local laws, regulations, and/or ordinances. It is within City's discretion to seek cumulative remedies for a violation of this Ordinance. City may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

9. No Mandatory Duty of City; Indemnification.

9.1 No Mandatory Duty of City. Nothing in this Ordinance is intended to create a mandatory duty on the part of City and/or manager to protect persons or property from a violation of the provisions of this Ordinance.

9.2 Owner Liability and Indemnification. An owner of a vehicle parked in violation of this Ordinance is liable for, and will defend and indemnify, any individual injured because of such owner's failure to remove the vehicle as required under this Ordinance and for any claims, demands, actions, suits, damages, liabilities, costs, and/or expenses of any kind whatsoever, including, without limitation, attorney fees and costs, arising out of or resulting from his, her, and/or its failure to remove the vehicle as required under this Ordinance. No liability will be imputed to or imposed upon City and/or its officers, employees, and/or agents because of injuries or damages sustained by any person or

property by reason of any vehicle parked in a designated snow removal route and/or any failure to remove a vehicle as required under this Ordinance, and/or City's removal of a vehicle.

10. Signage. The manager may cause "No Parking" signs and other signage and/or other traffic control devices to be posted giving notice of the regulations provided in this Ordinance, as necessary or appropriate. The manager may post such signs at locations necessary or appropriate to inform the public that vehicles parked in violation of this Ordinance may be towed, which sign locations will be determined by City in its sole discretion. No vehicle will be parked upon any street in violation of "No Parking" signs.

11. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors.

12. Emergency Declaration. The council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. Therefore, an emergency is hereby declared to exist. This emergency Ordinance will be in full force and effect upon its passage and adoption by the Council and signing by the mayor.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of ___ for and ___ against and APPROVED by the mayor on this 16th day of November, 2016.

Ken Mulenex, Mayor

ATTEST:

Cory Misley, City Manager