

ORDINANCE NO. 121

AN ORDINANCE REGULATING TRAFFIC UPON THE STREETS OF THE CITY OF DRAIN, IN THE COUNTY OF DOUGLAS, STATE OF OREGON, PROVIDING A PENALTY FOR THE VIOLATION HEREOF, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF DRAIN ORDAIN AS FOLLOWS:

**Section One.** The following words and phrases when used in this ordinance shall for the purposes of this ordinance have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

- (a) "VEHICLE." Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
- (b) "MOTOR VEHICLE." Every vehicle, as herein defined, which is self-propelled.
- (c) "PERSON." Every natural person, firm, copartnership, association or corporation.
- (d) "AUTHORIZED EMERGENCY VEHICLE." Vehicles of the fire department, fire patrol, and individually owned automobiles of members of the active list of the Drain Volunteer Fire Department when being operated in response to a fire alarm or other emergency when the fire department is called into active service, police vehicles, and such ambulances and emergency vehicles of municipal departments or public services corporations as are designated or authorized by the secretary of state of the State of Oregon or an authorized officer.
- (e) "STREET OR HIGHWAY." Every way or place of whatever nature open to the use of the public, as a matter of right, for purposes of vehicular travel within the corporate limits of the City of Drain.
- (f) "ROADWAY." That portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular travel.
- (g) "SIDEWALK." That portion of a street between the curb lines and the adjacent property lines.
- (h) "CROSSWALK." That portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.
- (i) "INTERSECTION." The area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways which join one another at an angle, whether or not one highway crosses the other to carry a
- (j) "RIGHT OF WAY." The privilege of the immediate use of the highway.
- (k) "PRIVATE ROAD OR DRIVEWAY." Every road or driveway not open to the use of the public for purposes of vehicular travel.
- (l) "BUSINESS DISTRICT." The territory contiguous to a highway when fifty per cent or more of the frontage thereon for a distance of six hundred feet or more on one side or three hundred feet or more on both sides is occupied by buildings in use for business.
- (m) "RESIDENCE DISTRICT." The territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

(n) "TRAFFIC." Pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any street for purposes of travel.

(o) "OFFICER." Any police officer authorized to make arrests.

(p) "OPERATOR." Any person driving or operating a motor vehicle upon the highways or streets of the City of Drain.

Section Two. Any person who drives any vehicle upon a highway carelessly and heedlessly in wilful or wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving and upon conviction shall be punished as hereinafter provided in this ordinance.

Section Three. No person shall drive a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway and the hazard at intersections and any other conditions then existing.

Nor shall any person drive at a speed which is greater than will permit the driver to exercise proper control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle or other conveyance upon entering the highway in compliance with legal requirements and with the duty of drivers and other persons using the highways to exercise due care; provided, that this provision shall not be construed to change the rules of pleading and evidence relating to negligence and contributory negligence.

Section Four. No person, except those expressly exempted under sections 55-311-55-313, 55-315, 55-321 (d), Oregon Code Supplement 1935, and acts amendatory of said sections, shall drive any motor vehicle upon a street or highway in the City of Drain unless such person upon application has been licensed as an operator or chauffeur by the Secretary of State of the State of Oregon under the provisions of the statutes of the State of Oregon providing for the licensing of drivers and operators of motor vehicles.

Section Five. It shall be unlawful for the driver of any vehicle to drive the same when such vehicle is so loaded as to obstruct the view of the driver to the front or sides or to interfere with the driver's control or with the driving mechanism of the vehicle, or when such driver has in his or her lap, or in his or her embrace another person, baggage or other encumbrance which prevents the free and unhampered operation of such motor vehicle.

It shall be unlawful for any passenger in a vehicle to ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control of the driving mechanism of the vehicle; provided, however, that it shall be unlawful in any case for the driver of a vehicle to permit more than three persons over the age of 12 years to occupy the front or driver's seat of any motor vehicle while such vehicle is in motion on the highway. "Occupying," as used herein, shall include the holding of one person upon the lap of another.

Section Six. It shall be unlawful for any person to carry a dog upon a public street or highway upon the hood, fender, running board or other external part of any automobile or truck unless the same shall be protected by framework, carrier or other device sufficient to keep any such animal from falling from the said automobile; provided further, that it shall be unlawful at any time for any person to carry any child upon a public street or highway upon the hood, fender, running board or other external part of any motor vehicle.

Section Seven. It shall be unlawful for the driver of any vehicle other than one on official business or members of the Drain Volunteer Fire Department, to follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or to drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm or within three blocks of a point where a fire is in progress.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, or other way, to be used at any fire or alarm of fire, without the consent of the fire department in command.

Section Eight. No person shall throw, deposit or leave any glass bottles, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal or vehicle upon any road, street or highway of the City of Drain.

Section Nine. The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway.

Section Ten. The operator of a motor vehicle shall, on a signal, by raising the hand, from a person riding, loading or driving a horse or horses or other animals in the opposite direction, bring such motor vehicle immediately to a stop, and remain stationary so long as may be reasonable to allow such animal or animals to pass, and, if traveling in the same direction, shall use reasonable caution in passing such animal or animals; provided, that in case such animal or animals appear badly frightened or the person operating such motor vehicle is signaled so to do, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others.

Section Eleven. No person who is an habitual user of narcotic drugs and no person who is intoxicated or under the influence of intoxicating liquor or narcotic drugs shall drive, operate, or run a motor vehicle upon any highway, street, or thoroughfare within the City of Drain.

Section Twelve. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor of said vehicle, and when standing upon any perceptible grade without turning the front wheels of such vehicle to the curb or side of the highway.

Section Thirteen. No person shall, individually or in association with one or more others, wilfully break, injure, tamper with or remove any part or parts of any motor vehicle for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operating for any purpose against the will or without the consent of the owner of such motor vehicle, or in any other manner wilfully or maliciously interfere with or prevent the running of such motor vehicle or the operation of the same.

No person except an authorized officer, marshal, constable or policeman, shall, without the consent of the owner or person lawfully in charge of a motor vehicle, climb upon or into such motor vehicle, whether the same be at rest, or in motion; or, while such motor vehicle is at rest or unattended, attempt to manipulate any of the levers, the starting crank or other device, brakes, or mechanism, or to set said vehicle in motion.

**Section Fourteen.** The driver of a vehicle upon a highway shall yield the right of way to authorized emergency vehicles when the latter are operated in emergencies and the drivers thereof sound audible signal by bell, siren, compression or exhaust whistle. This provision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right of way.

Upon the approach of any authorized emergency vehicle giving audible signal by bell, siren, or exhaust whistle, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the highway or street, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police officer until the authorized emergency vehicle shall have passed.

**Section Fifteen.** Every motor vehicle when operated upon a street or highway shall be equipped with a horn in good working order, capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with, or for any person to use upon a vehicle, any bell, siren, compression or exhaust whistle, or for any person, at any time, to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device. Every authorized emergency vehicle used for emergency calls shall be equipped with a bell, siren or exhaust whistle of a type approved by the secretary of state, but no such device shall be installed or used upon any other vehicle. It shall be unlawful for any person to install or use upon a bicycle any siren or whistle.

**Section Sixteen.** No person shall drive a motor vehicle upon a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. It shall be unlawful to equip any motor vehicle with a "muffler cut-out." It shall be unlawful for any person to operate or for any owner of any motor vehicle to permit to be operated upon any public road, street or highway any motor vehicle so as to cause any greater noise or sound than is reasonable necessary for the proper operation of such motor vehicle.

**Section Seventeen.** That Sections 55-2601, 55-2602, 55-2603, 55-2604, 55-2605, 55-2606, and 55-2607, Oregon Code, Supplement 1935, as respectively amended by Sections 2, 3, 4, 5, 6, 7, and 8, Chapter 533, Oregon Laws, 1939, and Sections 55-2613, 55-2614, 55-2615, 55-2616, and 55-2617, Oregon Code, Supplement 1935, and Section 1, Chapter 533, Oregon Laws, 1939, and Section 1, Chapter 327, Oregon Laws, 1937, and each and every part and subdivision thereof, are by reference hereto made a part of this ordinance as though the same were fully set forth herein, and any violation thereof within the limits of the City of Drain shall be deemed a violation of this ordinance and constitute a misdemeanor and be punishable as hereinafter provided in this ordinance. Every vehicle upon a highway within the City of Drain during the period of from a half hour after sunset to a half hour before sunrise and at all times when fog or other atmospheric conditions render the operation of said motor vehicle dangerous to traffic or the use of highways and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred feet ahead, shall be equipped with lighted front and rear lamps as required by the Oregon Statutes herein mentioned and incorporated as aforesaid, subject to exemption with reference to lights on parked vehicles as declared in the next section.

**Section Eighteen.** In accordance with the provision of subdivision (1) of Section 55-2601, Oregon Code, Supplement 1935, as amended by Section 2, Chapter 533, Oregon Laws, 1939, parking of a motor vehicle at night without lights being displayed hereby is permitted where there is sufficient light to render clearly discernible any person or object within a distance of five hundred (500) feet upon such street or highway.

**Section Nineteen.** It shall be the duty of the police department to enforce the provisions of this ordinance. Officers of the police department are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provisions of this ordinance, provided that in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the police or fire department may direct traffic as conditions may require notwithstanding the provisions of this ordinance. The police may close temporarily any street or highway in an impending or existing emergency, or for any lawful assemblage, demonstration or procession provided there is reasonable justification for the closing of such street. The police may prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency, or for a lawful assemblage, demonstration or procession provided there is reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of any officer.

**Section twenty.** It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of any traffic or police officer displaying his star or badge and invested by law with authority to direct, control, or regulate traffic. It shall be the duty of every officer seeking to enforce the speed laws of this state to be in uniform or to have conspicuously displayed upon his person a conspicuous badge indicating his official authority.

**Section twenty-one.** No vehicle shall be driven, operated, run, or moved on any street or highway within the City of Drain unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom.

**Section twenty-two.** (a) Upon all highways or streets of sufficient width, the driver of a vehicle shall drive the same upon the right half of the highway except when the right half is out of repair and for such reason impassable or when overtaking and passing another vehicle subject to the limitations set forth in Section twenty-five of this ordinance.

(b) In driving upon the right half of a highway the driver shall drive as closely as practicable to the right-hand edge or curb of the highway except when overtaking or passing another vehicle, or when placing a vehicle in position to make a left turn.

(c) In approaching any bridge, or approaching or crossing a railroad right of way or an intersection of highways or streets, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is out of repair and for such reason impassable.

**Section twenty-three.** Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

**Section twenty-four.** Except as otherwise provided in Section twenty-five of this ordinance, the following rules shall govern the overtaking and passing of vehicles in the City of Drain.

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle.

(b) The driver of an overtaken vehicle shall give way to the right of the overtaking vehicle on suitable and audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(c) In the event two or more vehicles are moving in the same direction in parallel lanes upon the right half of the paved portion of a city street or upon any hard surfaced highway having space for two or more lanes of traffic in each direction, the provisions of subdivisions (a) and (b) of this section shall not be considered as prohibiting the vehicles in the right hand lane overtaking or passing those in the left-hand lane, providing that such overtaking vehicle shall not exceed the statutory indicated speed for the district, nor shall the provisions of subdivisions (a) and (b) of this section be construed to prohibit a driver overtaking and passing upon the right another vehicle which is making, or about to make, a left turn.

(d) The driver of an overtaking motor vehicle when traveling outside of a business or residence district, and under other conditions when necessary to insure safe operation, shall give audible warning with his horn or other warning device before passing or attempting to pass a vehicle proceeding in the same direction.

Section twenty-five. (a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken, nor shall the driver of a vehicle in any event drive to the left side of the center line of a highway when approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within the distance of five hundred feet.

(b) The driver of an overtaking motor vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any steam or electric railway grade crossing nor at any intersection of highways unless such movement can be made in safety.

Section twenty-six. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the highway or street.

Section twenty-seven. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Approach for a right turn shall be made in the lane for traffic nearest to the right-hand side of the highway and the right turn shall be made as closely as practicable to the right-hand curb or edge of the highway.

(b) Approach for a left turn shall be made in the lane for traffic to the right of and nearest to the center line of the highway and the left turn shall be made by passing to the right of such center line where it enters the intersection, and upon leaving the intersection by passing to the right of the center line of the highway then entered.

Section twenty-eight.

(a) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety, and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected

by such movement shall give a signal as required in this section plainly visible to the driver or such other vehicle of the intention to make such movement.

(b) The signal herein required shall be given either by means of the hand and arm in the manner herein specified, or by an approved mechanical or electric signal device, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from visible both to the front and rear the signal shall be given by a device which has been approved by the secretary of state.

(c) Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to turn to the left by extending his hand and arm horizontally from and beyond the left side of the vehicle, his intention to turn to the right by extending his arm upward and beyond the left side of the vehicle, and his intention to stop or suddenly decrease speed by extending his hand and arm downward from and beyond the left side of the vehicle.

(d) The signal herein required to be given before turning to the right or left, whether given by means of the hand and arm or by means of an approved mechanical or electrical device, shall be given continuously during the last fifty feet traveled by the vehicle before turning.

#### Section twenty-nine.

(a) Vehicles approaching an Intersection. Drivers, when approaching highway intersections, shall look out for and give right of way to vehicles on the right, simultaneously approaching a given point, whether such vehicle first enter and reach the intersection or not; provided, that the foregoing provision shall not apply at any intersection where and when traffic is controlled by traffic control signals or police officers. Any driver entering an intersection at an unlawful speed shall forfeit any right of way which he would otherwise have under this subdivision.

(b) The driver of any vehicle who has stopped as required by law at the entrance to a through highway shall yield to the other vehicles within the intersection or approaching so closely on the through highway as to constitute an immediate hazard, but said driver having so yielded may proceed, and other vehicles approaching the intersection on the through highway shall yield to the vehicle so proceeding into or across the through highway.

(c) The driver of a vehicle within an intersection intending to turn to the left shall yield to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver having so yielded and having given a signal when and as required by law may make such left turn, and other vehicles approaching the intersection from said opposite direction shall yield to the driver making the left turn.

Section thirty. The driver of a vehicle entering a public highway from a private road or drive shall stop and yield the right of way to all vehicles approaching on such public highway.

Section thirty-one. (a) The driver of any vehicle shall yield the right of way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except where the movement of traffic is being regulated by police officers or traffic control signals, or at any point where a pedestrian tunnel or overhead crossing has been provided.

(b) Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross the roadway, it shall be unlawful for the driver of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.

(c) Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk shall yield the right of way to vehicles upon the roadway.

(d) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(e) The provisions of this section shall not relieve the driver of a vehicle or the pedestrian from the duty to exercise due care.

Section thirty-two. That any section or part of a section of the "UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS IN THE STATE OF OREGON" now in force or hereafter enacted or amended not herein specifically or by reference thereto made a part of this ordinance, hereby are made a part of this ordinance as though the same were specifically set forth herein, and any violation thereof shall be deemed a violation of this ordinance, constitute a misdemeanor, and be punished as hereinafter in this ordinance provided.

Section thirty-three. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall, upon conviction thereof before the City Recorder of the City of Drain be punished by a fine of not more than Two Hundred Dollars (\$200.00), or by imprisonment in the city jail for not more than One Hundred (100) days, or by both such fine and imprisonment, and shall pay the costs of the proceedings.

Section thirty-four. If any clause, sentence, paragraph, section or part of this ordinance shall, for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair or invalidate the remainder of this ordinance but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered.

Section thirty-five The Common Council does deem it expedient that this ordinance shall be in full force and effect from and after its passage, and hereby does adjudge and declare that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and hereby does declare that an emergency exists, and this ordinance shall take effect immediately from its passage by the Common Council.

Passed by the Common Council of the City of Drain, Douglas County, State of Oregon, this \_\_\_\_\_ day of \_\_\_\_\_ A. D., 1940.

Approved by the Mayor of the City of Drain, Douglas County, State of Oregon, this \_\_\_\_\_ day of \_\_\_\_\_ A. D., 1940.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder.