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BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

An Ordinance regulating the)
parking of vehicles and the)
conducting of business in the)
public roads and rights-of-way))
under Marion County's)
jurisdiction and declaring)
an emergency.)

ORDINANCE NO. 1182

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS
FOLLOWS:

SECTION 1 Title.

This ordinance shall be known as the Marion County Right-of-
Way Ordinance and may be so cited and pleaded.

SECTION 2 Purpose.

The purpose of this ordinance is to restrict and regulate
parking and business activities in public rights-of-way of the
county. As the road authority, the Marion County Board of
Commissioners has exclusive authority to regulate, control or
prohibit the stopping, standing and parking of vehicles upon
roadways and rights-of-way under county jurisdiction, pursuant to
ORS 810.160.

SECTION 3 Definitions.

(1) "Motor vehicle" means any vehicle that is, or is
designed to be, self-propelled;

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- (2) "Non-motorized vehicle" means any vehicle that is not designed to be self-propelled;
- (3) "Park" means to park, stand or stop as those three terms are defined within the Oregon Vehicle Code and set forth in the Oregon Revised Statutes.
- (4) "Person" means an individual, corporation, partnership, association or other entity.
- (5) "Public road" means any county road, including the entire width of the right-of-way, that has been designated as a county road under the provisions of ORS 368.016, and any local access road, including the entire width of the right-of-way, that is subject to the county's jurisdiction under ORS 368.031.
- (6) "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public roadway.

SECTION 4 Prohibitions.

- (1) No person shall park any motor vehicle or non-motorized vehicle in public roads for three consecutive days or longer.
- (2) No person shall offer any goods, services or vehicles for sale or conduct any other business in public roads.

SECTION 5 Enforcement Responsibility and Authority.

This ordinance may be enforced by a Marion County

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1 Enforcement Officer.

2 **SECTION 6 Violations.**

3 Violation of this ordinance is a Class B violation as
4 provided in ORS Chapter 153. Enforcement shall be accomplished
5 through a violation proceeding under ORS Chapter 153 and Marion
6 County Ordinance No. 1105.

7 **SECTION 7 Removal and Impoundment of Vehicles.**

8 (1) In addition to a violation proceeding under ORS Chapter
9 153 and Marion County Ordinance No. 1105, violation of
10 the provisions of this ordinance may result in the
11 removal and impoundment of the vehicle at the vehicle
12 owner's expense.

13 (a) The county may utilize the services of one or more
14 competent towing service firms for the removal and
15 storage of motor vehicles taken into custody
16 pursuant to this ordinance.

17 (b) A towing service company that takes a vehicle into
18 custody under this ordinance shall have a lien on
19 the vehicle and its contents for the just and
20 reasonable towing and storage charges and may
21 retain possession of the vehicle and its contents
22 until the charges are paid.

23 (c) If a vehicle taken into custody pursuant to this
24 ordinance is not reclaimed within 30 days after it
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is taken into custody, the vehicle may be disposed of pursuant to ORS 819.210 to 819.260.

(2) Prior to removal and impoundment, a written notice will be affixed to the vehicle and sent by first class mail to the last registered owner of the vehicle. The notice will state that, if the vehicle is not removed from the public road within two days from the date of the notice, the vehicle will be impounded.

(3) When a vehicle has been impounded pursuant to this ordinance, within two business days of the impoundment written notice shall be given by certified mail to the last registered owner of the vehicle that it has been impounded and information on where the owner can retrieve it. The notice shall include information on the hearing procedures described in Section 8 of this ordinance.

SECTION 8 Release of Vehicle

A vehicle impounded under section 7 shall be released to a person entitled to possession upon the payment to Marion County Department of Public Works of an administrative fee of \$25.00 and payment of any towing and storage charges. Proof of entitlement to possession and the administrative fee shall be presented to Marion County Department of Public Works, which shall authorize the entity storing the vehicle to release it upon payment of

1 towing and storage charges.

2 **SECTION 9 Hearing.**

3 (1) Upon written request of the legal owner or the
4 registered owner, or any other person who reasonably
5 appears to have an interest in the vehicle, delivered
6 to the Marion County Hearings Officer within five
7 business days of the date of the notice of impoundment,
8 a hearing shall be held before the hearings officer.
9 The written request shall state the grounds upon which
10 the person requesting the hearing believes that the
11 removal of the vehicle was not justified.

12 (2) The hearing shall be set and conducted within four
13 business days of receipt of the request, if the vehicle
14 remains impounded. The hearing may be set for a later
15 date if the vehicle is no longer impounded or if the
16 owner or person entitled to possession so requests. At
17 the hearing:

18 (A) The owner may contest the validity of the
19 action of the enforcement officer in causing the
20 vehicle to be impounded.

21 (B) The county shall have the burden of showing
22 the validity of the impoundment of the vehicle. The
23 enforcement officer who ordered impoundment of the
24 vehicle may submit an affidavit or official report in
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lieu of making a personal appearance at the hearing.

(3) If the hearings officer finds that:

(A) The action of the county in towing the vehicle was proper, the hearing officer shall enter an order supporting the removal and may assess costs of the hearing against the person requesting the hearing.

(B) The action of the county in towing the vehicle was invalid, the hearings officer shall find that the owner is not liable for any towing or storage charges occasioned by the towing and order the county to satisfy the towing and storage lien, or order the county to reimburse the owner for any towing and storage charges paid by the owner for the vehicle.

(4) If the person requesting the hearing does not appear at the scheduled hearing, the hearings officer may enter an order supporting the removal and assessment of towing and storage costs.

(5) The decision of the hearings officer pursuant to this section is final.

(6) The hearings officer shall provide a written statement of the results of the hearing held under this section to the person requesting the hearing.

SECTION 10 Severability Clause.

Should any section or portion of this ordinance be held

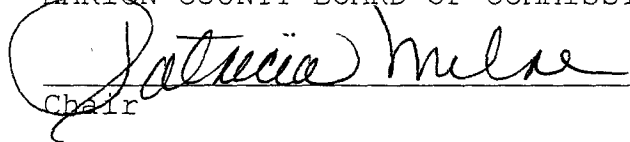
1 unlawful or unenforceable by any court of competent jurisdiction,
2 such decision shall apply only to the specific section, or
3 portion thereof, directly specified in the decision. All other
4 sections or portions of this ordinance shall remain in full force
5 and effect.

6 **SECTION 11 Emergency Clause and Effective Date.**

7 This ordinance being necessary for the immediate
8 preservation of the public peace, health and safety, an emergency
9 is declared to exist and this ordinance shall take effect upon
10 its passage.

11 SIGNED AND FINALIZED this 26 day of November, 2003.

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14 MARION COUNTY BOARD OF COMMISSIONERS

15 
Chair

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18 Recording Secretary

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