

**CITY OF ILWACO  
ORDINANCE NO. 912**

**AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, ESTABLISHING DEFINITIONS FOR MOBILITY DEVICES ALONG WITH A SPEED LIMIT FOR THE DISCOVERY TRAIL AND THEREFORE, AMENDING CHAPTER 10 VEHICLES AND TRAFFIC OF THE ILWACO MUNICIPAL CODE.**

**WHEREAS**, there is a need to set a uniform speed limit for motorized devices on the Discovery Trail; and

**WHEREAS**, this speed limit would be set for the entirety of the Discovery Trail; and

**WHEREAS**, the City of Ilwaco desires to make the Discovery Trail safe for both pedestrians and riders alike.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 10 is amended to read as follows:

Chapter 10.10.010 Definitions.

**Bicycle:** means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels, either of which is sixteen inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter.

**Electric-assisted bicycle** means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than seven hundred fifty watts. The electric-assisted bicycle must meet the requirements of one of the following three classifications:

(1) "Class 1 electric-assisted bicycle" means an electric-assisted bicycle in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour;

(2) "Class 2 electric-assisted bicycle" means an electric-assisted bicycle in which the motor may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour; or

(3) "Class 3 electric-assisted bicycle" means an electric-assisted bicycle in which the motor provides assistance only when the rider is pedaling and ceases to provide

assistance when the bicycle reaches the speed of twenty-eight miles per hour and is equipped with a speedometer.

**Long-distance trails:** Stand-alone trails or trails within linear parks, usually located on former railroad rights-of-way. The trails are approximately 10 feet wide, with typical grades being under 3%. For the purpose of this ordinance, this definition solely references the Discovery Trail.

**Other Power-Driven Mobility Device (OPDMD):** Power-driven devices other than wheelchairs used for locomotion by individuals with mobility disabilities. They are devices powered by batteries, fuel, or other engines, and may or may not be designed primarily for use by individuals with mobility disabilities. OPDMDs include, electronic personal assistance mobility devices, such as the Segway® PT, or any other mobility device designed to operate in areas without defined pedestrian routes.

10.10.020 Policy.

A. Off-Road Vehicles (ORV) are not allowed on the Discovery Trail.

B. Long-distance trails:

- (1) The device shall not exceed 48” in width.
- (2) If powered by an internal combustion engine, the device engine shall be equipped with a US Forest Service-approved spark arrestor, in working condition with no modifications. The device is required to have an operating muffler device, and to meet Clean Air standards in effect at the time of its manufacture.
- (3) Speed shall not exceed 15 miles per hour, except within 30 feet of other trail users, where speed shall not exceed 5 miles per hour.
- (4) Class 1 and Class 3 assisted bicycles are allowed on the Discovery Trail, as well as bicycles.

C. Operator responsibilities:

- (1) Operators shall yield to other trail users. In particular, to ensure the safety of all trail users, the operator shall come to a complete stop and shut off the device if it makes noise when encountering pedestrians.
- (2) Devices must be kept entirely within the width of the trail bed at all times. Driving off the edge of the trail bed is damaging to vegetation and soils and is not permitted.

D. Risk. Individuals with mobility disabilities using the Discovery Trail do so at their own risk. The City of Ilwaco makes no claims that any facility is designed, maintained, or managed for any Devices. Operating a Devices on the Discovery Trail requires caution. Rough surfaces, mud, vegetation, tree roots, and water crossings may be present.

10.10.030 Penalties for violation of this chapter.

Violation of any section of this chapter by any person shall be punishable by a fine of up to one thousand dollars (\$1,000.00) per violation.

#### 10.10.040 Enforcement

A. Infraction Classification; Exceptions: Violations of this chapter shall be classified as traffic infractions, except as otherwise provided. Traffic infractions are noncriminal offenses.

#### B. Notice Of Infraction; Contents:

- (1) A notice of infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.
- (2) The form for the notice of infraction shall include the following:
  - a. A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter.
  - b. A statement that an infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction.
  - c. A statement of the specific infraction for which the notice was issued.
  - d. A statement of the monetary penalty established for the particular infraction.
  - e. A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options.
  - f. A statement that at any hearing to contest the determination, the city has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction.
  - g. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction, the person will be deemed to have committed the infraction and may not subpoena witnesses.
  - h. A statement that the person must respond to the notice as provided in this chapter within fifteen (15) days.
  - i. A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter.
  - j. A statement that failure to respond to a notice of infraction will result in the imposition of the penalties prescribed above.

#### C. Response To Notice; Contesting Determination; Hearing:

- (1) Any person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen (15) days of the date of the notice.
- (2) If the person determined to have committed the infraction does not contest the determination, the person responds by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the municipal court. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court records.
- (3) If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the municipal court. The court shall notify the person in writing of the time, place,

and date of the hearing, and that date shall not be sooner than seven (7) days from the date of the notice, except by agreement.

- (4) If the person determined to have committed the infraction does not contest the determination but wishes to explain the mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the municipal court. The court shall notify the person in writing of the time, place, and date of the hearing.
- (5) If any person issued a notice of infraction:
  - a. Fails to respond to the notice of infraction within fifteen (15) days as required by this section; or
  - b. Fails to appear at a hearing requested pursuant to subsection C3 or C4 of this section, the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction.

D. Hearings; Rules Of Procedure; Counsel:

- (1) Infractions under this chapter shall be heard and determined by the municipal court.
- (2) Procedures in the municipal court for infractions under this chapter shall conform generally to those followed for traffic infractions under Revised Code Of Washington chapter 46.63. The infraction rules for courts of limited jurisdiction (IRLJ) shall, to the extent they are not inconsistent with this chapter, apply to cases under this chapter.
- (3) Any person subject to proceedings under this chapter may be represented by counsel.
- (4) Any attorney representing the city may, but is not required to, appear at any infraction proceedings under this chapter.

E. Contesting Determination; Appeal:

- (1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.
- (2) The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.
- (3) The burden of proof is upon the city to establish the commission of the infraction by a preponderance of the evidence.
- (4) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court records.

F. Explanation Of Mitigating Circumstances:

- (1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.
- (2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court records.
- (3) There may be no appeal from the court's determination or order.

**Section 2.** Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

**Section 3.** Referendum and Effective Date. This Ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 14TH DAY OF DECEMBER 2020.**

  
\_\_\_\_\_  
Gary Forner, Mayor

ATTEST:

  
\_\_\_\_\_  
Holly Beller, Treasurer

VOTE	Cundiff	Bageant	Quittner	Lessnau	Mathison	Forner
Ayes	X	X	X	X	X	
Nays						
Abstentions						
Absent						

PUBLISHED: December 23, 2020

EFFECTIVE: December 28, 2020