

ORDINANCE NO. 827

AN ORDINANCE OF THE CITY OF WILSONVILLE AMENDING WILSONVILLE CODE CHAPTER 10 BY ADDING 10.600 THROUGH 10.680 AND DELETING 10.305.

WHEREAS, the City of Wilsonville operates, through its Transit Department, the South Metro Area Regional Transit (“SMART”); and

WHEREAS, the City of Wilsonville does not have regulations governing riders of SMART; and

WHEREAS, Wilsonville Code (“WC”) 10.305 is the only regulation regarding prohibited activities specifically around transit stops or shelters; and

WHEREAS, the proposed amendments will incorporate the regulations contained in WC 10.305, rendering it unnecessary.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

1. The following is added to Chapter 10 of the Wilsonville Code as Section 10.600 through Section 10.680 (Transit Rider Rules):

“Transit Rider Rules

10.600 Purpose.

The Code and implementing procedures are adopted for the safety, convenience, and comfort of the City of Wilsonville South Metro Area Regional Transit (“SMART”) passengers and for the protection, preservation, use and enjoyment of City property.

10.605 Scope.

This section sets out the rules governing conduct within and around the City of Wilsonville’s SMART Transit System.

10.610 Severability.

If any section, paragraph, subdivision, clause, sentence, or provision of this title shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect, impair, invalidate, or nullify the validity of the remaining portions of the title.

10.615 Definitions.

(1) City. The City of Wilsonville, Oregon or the City Council of Wilsonville, Oregon or a designated representative of the City of Wilsonville, Oregon.

(2) Electronic Smoking Device. An electronic or battery operated device that delivers vapors for inhalation. Electronic Smoking Device includes every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor.

(3) Emergency. A fire, actual or threatened serious physical injury to a person, or any apparent urgent medical need occurring on or in a SMART Transit Shelter or aboard a SMART Transit Vehicle.

(4) Exclusion. A sanction administered to an individual for violation of this Section. An Exclusion prohibits that individual from entering or remaining on or in the SMART Transit System in whole or in part, for a specified duration.

(5) Operator. A City employee responsible for operating any SMART Transit Vehicle.

(6) Passenger. A person who is aboard a SMART Transit Vehicle or waiting for the next available SMART Transit Vehicle to such person's destination, or person who enters a SMART Transit Shelter with the intent to utilize transportation on the next available SMART Transit Vehicle for such person's destination.

(7) Peace Officer. A law enforcement official who is employed by the Clackamas County Sheriff's Office, a marshal, a City of Wilsonville police officer, a law enforcement official of the Oregon State Police, and any other person as may be designated by law.

(8) Qualified Exclusion. An exclusion which excludes a person from use of the SMART Transit System except for use for travel to and from medical and legal appointments, obtaining food, clothing and necessary household items, or for accessing any critical services.

(9) Service Animal. An animal recognized under the Americans with Disabilities Act (ADA) as a service animal, including a dog guide, hearing ear dog, or other service animal assisting an individual with a physical disability in one or more daily life activities including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, pulling a wheelchair, or fetching dropped items. An animal which provides solely emotional support, well-being, comfort, or companionship is not a service animal.

(10) SMART Transit Shelter. All real property, structures, and personal property owned, possessed or occupied by the City, leased or licensed by the City, or devoted on an exclusive or nonexclusive basis to the use of the SMART Transit System and includes a structure provided along a transit route for the purpose of providing seating and/or while passengers wait for a transit vehicle.

(11) SMART Transit System. The property, equipment and improvements of whatever nature owned, leased, or controlled by the City to provide public transportation for passengers through SMART or to provide for movement of people, and includes any SMART Transit Vehicle and any SMART Transit Shelter.

(12) SMART Transit Vehicle. A City-owned bus, van, automobile or other vehicle used by SMART to transport passengers.

(13) Transit Dependent. A person who relies on public transit services instead of the private automobile to meet one's travel needs.

(14) Transit Director. The SMART Transit Director for the City or other City-designated authority charged with the administration and enforcement of these Standards.

10.620 Regulations.

(1) Smoking Prohibited. No person shall smoke tobacco or any other substance, including Electronic Smoking Device, in, or within 20 feet of a SMART Transit Vehicle or SMART Transit Shelter. To the extent this smoke free zone extends into any City street or public way, any and all occupants of any vehicle driving through this smoke free zone are exempted from the provisions of this section.

(2) Vacating Elderly and Disabled Priority Seating. The aisle-facing benches at the front of buses are for the use of disabled and senior citizen Passengers. Non-qualifying Passengers must vacate seating upon request of the Operator.

(3) Food and Beverages: Any food or beverage brought aboard a SMART Transit Vehicle must be in a sealed container, grocery bag, or other container used to transport the food or beverage to the person's destination. No person shall consume food or alcohol on any SMART Transit Vehicle. Passengers on SMART Transit Vehicles may consume non-alcoholic beverages only from containers with snap-on or screw-on lids.

(4) Attire. All persons (except infants who are held) who enter a SMART Transit Vehicle or SMART Transit Shelter must wear shoes, pants/shorts and shirt, a dress, or comparable clothing. In addition, all Passengers must cover any exposed skin that may transit communicable disease.

(5) Excessive Odor. No person shall board or remain on a SMART Transit Vehicle or enter or remain in a SMART Transit Shelter if the person, the person's clothing, or anything in the person's possession, emits a grossly repulsive odor that is unavoidable by other Passengers on the SMART Transit Vehicle or Shelter and which causes a nuisance or extreme discomfort to Passengers or Operator.

(6) Excessive Noise. No person shall make excessive or unnecessary noise, within the SMART Transit Vehicle with the intent to cause inconvenience, annoyance or alarm to the public, Operator, or a Peace Officer, or with a reckless disregard to the risk thereof.

(7) Audio Devices. Any audio devices, radio, or musical instruments on a SMART Transit Vehicle or in a SMART Transit Shelter operated by a person other than the Operator must only be audible through earphones to the person carrying the device.

(8) Littering and Spitting. No person shall discard or deposit any rubbish, trash, debris, or garbage near, in, or on a SMART Transit Shelter or aboard a SMART Transit Vehicle, except in proper waste disposal container. No person shall spit, defecate, or urinate near, in, or on a SMART Transit Shelter or aboard any SMART Transit Vehicle.

(9) Animals. No person shall bring or carry aboard a SMART Transit Vehicle or take into a SMART Transit Shelter any animal not housed in an enclosed carrying container, except:

(a) Service Animals. A person accompanied by a Service Animal or a person training a Service Animal, so long as the animal is under the control of its handler, housebroken and restrained by leash, harness or other device made for the purpose of controlling the movement of an animal. A Service Animal may be carried on its handler's person but may not occupy a separate seat.

(b) Police Dogs. A trained police dog accompanied by a Peace Officer.

(10) Flammable or Corrosive Substance. No person shall bring aboard a SMART Transit Vehicle or take into a shelter any flammable, combustible, explosive or corrosive (as those terms are defined in ORS 453.005) substance or device, except matches and cigarette lighters or factory-sealed household products. No person shall light any match or cigarette lighter or ignite any flame or ember within or around a SMART Transit Vehicle or SMART Transit Shelter.

(11) Display of Lights. No person shall light a flashlight, scope light, laser light, or other object that projects a flashing light or emits beam of light while inside a SMART Transit Vehicle, except in an Emergency.

(12) Canvassing or Solicitation. No person shall sell or distribute anything, solicit for any purpose, or canvass to collect money in or on any SMART Transit Shelter or aboard any SMART Transit Vehicle, unless authorized in writing by the Transit Director or designee pursuant to objective, content neutral standards and administrative procedures which shall be adopted by the Transit Director establishing the reasonable conditions on time, place and manner of activities based upon the magnitude of the interference of the activity upon the safe and efficient operation of the transit system.

(13) Posting Notices. Except as otherwise allowed by City regulations, no person shall place, permit or cause to be placed any notice or sign upon any SMART Transit Vehicle or SMART Transit Shelter without the City Manager's consent.

(14) Aimless Riding. No person shall remain on the SMART Transit Vehicle for longer than two (2) hours, unless the passenger's destination requires it. Passengers who do not seem to have a specific destination will be asked by the Operator to state their destination. Once stated, the Passenger will be transported to that destination. If the Passenger does not disembark the Operator will ask that the Passenger do so, unless the Passenger has a legitimate reason. Some legitimate reasons include:

- (a) Passenger got on the wrong bus;
- (b) Passenger missed the stop;
- (c) Passenger forgot something and had to return; or
- (d) Passenger got on near the end of a route and is waiting to ride in the direction the Passenger wishes to travel.

(15) Damaging or Defacing City Property. No person shall draw graffiti or any other writing on any part of the SMART Transit System; or in any manner damage, destroy, interfere with, or obstruct in any manner, the property, services or facilities of the City.

(16) Harassment. No person shall intentionally or recklessly harass or annoy another person by:

- (a) Subjecting such other person to offensive physical contact;
- (b) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;
- (c) Otherwise violate ORS 166.065.

(17) Threatening or Offensive Language. No person shall intentionally or recklessly disturb, harass, or intimidate another person by means of threatening or offensive language or obscenities in a SMART Transit Vehicle in such a manner as to interfere with a passenger's use and enjoyment of the SMART Transit System.

(18) Weapon. No person, except a Peace Officer or person with a valid concealed weapon permit as stated in ORS 166.370 and 166.240, shall bring into or carry aboard a SMART Transit Vehicle, or bring into a SMART Transit Shelter, any firearm, knife (except a folding knife with a blade less than 3 ½ inches in length), any explosive device or material, or any other weapon.

10.630 Prohibited Baggage/Packages.

(1) Oversized Objects. No person shall bring or carry aboard a SMART Transit Vehicle any package(s) or object(s) of a size that will block any aisle or stairway upon the SMART Transit Vehicle. Luggage or other packages are allowed on SMART Transit Vehicles if they do not block the aisle or stairway of the SMART Transit Vehicle. No person shall leave behind, or unattended, such package(s) or object(s) within, or around, any SMART Transit Vehicle or SMART Transit Shelter.

(2) Carriages and Strollers.

(a) Except while boarding or exiting a SMART Transit Vehicle, carriages or strollers must remain folded and infant child must be held while aboard a SMART Transit Vehicle.

(b) No person shall bring or carry a commercial shopping cart aboard any type of SMART Transit Vehicle.

(c) No person shall abandon a commercial shopping cart at a SMART Transit Shelter.

10.640 Safety.

(1) No person shall:

(a) Extend any portion of his or her body through any door or window of a SMART Transit Vehicle while it is in motion.

(b) Lie down on or across the seats of a SMART Transit Vehicle or SMART Transit Shelter.

(c) Place any object or substance on the seats of a SMART Transit Vehicle or SMART Transit Shelter that inhibits the proper use of such seats, or block or obstruct the use of the seats.

(d) In any manner hang onto, or attach himself or herself to any exterior part of a SMART Transit Vehicle while the vehicle is resting or in motion.

(e) Impede or block the free movement of others within a SMART Transit Shelter or SMART Transit Vehicle.

(f) Interfere, in any manner, with the safe operation or movement of any SMART Transit Vehicle.

(g) Activate the “Emergency Exit” or alarm device of a SMART Transit Vehicle, except in an Emergency.

(h) Throw, toss, or kick any ball, or other object on or in a SMART Transit Shelter or aboard any SMART Transit Vehicle.

(i) Leave an unattended child under the age of seven (7), unless accompanied by a person twelve years (12) or older. A child between the ages of five and seven years old may ride the SMART Transit Vehicle without an adult present or waiting at the departure or arrival site, if the place of departure or arrival is a school and a waiver of responsibility form has been submitted by the child’s parent or legal guardian.

(j) Talk to the Operator while the SMART Transit Vehicle is in operation, except for information facilitating the Passenger’s trip.

10.650 Specific Prohibited Use of a SMART Transit Shelter.

(1) No person shall continuously occupy a SMART Transit Shelter for a time exceeding two hours.

(2) SMART Transit Shelters are primarily for Passengers boarding, disembarking, or waiting for a SMART Transit Vehicle are expected to be used for that intended purpose.

(3) No person shall climb upon any City stop sign, or stand upon any bench within the SMART Transit Shelter.

10.660 Criminal Conduct.

It shall be a violation of this Ordinance for any person to engage in conduct in violation of any of the Oregon state or federal criminal laws occurring within, on, or near any SMART Transit Vehicle or SMART Transit Shelter.

10.670 Exclusions.

(1) In addition to the laws of the State of Oregon, the City may exclude an individual from all or any part of the SMART Transit System for a violation of any provisions of WC 10.600 through 10.680 or a violation of any State of Oregon or federal criminal law while within, on, or near the SMART Transit System. The Exclusion period shall be determined on a case-by-case basis, but may be based upon:

(a) First Offense – Exclusion period not to exceed six (6) months, unless the offense poses an immediate and serious threat to the safety of the Passengers and City employees, then an Exclusion period up to permanent exclusion is permitted.

(i) An individual poses an immediate and serious threat to the safety of the Passengers when the individual has committed a sexual assault, committed an assault that resulted in serious injury or death, or used a weapon to injure another person while the offender is on the SMART Transit System.

(b) Subsequent Offenses - may be excluded for any period of time up to and including permanent Exclusion, except as provided under subsection (2) below.

(2) An individual with a disability shall not be issued a complete Exclusion from the SMART Transit System, unless the person engaged in violent, seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the SMART Transit System. Absent such finding, the Transit Director shall order a Qualified Exclusion to permit the individual with a disability to use the SMART Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items or for accessing any critical services.

(3) An individual that is Transit Dependent shall not be issued a complete Exclusion from the SMART Transit System, unless the person engaged in violent, seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the SMART Transit System. Absent such finding, the Transit Director shall order a Qualified Exclusion to permit the individual with a disability to use the SMART Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items or for accessing any critical services. Any person asserting the right to a Qualified Exclusion on the basis of transit dependence shall have the burden of establishing transit dependence by a preponderance of the evidence.

(4) A Passenger excluded under this section of this Code may not enter or remain upon any of the SMART Transit System during the period of Exclusion. An excluded passenger who enters or remains upon any part of the SMART Transit System is a trespasser and may be arrested and prosecuted for the crime of Criminal Trespass in the Second Degree (ORS 164.245). In addition, failure to abide by an Exclusion notice shall constitute a further violation for which the period of Exclusion may be extended by the Transit Director.

(5) Exclusion Notice.

(a) A written notice signed by the issuing party shall be given to the Passenger excluded from all or part of the SMART's Transit System. The written notice shall specify the reason for the Exclusion, duration of Exclusion, and the consequences for failure to comply with the written notice.

(b) Oral Exclusions shall be effective only for the route in progress at the time of the Exclusion, when made by the Operator. The Operator may direct a Passenger to leave a SMART Transit Vehicle, or direct a prospective Passenger not to board a SMART Transit Vehicle, if the Passenger is in violation of this Section.

(i) Oral Exclusions must be followed by a written explanation of how the Passenger was behaving and how the Passenger's actions unreasonably interfered with the operation of the SMART Transit System. Written notice by the Operator must be made no later than the end of that working day and be filed with the Transit Director as well as mailed to the Passenger, if the address is known.

(6) Exclusion Appeal.

(a) Process. No later than ten (10) days after an Exclusion notice has been issued, an excluded person may appeal in writing to the Transit Director for de novo review of the Exclusion and may petition the Transit Director to rescind, alter the places of Exclusion or reduce the duration of the Exclusion. An appeal shall contain a copy of the Exclusion notice; a request for a hearing or request for written review without a hearing; and a statement setting forth the reason why the Exclusion is/was invalid or otherwise improper.

(i) The Transit Director shall render a decision not later than ten (10) business days after receipt of appeal, unless the appellant has requested a hearing.

(b) Public Hearing. When a public hearing is requested by the appellant, the public hearing shall be conducted by the Transit Director not later than ten business (10) days after receipt of the appeal, unless the appellant waives the right to have the hearing within the ten (10) business days. The Transit Director shall render a decision within fifteen business (15) days after the hearing.

(c) Public Hearing Process. The public hearing shall include presentation by City staff member designated by the Transit Director to provide documentation and testimony supporting the Exclusion, followed by the appellant's presentation of documents and testimony opposing the Exclusion. The Transit Director may question witnesses and review all documentation. A tape recording shall be made of the hearing which shall be made available to the appellant upon the appellant paying the cost of producing the tape recording. If the appeal raises a dispute of fact, the burden of persuasion shall be on the excluded person.

(d) The determination of the Transit Director shall be final.

10.680 Enforcement.

(1) Seating Change. Any Peace Officer, Operator, Transit Director and persons designated by the Transit Director has authority to require a seating change, pursuant to 10.620(2) or refuse entrance to an individual who violates any provision of the City Codes.

(2) SMART Transit Removal. The Transit Director and/or designee has the authority to remove any individual off of the SMART Transit System who violates any provision of the City Codes.

(3) Officer Citations. Any Peace Officer of the State of Oregon or City code enforcement officer is authorized to enforce regulations regarding transit rider regulations found in the Oregon statutes and/or in these transit rider regulations (WC 10.600 through WC 10.680).

(4) Citation. Any citations made will direct the violator to appear in the Municipal Court for the City of Wilsonville. The City Municipal Court will determine the appropriate fine amount, which will not exceed two hundred fifty dollars (\$250).”

2. Wilsonville Code 10.305 is hereby repealed.

3. The City Recorder is directed to amend Wilsonville Code Section 10, as approved above, and to make such format, style, and conforming changes to match the format and style of the Offenses Chapter of the Wilsonville Code.

4. Except as set forth above, Chapter 10 of the Wilsonville Code remains in full force and effect, as written.

5. This Ordinance will become effective on December 1, 2018.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 17th day of September, 2018, and scheduled for a second reading at a regular meeting of the Council on October 1, 2018 commencing at the hour of 7 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon.



Kimberly Veliz, City Recorder

ENACTED by the City Council on the 1st day of October, 2018, by the following votes:

Yes: 5 No: 0



Kimberly Veliz, City Recorder

DATED and signed by the Mayor the 1st day of October, 2018.



TIM KNAPP, MAYOR

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes