ORDINANCE NO. 2014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REGARDING COMPULSORY SCHOOL ATTENDANCE, PENALTIES FOR VIOLATION, AND AFFIRMATIVE DEFENSES AND DECLARING AN EMERGENCY.

WHEREAS, Clackamas County and the North County School District ("District") participated in a trial program to address the truancy rate of the public schools within the District; and

WHEREAS, the result of the trial project was very successful at reducing the rate of truancy; and

WHEREAS, the trial project used the state law and the state court system to enforce the state law; and

WHEREAS, the trial project has ended but the damage to school aged children by not attending school is still present; and

WHEREAS, the City of Milwaukie, Oregon ("City") has reviewed the results of District's trial program and finds that the continuation of the program, especially through the end of the 2009-2010 school year and on into the 2010-2011 school year, is necessary for continuity of the effort and to alleviate the deleterious effects of truancy; and

WHEREAS, it is within the power of City, under its home rule charter, to enact legislation to ensure the peace and welfare of its citizens by adopting regulations consistent with the state truancy laws.

Now, Therefore, **THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

Section 1. A new section 9.30.010 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

9.30.010 School Attendance Required. Except as provided in Section 9.30.040, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school.

Section 2. A new section 9.30.020 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

9.30.020 Duty to Send Children to School. Except as provided in Section 9.30.040, every person having control of any child between the ages of 7

and 18 years who has not completed the 12th grade and is either enrolled or eligible to be enrolled in a school located within the city limits of Milwaukie is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term.

Section 3. A new section 9.30.030 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:
9.30.030. Penalties. Any person adjudged to have violated Section 9.30.010 or 9.30.020, shall pay a civil penalty in an amount not exceeding $180.00.

Section 4. A new section 9.30.040 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:
9.30.040. Affirmative Defenses. It shall be an affirmative defense to the charge of violation of Section 9.30.010 or Section 9.30.020 that any of the following situations applies:

(a) The child alleged to be not attending school is being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the applicable school year; or

(b) The child alleged to be not attending school is able to prove to the satisfaction of the district school board that he or she has acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools and is able to produce proof thereof; or

(c) The child alleged to be not attending school has received a valid high school diploma; or

(d) The child alleged to be not attending school is being taught for a period equivalent to that required of children attending public schools by a private teacher the courses of study usually taught in grades 1 through 12 in the public school; or

(e) The child alleged to be not attending school is being educated in the children's home by a parent or legal guardian as provided by law; or

(f) The child alleged to be not attending school is otherwise excluded from attendance in school as provided by law; or

(g) The State Board of Education has, by rule, established an exemption from compulsory attendance which has been granted to the

parent or legal guardian of the child alleged to not be attending school due to lawful full-time employment, lawful part-time employment and concurrent enrollment in school, a community college or an alternative education program as defined in ORS 336.615; or

(h) The State Board of Education or an Oregon Circuit Court has granted an exemption to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 419B.550 to 419B.558.

Section 5. A new section 9.30.050 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

9.30.050 Procedure.

(a) In addition to any other persons permitted to enforce violations, the school district superintendent or education service district superintendent, or any employee specifically designated by either superintendent, may issue citations for violations established under ORS 339.990.

(b) Prior to issuing the citation described in subsection (c) of this section to the parent or guardian of a student not regularly attending full-time school:

(1) A parent or guardian of the student and the student shall be provide with written notification that:

(A) States that the student is required to attend regularly a full-time school;

(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class C violation;

(C) States that law enforcement or the superintendent may issue a citation;

(D) Requires the parent or guardian of the student and the student to attend a conference with a designated official; and

(E) Is written in the native language of the parent or guardian of the student.

(2)(b) The conference described in paragraph (1)(D) of this subsection shall be scheduled.

(c) The form of citation to be used by superintendents in citing violations of this ordinance shall be established by the State Board

of Education by rule. Notwithstanding any other provision of law, each of the parts of the citation issued by superintendents shall contain the information required by the state board.

Section 6. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 6. Emergency Clause. It is necessary for the public health, safety and general welfare that this ordinance take effect immediately; therefore, an emergency is declared to exist and this ordinance shall be effective upon the date of its adoption.

Read the first time on 4/20/10, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 4/20/10.

Signed by the Mayor on 4/20/10.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis, PC