

ORDINANCE NO. 852

AN ORDINANCE AMENDING TROUTDALE MUNICIPAL CODE TITLE 10 – VEHICLES AND TRAFFIC.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City of Troutdale has a vested responsibility to ensure vehicles that park and utilize roads within the city are lawfully operated or positioned.
2. The existing standards do not adequately fulfill the City's expectations to ensure a livable community due to the proliferation of complaints related to vehicle storage and parking.
3. The existing standards place unnecessary burdens for City Staff to fulfill code compliance in attempts by City Staff to have vehicles in violation of the code be relocated or impounded in a timely fashion to meet public expectations.
4. Other components within this title require modification due to changes in state statute or are sought to be changed due to testimony provided from the public.
5. The draft amendments have been discussed by the City Council at the February 26th and March 12, 2019 City Council regular meeting, with public hearings on the amendments occurring at the May 14, 2019 and May 28, 2019 City Council regular meetings.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. Title 10 shall be amended as set forth in Attachment A.

Section 2. This ordinance shall go into effect on July 1st, 2019.

YEAS: 6
NAYS: 1 Councilor White
ABSTAINED: 0



Casey Ryan, Mayor
Date: May 30, 2019



Sarah Skroch, City Recorder
Adopted: May 28, 2019

Proposed Title 10 – Vehicles and Traffic

Chapter 10.04 - DEFINITIONS

10.04.010 Generally.

A. In addition to those definitions contained in the Oregon Vehicle Code, ORS 801.100 through 801.610, the following words or phrases shall have the meanings as set out in this chapter.

B. As used in this Title, the singular includes the plural and the masculine includes the feminine.

10.04.020 Abandoned Vehicles. A vehicle that has been deserted, relinquished or has one or more of the following existing conditions:

1. The vehicle license plate or registration sticker has expired or has been canceled.
2. The vehicle has no license plate.
3. The vehicle has no visible vehicle identification number (VIN).
4. The vehicle appears to be inoperative or disabled.
5. The vehicle appears to be unlawful to operate on a public street.

10.04.030 Bicycle. A vehicle that:

1. is designed to be operated on the ground on wheels;
2. has a seat or saddle for use of the rider;
3. is designed to travel with not more than three wheels in contact with the ground;
4. is propelled exclusively by human power, or in concert with electrical power; and

10.04.040 Bus Stop. The space along the edge of a roadway designated by sign for use by buses loading or unloading passengers.

10.04.050 Clear Vision Area. The area near intersections of roadways and ingress/egress point where a clear field of vision is necessary for public safety.

10.04.060 Driveway (Drive). A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

10.04.070 Hazardous Vehicle. A vehicle left in a location or condition such as to constitute an immediate and continuous threat to public health and safety, the environment, or the safety of vehicular or pedestrian traffic.

10.04.080 Holiday. New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day proclaimed a holiday by the council or city manager.

10.04.090 Loading Zone. A space on the edge of a roadway or in a public parking lot, designated by sign or pavement marking, for the purpose of loading or unloading passengers or materials.

10.04.100 Non-road Area. Any area that is not a road, or a road which is closed to off-road vehicles and posted as such, except that areas commonly held open to vehicular use, such as parking lots and race tracks, shall not be considered non-road areas.

10.04.110 Parade. A procession of five or more persons or two or more vehicles.

10.04.120 Private garage. A reputable, private storage yard, garage or other storage place selected by the city manager.

10.04.130 Public parking lot. A parking lot or other area in the city, owned by the city, and devoted to public use as space for the temporary leaving of motor vehicles.

10.04.140 Recreational vehicle. A motor home, camper, travel trailer, motor coach, boat, or portable vehicular structure capable of being towed on the highways by a motor vehicle, designed and intended for casual or short-term human occupancy for travel, recreational or vacation uses. If identified in some manner as a recreation vehicle by the manufacturer or registered as such with the state, it is prima facie a recreation vehicle.

10.04.150 Registered owner. The name on file with the Oregon Department of Transportation, or any other state, indicating ownership of, or legal interest in, a specific vehicle.

10.04.160 Rideshare service. A rideshare service is a service that provides vehicular transportation by a private individual or private company for profit.

10.04.170 Storage. The placing or leaving of property at a location for a period of time in excess of 72 hours.

10.04.180 Taxicab Stand. A space on the edge of a roadway designated by sign for use by taxicabs or rideshare services.

10.04.190 Traffic Lane. That area of the roadway used for the movement of a single line of traffic.

Chapter 10.08 - ADMINISTRATION

10.08.010 - Council powers and authority.

A. Subject to state laws, the city council shall exercise all municipal traffic authority for the city except those powers specifically and expressly delegated herein or by another ordinance.

B. The powers of the council shall include, but not be limited to:

1. Designation of through streets (Oregon Revised Statutes Section 487.875);
2. Designation of one-way streets (Oregon Revised Statutes Section 487.885(1) (a));
3. Designation of truck routes (Oregon Revised Statutes Section 483.542);
4. Designation of parking meter zones;
5. Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage (Oregon Revised Statutes Section 487.905);
6. Authorization of greater maximum weights or lengths for vehicles using city streets than specified by state law (Oregon Revised Statutes Section 483.525);
7. Initiation of proceeds to change speed zones (Oregon Revised Statutes Section 487.490);
8. Revision of speed limits in parks (Oregon Revised Statutes Section 487.865).

10.08.020 - City manager—Duties.

The city manager or designee shall exercise the following duties:

A. Implement the ordinances, resolutions and motions of the council and city manager orders by installing, maintaining, removing and altering traffic-control devices. Such installation shall be based on the standards contained in the Oregon Manual on Uniform Traffic Control Devices for Streets and Highways.

B. Establish, remove or alter the following classes of traffic-controls:

1. Crosswalks, safety zones and traffic lanes;
2. Intersection channelization and areas where drivers of vehicles shall not make right, left or U-turns and the time when the prohibition applies;
3. Parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal);

- 4. Traffic-control signals;
 - 5. Loading zones and stops for vehicles.
- C. Issue oversize or overweight vehicle permits.
- D. Designate certain streets as bridle paths and prohibit horses and animals on other streets;
- E. Temporarily block or close streets;
- F. Establish bicycle lanes and paths and traffic-controls for such facilities.
- G. Duties exercised by the city manager or designee shall be reported to the council at the regular meeting immediately following their implementation and the council may reject or modify such action. This reporting requirement may be dispensed with when the council so orders. Failure to timely report does not invalidate the actions of the city manager.

10.08.030 - City manager—Administration of provisions

The regulations of the city manager or designee shall be based upon:

- A. Traffic engineering principles and traffic investigations;
- B. Standards, limitations and rules promulgated by the Oregon Transportation Commission;
- C. The health and safety of persons or property; and
- D. Other recognized traffic-control standards.

10.08.040 – Enforcement Authority

- A. It shall be the duty of the city manager, the city manager's designee, a peace officer or the city code enforcement officer to enforce the provisions of this chapter.
- B. In the event of a fire or other public emergency, peace officers and fire department employee may direct traffic as conditions require, notwithstanding the provisions of this chapter.

10.08.050 - Temporary traffic-control devices—Installation authority

Under conditions constituting a danger to the public, the city manager or designee may install temporary traffic-control devices deemed to be necessary.

10.08.060 – Special and Guest Parking Permits

A. Whenever parking or standing is prohibited or limited, no person shall park or stand a vehicle in violation of the prohibition or limitation, unless the person obtains and displays a valid special parking permit or guest permit that allows for such parking or standing.

B. The city manager or the city manager's designee may issue special parking permits and guest permits.

C. Permits shall not exceed a total period of two weeks within any four-week period unless extended in the city manager's discretion.

D. The city manager or the city manager's designee, shall adopt policy, procedures and a fee schedule that will be followed in issuing and revoking special parking permits and guest permits. Before adopting the policy, procedure and fee schedule, the city manager or the city manager's designee shall give interested persons a reasonable opportunity to comment on the policy, procedure and fee schedule. The city manager, or the city manager's designee, shall forward a copy of the adopted policy, procedure and fee schedule to the city council upon adoption.

Chapter 10.12 - PARKING

10.12.010 - Parking methods and standards

A. Parked or standing vehicles shall park or stand in the indicated direction of travel with the wheels parallel to and within 12 inches of the curb, or if none, as close as possible to the edge of the shoulder, and, if spaces are marked, within a single marked parking space unless the size or shape of the vehicle makes compliance impossible

B. The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to interfere.

C. Whenever the operator of a vehicle discovers the vehicle is parked within 150 feet of a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

10.12.020 – Unlawful Parking or standing

A. In addition to the laws prohibiting parking, stopping, and standing contained within the Oregon Vehicle Code, ORS ORS 811.550 through ORS 811.637, no person shall on a public or private street:

1. Park or stand a vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of thirty consecutive minutes;
2. Park or stand a vehicle (including trailers, boats, trucks, truck tractors, buses, mobile homes, and recreational vehicles) which exceeds eight thousand pounds gross weight, twenty-one feet in length or eight feet in height upon any street or parking strip in any residential area of the city, except as provided in TMC 10.12.050.
3. Park, or permit a vehicle owned, operated or controlled by the person to be parked, on a public or private street and do any of the following:
 - a. Park where official signs or markings such as curbs painted yellow or red, have been installed prohibiting standing, stopping, or parking.
 - b. Park for a longer period of time than designated by official signs, parking meters or other markings placed by the city, county or state, except on Sundays and holidays. Parking time limits shall be effective only between the hours of 8:00 a.m. and 6:00 p.m., unless designated “no parking at any time,” or otherwise designated by official signs or markings.

- c. Park for more than 7 consecutive days in a place where time limitations are not designated by official signs, parking meters, or other markings.
4. Park or stand a vehicle in a manner that obstructs a driveway unless the vehicle is owned by the property owner of the driveway or a guest of the property owner.
5. Park or stand a vehicle other than in the indicated direction of travel with the wheels parallel to and within 12 inches of the curb, or if none, as close as possible to the edge of the shoulder, and, if spaces are marked, within a single marked parking space unless the size or shape of the vehicle makes compliance impossible.
6. Park or stand a hazardous or abandoned vehicle.
7. Park or stand where official signs or markings prohibit standing, stopping, or parking due to street maintenance.
8. Park or stand a vehicle in front of the entrance of any post office or postal station, or other place where mail is received or deposited, or within 10 feet of a private mailbox between 8:00 a.m. and 6:00 p.m.
9. No operator shall park or stand and no owners shall allow a vehicle to be parked or left standing upon a street or public right-of-way for the principal purpose of:
 - a. Repairing or servicing the vehicle, except repairs necessitated by an emergency;
 - b. Displaying advertising from the vehicle;
 - c. Selling merchandise from the vehicle; or
 - d. Offering the vehicle for sale.
10. Park without having a valid permit issued by the manager where official signs designate parking is allowed only with a permit.
11. Park or stand within 10 feet of a fire hydrant.

B. For the purposes of this section, “residential areas” means and includes all parts of the city zoned for residential use and any street adjacent to a hotel, motel, church, school, residence, multiple-family dwelling, hospital, park or playground.

C. The provisions of this section shall not be deemed to prohibit the lawful parking of such equipment upon any street, avenue or public way in the city for the actual loading or unloading of goods, wares or merchandise; provided, however, that “loading” and “unloading,” as used in this section, shall be limited to the actual time consumed in such operation, not to exceed 4 hours.

10.12.030 Public Parking lots

A. Reserved Areas. Provision may be made within any public parking lot for an area to be reserved exclusively for parking of electric vehicles, bicycles, motorcycles, mopeds, carpools, or trucks.

B. Signs. The manager shall post and maintain at each entrance to a public parking lot a sign stating in substance the following:

1. Parking is limited to a specific time limitation except for monthly parking;
2. Monthly parking is permitted only in the designated areas;
3. Parking is restricted to vehicles of less than 10,000 pounds GVW;
4. If special parking is provided for electric vehicles, bicycles, motorcycles or mopeds, carpools, or trucks, where such special parking is permitted.

10.12.040 Private Property Parking

A. Properties in areas zoned for any density of residential shall have no more than five motor vehicles per primary residential unit, including not more than two recreational vehicles and not more than one abandoned vehicle, parked or stored on private property, day event parking excluded.

B. All motor vehicles parked on private property shall be parked on a hard surface, such as compacted gravel, concrete, asphalt or similar durable material. Soil, vegetation, and loose rock, gravel or stone is prohibited as a parking surface.

C. Except upon a driveway or other approved surface, no vehicle shall be parked on private property within the front yard, except for the immediate loading and unloading of persons or property.

D. No vehicle or recreational vehicle shall be parked on private property so as to extend into the public right-of-way, roadway, sidewalk, or in the clear vision area of corner lots.

E. Vehicles actively used for construction, excavation or farming may be on the property for up to 30 days.

10.12.050 RV and Other Vehicle Parking

A. It is unlawful to park, or permit any of the following vehicles or property owned, operated or controlled by the person to be parked, on any public highway, road, street, or right-of-way within

the city, except for the loading or unloading of persons or property not to exceed four hours, or as otherwise set forth below:

1. Recreational vehicle unless issued a permit pursuant to TMC 10.08.060;
2. Vehicle or combination of vehicles (vehicle plus any towed unit) in excess of 10,000 pounds GVW;
3. Trailer; or
4. Boat.

10.12.060 - Loading zones

No person shall stand or park a vehicle for any purpose or length of time, other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. In no case, when the hours applicable to the loading zone are in effect, shall the stop for loading and unloading of materials exceed the time limits posted. If no time limits are posted then the use of the zone shall not exceed thirty minutes.

10.12.070 – Bus stops and taxicab stands—Stand use restrictions

No person shall stand or park a vehicle other than a taxicab or rideshare vehicle in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers when stopping does not interfere with a bus, rideshare vehicle or taxicab waiting to enter or about to enter the restricted space.

10.12.080 - Buses and taxicabs—Standing and parking

The operator of a bus, rideshare vehicle or taxicab shall not stand or park the vehicle upon a street in a business district at a place other than a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab or rideshare vehicle from temporarily stopping the taxicab outside a traffic lane while loading or unloading passengers.

10.12.090 - Children in parked vehicles

A. It is unlawful for any person who has under his or her control, custody or guidance any minor child under ten years of age to, at any time, lock, confine or permit to be locked or confined or to

leave unattended, any such child in any automobile, truck or other motor vehicle upon any public street, alley or public parking facility or other public or private property where parking or drive-in facilities are offered to the public within the city limits for any period of time. A child is unattended within the meaning of this chapter if the oldest person with such child is a person under the age of ten years.

B. It shall be lawful for any peace officer of the city who finds a child confined in an automobile, truck or other vehicle to enter such vehicle to remove any child if the peace officer has reason to believe that the confinement is hazardous to the child's health. The peace officer may lawfully do whatever is reasonably necessary in order to remove the child from the vehicle, including breaking windows or doors.

C. Any such child so removed from any such vehicle shall be taken to a suitable place in the county, and a report thereof made to the juvenile authorities of the county.

10.12.100 - Parking time—Extensions

Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.

10.12.120 - Exemptions—Government vehicles

The provisions of this chapter regulating the parking or standing of vehicles shall not apply to a vehicle of the city, county or state, or public utility while necessarily in use for construction or repair work on a street, or a vehicle owned by the United States while in use for the collection, transportation or delivery of mail.

10.12.130 - Illegal parking—Citation

When a vehicle is found in violation of this chapter or state law, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a parking citation. The parking citation shall instruct the owner to pay the penalty imposed or contest the citation within ten days of the date the citation was issued. The citation shall specify how to contest the citation or pay the penalty, and shall clearly explain the consequences for failing to do so within the required time period. The parking citation will serve as the means of notifying the owner of the vehicle that, if any person fails to respond to the citation, or fails to pay all outstanding penalties for

three or more parking citations within ten days from the date the last citation was issued, the vehicle may be towed and impounded.

10.12.140 Applicability to Rideshare Services. All moving and parking regulations within the Troutdale Municipal Code are applicable to rideshare service providers and passengers.

Chapter 10.16 - PARADES AND PROCESSIONS

10.16.010 - Funeral processions

- A. A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.
- B. The procession shall be accompanied by adequate escort vehicles for traffic-control purposes.
- C. All motor vehicles in the procession shall be operated with their lights turned on.
- D. No person shall unreasonably interfere with a funeral procession.
- E. No person shall operate a vehicle that is not a part of the procession between the vehicles in a funeral procession.

10.16.020 - Parades—Permit required

No person shall organize or participate in a parade which may disrupt or interfere with traffic without obtaining a permit. A permit shall always be required of a procession of people utilizing the public right-of-way and consisting of twenty or more persons or five or more vehicles.

10.16.030 - Parades—Application

- A. Application for parade permits shall be made to the city manager at least ten days prior to the intended date of the parade, unless the time is waived by the city manager.
- B. Application shall include the following information:
 - 1. The name and address of the person responsible for the proposed parade;
 - 2. The date of the proposed parade;
 - 3. The desired route including assembling points;
 - 4. The number of persons, vehicles and animals which will be participating in the parade;
 - 5. The proposed starting and ending time;
 - 6. The application shall be signed by the person designated as chairman.

10.16.040 - Issuance, denial or alternatives—Conditions—Notice

A. The city manager, upon receipt of the application, determines that the parade can be conducted without endangering public safety and without seriously inconveniencing the general public, he shall approve the route and issue the permit.

B. If the city manager determines that the parade cannot be conducted without endangering public safety or seriously inconveniencing the general public, he may:

1. Propose an alternate route;
2. Propose an alternate date;
3. Refuse to issue a parade permit.

C. The city manager shall notify the applicant of his decision within five days of receipt of the application.

D. If the city manager proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal his decision to the city council.

10.16.050 - Appeals

A. An applicant may appeal the decision of the city manager by filing a written request of appeal with the city recorder within five days after the city manager has proposed alternatives or refused to issue a permit.

B. The council shall schedule a hearing date which shall not be later than the second regular session following the filing of the written appeal with the city recorder and shall notify the applicant of the date and time that they may appear either in person or by a representative.

10.16.060 - Parades—Permit revocable

The city manager may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety.

10.16.070 - Unlawful activities during parades

A. No person shall unreasonably interfere with a parade or parade participant.

B. No person shall operate a vehicle that is not part of the parade between the vehicles or persons comprising a parade.

Chapter 10.20 - PEDESTRIANS

10.20.010 - Use of crosswalks required

No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within one hundred fifty feet of a marked crosswalk. Pedestrians shall not use a roadway for travel when abutting sidewalks are available.

10.20.020 - Crossing streets at right angles

A pedestrian shall cross a street at a right angle, unless crossing within a crosswalk.

Chapter 10.24 - BICYCLES AND OTHER VEHICLES

10.24.010 - Bicycles—General requirements

In addition to observing all other applicable provisions of this chapter and state law pertaining to bicycles, (Oregon Revised Statutes Sections 814.400 through 814.489) a person shall:

- A. Not leave a bicycle, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicles.
- B. It shall be unlawful for the owner or operator of any bicycle to ride upon any sidewalk or path constructed for the use of and commonly used by pedestrians within the corporate limits of the city outside of areas zoned exclusively for residential use.

10.24.020 - Bicycles—Impoundment and disposition

- A. No person shall have a bicycle on public or private property without consent of the person in charge or the owner thereof.
- B. A bicycle left on public property for a period in excess of twenty-four hours may be impounded by the city.
- C. In addition to any citation issued, a bicycle parked in violation of this chapter may be immediately impounded by the city.
- D. If a bicycle impounded under this chapter is licensed, or other means of determining its ownership exist, the city shall make reasonable efforts to notify the owner.
- E. A bicycle impounded under this chapter which remains unclaimed shall be disposed of in accordance with the city's procedures for disposal of abandoned or lost personal property.

10.24.030 - Sleds on public streets

No person shall use the streets for traveling on toboggans, sleds, downhill skis or similar devices, except where authorized.

Chapter 10.28 - OFF-ROAD VEHICLES

10.28.010 - Operating restrictions—Unlawful acts designated

A. It is unlawful for any person to operate an off-road vehicle on any non-road area which the operator does not own, unless:

1. The operator possess written permission from the owner, contract purchaser or lessee of the non-road area; or
2. The operator possesses written evidence of membership in a club or association to which the owner, contract purchaser or lessee of the non-road area has given written permission and a copy of which has been filed with the city manager; or
3. The owner, contract purchaser or lessee of the non-road area has designated the non-road area as open for recreational purposes in accordance with Oregon Revised Statutes Sections 105.668 through 105.700 by filing such consent and other information necessary to identify the area, with the city manager; or
4. The owner, contract purchaser or lessee has designated the non-road area as being open to off-road vehicle use by posting notice thereof which describes the boundaries of the non-road area designated as open and which designates the hours during which the area is to be open.

B. It is unlawful for any person to:

1. Falsify the written permission required by subsection A1 of this section;
2. Falsify the evidence of club or association membership or the written permission required by subsection A2 of this section;
3. Falsify the filing or consent required by subsection A3 of this section;
4. Post the notice or remove the posted notice required by subsection A4 of this section without the consent of the owner, contract purchaser or lessee.

10.28.020 - Unlawful operation—Arrest and vehicle seizure authorized when

A. A peace officer may arrest the person operating an off-road vehicle when the person is found in the act of operating an off-road vehicle in violation of this chapter; except, however, the peace officer may issue a citation in accordance with Oregon Revised Statutes Section 133.070 in lieu of exercising custody of the operator.

1. A peace officer may seize any off-road vehicle incident to arrest or citation of the operator if the peace officer has reasonable grounds to believe that the vehicle was operated with willful or reckless disregard or with the likelihood that the operation would

cause substantial damage to the off-road area or that substantial damage has been caused by that operation.

2. A peace officer shall retain possession of the vehicle, if seized, and, in any event, proceed at once against the person arrested in the appropriate court.

B. If the person arrested is the legal owner of a seized vehicle, it shall be returned to the owner upon execution of a good and valid bond, or cash deposit, with sureties acceptable to the city manager or his designee in a sum equal to the average value of the vehicle as determined by the city manager or his designee, which bond or cash deposit shall be conditioned upon the return of the vehicle to the city upon disposition of the judgment of the court.

1. If the person arrested is convicted of a violation of this chapter, and is the owner of the off-road vehicle, the vehicle shall be subject to disposition as provided in Section 10.28.030 of this chapter.

C. If the person arrested is not the legal owner of a seized vehicle, the city shall make all reasonable efforts to identify the name and address of the owner. If the city is able to determine the name and address of the owner, the city shall notify the owner by registered or certified mail of the seizure and inform the owner of the rights under subsection D of this section.

D. Any person notified under subsection C of this section, or any owner of the vehicle, or any other person asserting a claim of lawful possession of a seized vehicle, may, prior to trial, move the court for return of the vehicle or obtain possession of the vehicle by posting bond or cash in accordance with subsection B of this section.

1. The court shall, upon receipt of motion for return of vehicle, hold a hearing to determine if the owner, or other person asserting a lawful claim to the vehicle, had any knowledge that the vehicle would be used in violation of this chapter.

2. If the court determines by clear and convincing evidence that the driver/owner had knowledge that the person arrested would use the vehicle in violation of this chapter, the vehicle shall not be returned to the driver/owner except in accordance with subsection B of this section and the vehicle shall be subject to forfeiture, as specified in Section 10.28.030 of this chapter.

E. If the person arrested is not convicted of a violation of this chapter, and if the city is in possession of the vehicle, it shall immediately be returned to the owner.

10.28.030 - Disposition of vehicles

A. The court, upon conviction of the person arrested, may order a return of a seized vehicle to the owner after payment of all expenses, or it may upon motion made by the city attorney, order forfeiture and sale of the vehicle at public auction by the city.

In determining whether to order a forfeiture and sale of the vehicle, the court shall consider the amount of damage caused by the use of the vehicle, and the willfulness of the violation.

B. If the court orders a forfeiture and sale of the vehicle, the city, after deducting fifty dollars for administrative expenses plus all other expenses incurred, shall pay, to the extent of the remaining proceeds, all liens of record, ratably and according to their priorities. Any balance remaining shall be paid into the general funds of the city.

C. If no person claims the vehicle, the city shall advertise the sale of the vehicle and the description thereof not fewer than three times in a newspaper of general circulation in the county, the publication appearing for the first time not fewer than fourteen days before the proposed sale and the last time not more than seven days before the proposed sale. Proceeds from the sale of the property, after deducting the expenses and cost, shall be paid into the general fund of the city. Unsold property may be destroyed.

Chapter 10.32 - MISCELLANEOUS TRAFFIC REGULATIONS

10.32.010 - Unlawful riding

A. No person shall:

1. Operate a vehicle and permit a passenger to ride on a portion of the vehicle that is not designed or intended for the use of passengers.

2. Be a passenger in a vehicle and ride on a portion of the vehicle that is not designed or intended for the use of passengers.

3. Board or alight from a vehicle while the vehicle is moving upon a street.

B. Subsection (A) shall not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.

10.32.020 - Crossing private property

A. No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property.

B. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services.

10.32.030 - Damaging sidewalks and curbs

A. The operator of a motor vehicle shall not drive upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

B. No unauthorized person shall place dirt, wood or other materials in the gutter or space next to the curb of a street with the intention of using it as a driveway.

C. No person shall remove a portion of a curb or move a motor vehicle or device moved by a motor vehicle up on a curb or sidewalk without first obtaining authorization and posting bond if required. A person who causes damage shall be held responsible for the cost of repair.

10.32.040 - Removing glass and debris

A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street.

10.32.050 - Defacing traffic-control devices unlawful

A. No unauthorized person shall move, remove, deface, tamper with or alter the position of a traffic sign, signal, marker, barrier or other lawfully established parking or traffic direction..

B. No person shall letter, mark or paint in any manner, letters, marks or signs on a sidewalk, curb, street or alley or to post on a parking strip anything designated or intended to prohibit or restrict parking in front of a sidewalk, dwelling house, business house, or in an alley, except in compliance with this chapter.

10.32.060 - Speed racing

A. For purposes of this section, the following definitions apply unless the context requires a different meaning:

1. "Speed racing" is defined as set forth in ORS 811.125.

2. "Spectator" is defined as a person who attends, participates in, or is present at or near the scene of any activity prohibited by this ordinance for the purpose of encouraging any part of such activity.

B. It is unlawful for any person to participate in speed racing upon any street, public or private, or any premises open to the public, within the city limits of Troutdale.

C. It is unlawful for any person to be a spectator of speed racing within the city limits of Troutdale.

D. Any vehicle utilized within the city limits of Troutdale in violation of this section, including vehicles belonging to, or under the control of, spectators may be towed without notice, subject to the provisions of TMC 10.38.010.

Chapter 10.36 - ABANDONED AND HAZARDOUS VEHICLES

10.36.010 Abandoned Vehicles Prohibited.

A. No vehicle that the city manager, city manager's designee, or peace officer has reason to believe is abandoned, as defined in TMC 10.04.020, may be parked or left standing upon:

1. The right-of-way of any city, county, or state highway, street or alley or upon any city property for a period in excess of 72 hours.
2. The right-of-way of any private street or alley or upon any private property used by business licensees, customers, or the public for a period in excess of 72 hours.
3. Private property for a period in excess of seven consecutive days in any manner that exposes it to view from a street, sidewalk, or property adjoining the premises, but only if it is an abandoned vehicle as defined in TMC 10.04.020.
 - a. One vehicle per private property address/location may be permitted; provided, however, said vehicle must be covered by a manufactured vehicle cover designed specifically for that purpose; enclosed within a permitted structure; or behind a sight-obscuring fence.

B. It is no defense to any of the above prohibited acts of this section that the vehicle has been moved to a different location within the city limits of Troutdale, and the 72 hours may include multiple locations.

C. In addition to or in lieu of any citation issued for violation of this code or state law:

1. A vehicle parked or left standing in violation of this section may be impounded as provided in TMC 10.38.
2. A vehicle parked or left standing in violation of TMC 10.36.010(A)(3) may be abated as provided in TMC Chapter 8.

10.36.020 Hazardous Vehicles.

A. No person shall commit, cause, or allow:

1. a vehicle to block, impede or interfere with the vision or normal flow of vehicular, bicycle or pedestrian traffic on public or private streets and sidewalks;
2. a vehicle to pose an immediate danger to the public or environmental safety, such as a vehicle with leaking fluids that are at risk of entering into the public stormdrains or

causing a hazardous road condition, extreme vandalism, shattered glass, or partially dismantled;

3. a vehicle to be parked or left standing on a street, public or private parking lot, or other area where immediate access is needed by the fire department or the police department and their respective equipment;

4. a vehicle to be parked or left standing on a street where snow removal equipment will soon clear the street and removal of the vehicle is reasonably necessary in order to clear the street; or

5. a vehicle to block or be within 10 feet of a fire hydrant.

B. A vehicle parked or left standing in violation of this section may be impounded as provided in TMC 10.38.

10.36.030 Drop Boxes and Storage Containers

A. No person shall store or deliver a drop box or other storage container in the public right of way for more than four consecutive hours without a valid permit from the city.

B. No person shall store or deliver a drop box or other storage container in the public right of way when:

1. the drop box or storage container blocks, impedes or interferes with the vision or normal flow of vehicular, bicycle or pedestrian traffic on public or private streets or sidewalks;

2. the drop box or storage container is located in the public right-of-way other than where parking is allowed;

3. the drop box or storage container is on a street, public or private parking lot, or other area designated as an area where immediate access may be needed by the fire department or the police department and their respective equipment;

4. the drop box or storage container is on a street where snow removal equipment will soon clear the street and removal of the drop box or storage container is reasonably necessary in order to clear the street;

5. the drop box or storage container blocks or is within ten feet of a fire hydrant;

6. the drop box or storage container does not have a minimum of one square foot of reflective material on each corner next to traffic;

7. the drop box or storage container exceeds 20.5 feet in length and eight feet in width; or

8. the drop box or storage container leaks.

C. The owner of the drop box or other large storage container and the property owner shall make every effort to place the drop box or storage container on private property prior to placement in the public right-of-way.

D. A drop box or storage container in violation of this section may be impounded as provided in TMC 10.38.

Chapter 10.38 – IMPOUNDING VEHICLES

10.38.010 Impound.

In addition to any remedy imposed for violation of this code or state law, a vehicle in violation of this chapter may be impounded as follows:

A. Without Prior Notice. A vehicle may be towed immediately and without prior notice when:

1. the vehicle is a hazardous vehicle as prohibited in TMC 10.36.020;
2. the city manager, city manager's designee, or a peace officer reasonably believes that the vehicle is stolen;
3. the city manager, city manager's designee, or a peace officer reasonably believes that the vehicle or its contents constitute evidence of any crime, if such towing is reasonably necessary to obtain or preserve such evidence;
4. the vehicle was in possession of a person taken into custody by a peace officer;
5. the vehicle is unlawfully parked on a public or private street or alley in a conspicuously restricted space, zone or traffic lane where parking is limited or prohibited to designated classes of vehicles or periods of time, or at any time when the vehicle interferes with the intended use of such space, zone or traffic lane;
6. the vehicle obstructs the entrance of any post office or postal station, or is within 10 feet of a private mailbox between 8:00 a.m. and 6:00 p.m.;
7. the vehicle was in the possession of a person who a peace officer has probable cause to believe, at or just prior to the time the peace officer stops the person, has committed any of the following offenses:
 - a. driving while suspended or revoked (ORS 811.175 or 811.182);
 - b. driving while under the influence of intoxicants (ORS 813.010);
 - c. operating without driving privileges or in violation of license restrictions (ORS 807.010);
 - d. driving an uninsured vehicle (ORS 806.010).
8. the vehicle remained in a park after park closure; or
9. the peace officer reasonably believes the vehicle was utilized in a manner contrary to TMC 10.32.060; or
10. the vehicle has three or more unpaid citations for the same registered owner.

B. With Prior Notice. A vehicle may be towed 72 hours after the date of the notice, as provided by TMC 10.38.020 when:

1. the manager or peace officer reasonably believes that the vehicle is abandoned, as defined in TMC 10.04.020, or in violation of TMC 10.36.010(A);
2. the vehicle is unlawfully parked pursuant to TMC 10.12.020, except as provided in TMC 10.38.010(1); or
3. the vehicle is parked on public-owned or operated property without express city permission.

C. A vehicle impounded pursuant to this section shall be taken into custody by the city manager, designee or a peace officer and shall be held at the expense of the owner or person entitled to possession of the vehicle. The city manager, designee or peace officer may use the personnel, equipment and facilities of the city for the removal and storage of the vehicle, or may hire a private garage or a towing company for that purpose.

10.38.020 Impound Procedures

A. Pre-Impound Investigation and Notice. The city manager, designee or a peace officer shall, when a vehicle may be impounded only after prior notice under this chapter:

1. Make a reasonable and immediate effort to discover the driver or registered owner and request immediate removal of the vehicle; or
2. Place a notice of intent to impound upon the windshield or some other conspicuous part of the vehicle which is easily seen by the passing public, whether or not the owner is identified as set forth above.
3. The pre-impound notice required by this subsection shall include the following:
 - a. the name and badge number of the peace officer or identification of the city employee issuing the notice;
 - b. that if the vehicle is not removed within the prescribed time limit, the vehicle will be impounded;
 - c. the statute, ordinance or rule violated by the vehicle under which the vehicle will be removed;
 - d. the telephone number and address of the city department that will provide information about where the vehicle will be held in custody if it is towed;
 - e. that any person who, at the request of the manager or public safety officer, impounds a vehicle, shall have a lien on the vehicle for the just and reasonable

towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold to satisfy the lien if the charges are not paid;

f. that the owner, possessor or person having an interest in the vehicle may request a hearing within five calendar days (excluding holidays, Saturdays and Sundays) from the date of the notice on the validity of the proposed impound and the reasonableness of the lien; and

g. that the request for hearing may be made in writing to the person so designated in the notice.

4. If a hearing is timely requested before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with TMC 10.38.030.

B. Post-Impound Notice. If a vehicle is taken into custody of the city, the city manager, designee or peace officer, the city shall provide notice by first class mail, and postage prepaid, within 48 hours of the removal (not including holidays, Saturdays or Sundays) to the owner(s) of the vehicle and any lessors or security interest holders as shown on the records of the Oregon Department of Transportation, or any other state as those records may be available.

1. The post-impound notice required by this subsection shall include the following:

a. the statute, ordinance or rule under which the vehicle has been taken into custody or removed on behalf of the city;

b. the location where the vehicle may be redeemed by the owner or person entitled to possession;

c. that the vehicle is subject to towing and storage charges, and the telephone number and address of the facility that may be contacted for information on the charges that have accrued to the date of the notice and the daily storage charges;

d. that the vehicle and its contents are subject to a lien for payment of the towing and storage charges in favor of the facility that towed and is storing the vehicle, and that the vehicle and its contents may be sold at public auction to satisfy the lien if the charges are not paid by the specified date;

e. that the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession; removal of any conditions required for the police department to release its hold; payment of the administrative fee for processing release of the vehicle; and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority;

f. that the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing on the validity of the tow and the reasonableness of the charges, if requested within five calendar days (excluding holidays, Saturdays or Sundays) from the date of the notice, and that the request for hearing may be made in person, by telephone or in writing to the person so designated in the notice; and

g. that hearing costs may be assessed against the person requesting the hearing, including costs of the hearing officer and any witnesses.

2. Reasonable efforts shall be made to ascertain the name and address of the owner and/or other persons with an interest in the vehicle so that notice may be mailed, if reasonably possible, within 48 hours of impound. However, no notice need be mailed pursuant to this subsection when:

a. a vehicles does not display license plates or other identifying markings by which the registration or ownership of the vehicle can be determined;

b. the identity and address of the vehicle owner is not available from the appropriate motor vehicle licensing and registration authority and when the identity and address of the owner and/or other persons with an interest in the vehicle cannot otherwise be reasonably determined; or

c. actual notice of a tow has been given personally to the owner or person entitled to possession. Such actual notice must include all information required under subsection (2)(a) above. Actual notice may be used in lieu of the mailed notice required by subsection (2).

C. Inventory of Impounded Vehicle. The contents of all vehicles impounded by a public safety officer will be inventoried in accordance with the provisions of TMC 2.56.030.

D. The official conducting the impound of the vehicle shall immediately provide notice to the Multnomah County Sheriff's Office of the existence of the tow, the procedure for retrieving the vehicle and the location of the vehicle.

10.38.030 Hearing.

A. Request for Hearing.

1. Post-Impound Hearing Request. The owners or any lessors or security interest holders as shown on the records of the Oregon Department of Transportation, or any other state, must request a hearing within five calendar days (excluding holidays, Saturdays and Sundays) from the date of the notice. The request may be made in writing to the person

designated in the notice. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing.

2. Pre-Impound Hearing Request. If the owners or any lessors or security interest holders as shown on the records of the Oregon Department of Transportation, or any other state, timely request a hearing before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with this section.

B. Hearing Procedures.

1. When timely request for a hearing is made, a hearing shall be held before the Troutdale Municipal Court. However, the city manager or the judge of the municipal court may appoint one or more designated hearings officers to preside over the impound hearing. A hearing held before a designated hearings officer shall have the same procedural rules and the same effect as a hearing before the Troutdale Municipal Court.

2. The hearing shall be set within 3 business days of receipt of the request and the hearing shall be conducted within 15 business days of receipt of the request for hearing. However, the time within which the hearing is to be set or conducted may be extended at the request or with the consent of the owner or person entitled to request the hearing as provided in this chapter.

3. The hearing shall be held in person (except as provided for below), unless both parties agree to hold the hearing by telephone or the judge or hearings officer finds good cause to hold it by telephone.

4. At the hearing, the owner or person entitled to request the hearing as provided in this chapter may contest the validity of the impound and the reasonableness of the charges.

5. The city shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being parked or operated in violation of ORS 806.010, ORS 807.010, ORS 811.175, ORS 811.182, ORS 813.010, or the relevant portion of the Troutdale Municipal Code. The city may present evidence either by testimony or by affidavit. If the city's evidence is presented only by affidavit and the court cannot resolve a question by information contained in the affidavit or relevant report, the hearing may be held open for a reasonable time to complete the record.

C. Decision of the Municipal Court.

1. If the court/hearings officer finds that impound of the vehicle was proper, the court:
 - a. shall enter an order supporting the impound/removal; and
 - b. shall find that the owner or person entitled to possession is liable for any towing and storage charges resulting from the impound; and

c. may find that the owner or person entitled to possession is liable for the costs of the tow hearing, including costs of the hearings officer and any witnesses.

2. If the court/hearings officer finds that impound of the vehicle was improper, the court shall:

- a. order the vehicle released to the owner or person entitled to possession;
- b. find that the owner or person entitled to possession is not liable for any towing or storage charges resulting from the impound; and
- c. order the city to satisfy the towing and storage lien.

(c) The decision of the municipal court/hearings officer is final and is not appealable.

D. Failure to Appear at the Hearing. If the person requesting the hearing does not appear at the scheduled hearing, the court may enter an order supporting the impound and assessing towing and storage costs, and shall add an assessment for the costs of the hearing and any witnesses who appeared at the time set for hearing.

10.38.040 Release of Vehicle.

A. A vehicle which has been impounded under TMC 10.38.010 may be released to a person entitled to lawful possession provided the city or law enforcement agency has released its hold, if any, on the vehicle, and upon compliance with the following:

1. submission of proof that a person with valid driving privileges will be operating the vehicle;
2. submission of proof of a valid vehicle registration for the vehicle;
3. submission of proof of compliance with financial responsibility requirements for the vehicle;
4. submission of proof that the vehicle and registered owner have no outstanding fines or fees with the Troutdale Municipal Court; and
5. payment to the city or law enforcement agency of an administrative fee sufficient to recover its actual administrative costs for the impoundment.

B. Notwithstanding subsection (1) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

C. When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (A) or (B) of this section, the city or law enforcement agency shall

authorize the person storing the vehicle to release it upon payment of any accrued towing and storage costs, unless otherwise ordered by the hearings officer.

D. The council may establish by resolution an administrative fee for processing the release of the vehicle.

E. Notwithstanding any other provision of law, the city, a peace officer or public safety agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants.

10.38.050 Towing and Storage Liens.

A person who, at the request of the manager or public safety officer, takes a vehicle into custody under the provisions of TMC Chapters 10.12, 10.28, 10.32, 10.36, or 10.38 shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS Chapter 87 and shall be foreclosed in the manner provided by law. If the appraised value of the vehicle is \$750 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220.

Chapter 10.40 – ENFORCEMENT

10.40.010 - Violation—Penalty.

Penalties for violations of the following sections shall be as follows:

- A. Violations of Sections 10.12.010 through 10.12.090 of this title are punishable by a fine in an amount established by resolution of the council;
- B. Violation of Chapter 10.16 of this title is punishable by a fine not to exceed five hundred dollars;
- C. Violation of Chapter 10.20 and Sections 10.24.010 and 10.24.020 of this title is punishable by a fine not to exceed twenty-five dollars;
- D. Violation of Section 10.28.010 of this title is punishable by imprisonment of a period not to exceed one year or a fine not to exceed one thousand dollars, or both;
- E. Violation of Sections 10.32.010 through 10.32.040 of this title are punishable by a fine in an amount established by resolution of the council;
- F. Violation of Section 10.32.050 of this title is a Class B misdemeanor and punishable by imprisonment not to exceed six months or a fine not to exceed \$2,500 or both;
- G. Violation of Section 10.32.060(B) of this title is a Class B misdemeanor and punishable by imprisonment not to exceed six months or a fine not to exceed \$2,500 or both;
- H. Violation of Section 10.32.060(C) of this title is a Class A violation and punishable by a fine not to exceed \$2,000.
- I. A violation for which a penalty or fine is not set above or by resolution shall be punishable by a fine not to exceed \$100

10.40.020 - Owner/Lessee Responsibility

The owner or lessee of a vehicle in violation of a parking restriction is responsible for the offense, unless the operator of the vehicle accepts responsibility. It shall be an affirmative defense that the vehicle was used without the owner's or lessee's consent.

10.40.030 - Registered Owner Presumption

In a proceeding against a vehicle owner charging a violation of this chapter, proof that the vehicle was registered to the person issued the citation or civil penalty at the time of the violation shall constitute a rebuttable presumption that such person was the owner.