

ORDINANCE NO. 401-0

AN ORDINANCE ESTABLISHING A VEHICULAR TRAFFIC SECTION WITHIN THE PUBLIC SAFETY CODE. TO BE KNOWN AS SECTION 7.10 OF THE PUBLIC SAFETY CODE.

WHEREAS, 7.10.005 ADOPTION OF ORS CHAPTERS AND SECTIONS RELATING TO USE OF PUBLIC ROADWAY AND PUBLIC ACCESS ON PRIVATE PROPERTY.


Section 1. The following chapters and sections of the Oregon Revised Statutes are incorporated by reference into the Public Safety Code as though fully set forth herein, and any violation or failure to comply with such chapters or sections shall be a violation of the Public Safety Code: Chapter 481 relating to Motor Vehicle Registration and Licensing, Dealers, Wreckers and Transporters and Motor Vehicle Division; Chapter 482 relating to Operator's and Chauffeur's Licenses; Chapter 483 relating to Motor Vehicle Equipment, Size, Weight and Abandoned Vehicles; Chapter 484 relating to Traffic Offense Procedures and Traffic Safety; Chapter 485 relating to School Busses, Worker Transport Vehicles and Ambulances; Chapter 487 relating to Rules of the Road; Chapter 98 relating to Disposition of Motor Vehicles Unlawfully Parked at Parking Facility; Chapter 133 relating to Warrant of Arrest and Arrest; Chapter 161 relating to Offensive Littering; Section 166.630 relating to discharge of a firearm on highway; Sections 419.537 to 419.541 relating to Juvenile Court handling Motor Vehicle Offenses, and Section 165.565, relating to optional Local Ordinances.

Section 2. In addition to the chapters and sections of the Oregon Revised Statutes adopted in subsection (1), there are adopted all amendments that are now or may hereafter be enacted to any of these chapters and sections.

Section 3. In the event that any of the provisions of the Oregon Revised Statutes as adopted in subsection (1) and (2) are inconsistent with any of the specific provisions herein after enacted in this ordinance, the specific provisions of the Public Safety Code shall prevail.

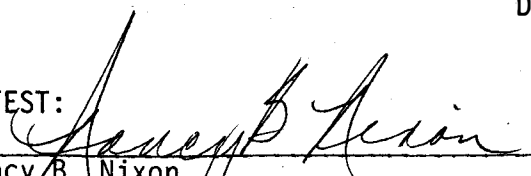
PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 12th DAY OF April, 1983.

Yeas: 6
Nays: 0



Sam Cox, MAYOR

Date Signed: April 13, 1983

ATTEST: 

Nancy B. Nixon
FINANCE DIRECTOR/CITY RECORDER

VEHICLES, TRAFFIC

DEFINITIONS

7.10.010 Definition:

A. In addition to those definitions contained in the Oregon Vehicle Code, the following words or phrases, except where the context clearly indicates a different meaning, shall mean:

1. Bus Stop. A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.
2. Holiday. New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other day proclaimed by the Council to be a holiday.
3. Loading Zone. A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specific hours of specified days.
4. Taxicab Stand. A space on the edge of a roadway designated by sign for use by taxicabs.
5. Traffic Lane. That area of the roadway used for the movement of a single line of traffic.
6. Abandoned Vehicle. A vehicle left unoccupied and unclaimed or in a damaged or dismantled condition such that the vehicle is inoperable.
7. Hazardous Vehicle. A vehicle left in a location or condition such as to constitute an immediate and continuous hazard to the safety of persons using the streets or alleys of the city. For example, and not by limitation, the following are hazardous vehicles:
 - a. Vehicles blocking public or private right-of-ways.
 - b. Vehicles with leaks in gas tanks.
 - c. Vehicles blocking fire hydrants.
8. Private Garage. A reputable, private storage yard, garage, or other storage place selected by the manager.
9. Nonroad 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 nonroad areas.

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

ADMINISTRATION

7.10.020 Powers of the Council:

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. (ORS 487.875)
2. Designation of one-way streets. (ORS 487.885 (1) (a))
3. Designation of truck routes. (ORS 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. (ORS 487.905)
6. Authorization of greater maximum weights or lengths for vehicles using city streets than specified by state law. (ORS 483.525)
7. Initiation of proceedings to change speed zones. (ORS 487.490)
8. Revision of speed limits in parks. (ORS 487.865)

7.10.025 Duties of the City Administrator. The City Administrator or his designate shall exercise the following duties:

A. Implement the ordinances, resolution and motions of the council and his own 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. Duties exercised by the City Administrator or his designate 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.

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

1. Crosswalks (ORS 487.860), safety zones (ORS 487.885 (1) (b)), and traffic lanes (ORS 487.885 (1) (a)).
2. Intersection channelization and areas where drivers of vehicles shall not make right, left, or U-turns, and the time when the prohibition applied (ORS 487.885 (1) (c)).

3. Parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal) (ORS 487.890).

4. Traffic control signals.

5. Loading zones and stops for vehicles.

D. Issue oversize or overweight vehicle permits. (ORS 483.502-483.536)

E. Designate certain streets as bridle paths and prohibit horses and animals on other streets. (ORS 483.045).

F. Temporarily block or close streets.

G. Establish bicycle lanes and paths and traffic controls for such facilities.

7.10.030 Public Danger. Under conditions constituting a danger to the public, the City Administrator or his designate may install temporary traffic control devices deemed by him to be necessary.

7.10.035 Standards. The regulations of the City Administrator or his designate shall be based upon:

A. Traffic engineering principles and traffic investigations.

B. Standards, limitations and rules promulgated by the Oregon Transportation Commission.

C. Other recognized traffic control standards.

7.10.040 Authority of Police and Fire Officers.

A. It shall be the duty of Police Officers to enforce the provisions of this ordinance.

B. In the event of a fire or other public emergency, officers of the police and fire departments may direct traffic as conditions require, not withstanding the provisions of this ordinance.

GENERAL REGULATIONS

7.10.050 Crossing Private Property. No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. 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.

7.10.055 Unlawful Riding.

A. No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designated or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body intended for merchandise.

B. No person shall board or alight from a vehicle while the vehicle is in motion upon a street, parking lot or other public area.

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

7.10.065 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 to 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.

7.10.070 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.

7.10.075 Storage of Motor Vehicles on Streets. No person shall store or permit to be stored on a street or other public property, without permission of the council, a motor vehicle or personal property for a period in excess of 72 hours. Failure to move a motor vehicle or other personal property for a period of 72 hours shall constitute prima facie evidence of storage of a motor vehicle.

PARKING REGULATIONS

7.10.100 Method of Parking.

A. Where parking space markings are placed on a street, public park, public parking area, or other public parking place, no person shall stand or park a vehicle other than in the indicated direction and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space.

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 close to 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.

7.10.105 Prohibited Parking or Standing. In addition to the state motor vehicle laws prohibiting parking, no person shall park or stand:

RB

A. 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 30 consecutive minutes.

B. A vehicle (including trailers, boats, trucks, truck tractors, buses, mobile homes, motor homes and campers) which exceeds 8,000 gross weight, 21 feet in length or 8 feet in height upon any street or parking strip in any residential area of the City. For the purpose of this section, residential areas shall include 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. 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; in addition thereto, the provisions of this section shall not be deemed to prohibit minor repairs on any such vehicles described above wherein total lapsed time in making said repairs does not exceed eight (8) hours duration.

MOST TRUCKS.

7.10.110 Prohibited Parking. No operator shall park and no owner shall allow a vehicle to be parked upon a street for the principal purpose of:

- A. Displaying the vehicle for sale.
- B. Repairing or servicing the vehicle, except repairs necessitated by an emergency.
- C. Displaying advertising from the vehicle.
- D. Selling merchandise from the vehicle, except when authorized.

7.10.115 Use of Loading Zone. 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 30 minutes.

7.10.125 Leaving Children Unattended in Vehicle.

A. It shall be unlawful for any person who has under his or her control, custody or guidance any minor child under six 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 of the City of Troutdale for any period of time exceeding thirty (30) minutes. A child is unattended within the meaning of this ordinance if the oldest person with such child is a person under the age of thirteen (13) years.

B. It shall be lawful for any policeman or other peace officer of the City of Troutdale who finds a child or children confined in an automobile, truck or other vehicle to enter such vehicle to remove any child if the policeman or peace officer has reason to believe that the confinement is hazardous to the child's health. The policeman or 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 Multnomah County, and a report thereof made to the Juvenile Authorities for Multnomah County.

7.10.130 Standing or Parking of Buses and Taxicabs. The operator of a bus 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 from temporarily stopping the taxicab outside a traffic lane while loading or unloading passengers.

7.10.135 Restricted Use of Bus and Taxicab Stands. No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator or 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 or taxicab waiting to enter or about to enter the restricted space.

7.10.140 Lights on Parked Vehicle. No lights need be displayed upon a vehicle that is parked in accordance with this ordinance upon a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle.

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

7.10.150 Exemptions. The provisions of this ordinance 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.

BICYCLES

7.10.155 Bicycle Operating Rules. In addition to observing all other applicable provisions of this ordinance and state law pertaining to bicycles, (ORS 487.750/795) 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 or park the same upon any sidewalk or path constructed for the use of and commonly used by pedestrians within the corporate limits of the City of Troutdale.

7.10.160 Impounding of Bicycles.

A. No person shall leave 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 24 hours may be impounded by the police department.

C. In addition to any citation issued, a bicycle parked in violation of this ordinance may be immediately impounded by the police department.

D. If a bicycle impounded under this ordinance is licensed, or other means of determining its ownership exist, the police shall make reasonable efforts to notify the owner.

E. A bicycle impounded under this ordinance which remains unclaimed shall be disposed of in accordance with the city's procedures for disposal of abandoned or lost personal property.

PEDESTRIANS

7.10.165 Pedestrians Must Use Crosswalks. No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within 150 feet of a marked crosswalk. Pedestrians shall not use a roadway for travel when abutting sidewalks are available.

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

PARADES AND PROCESSIONS

7.10.175 Funeral Procession.

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 of a funeral procession.

7.10.180 Prohibited Activity. 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 20 or more persons or five (5) or more vehicles.

7.10.185 Parade Permit.

A. Application for parade permits shall be made to the City Administrator at least ten (10) days prior to the intended date of the parade, unless the time is waived by him.

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.

C. If the City Administrator, 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.

D. If the City Administrator 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.

E. The City Administrator shall notify the applicant of his decision within five (5) days of receipt of the application.

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

7.10.190 Appeal to Council.

A. An applicant may appeal the decision of the City Administrator by filing a written request of appeal with the city recorder within five (5) days after the City Administrator 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 he may appear either in person or by a representative.

7.10.195 Offenses Against Parade.

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.

7.10.200 Permit Revocable. The City Administrator may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety.

PARKING CITATIONS AND OWNER RESPONSIBILITY

7.10.205 Citation on Illegally Parked Vehicle. Whenever a vehicle without an operator is found parked in violation of the restriction imposed by this ordinance 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 traffic citation instructing the operator to answer to the charge against him or pay the penalty imposed within five (5) days during the hours and at a place specified

in the citation.

7.10.210 Failure to Comply with Traffic Citation Attached to Parked Vehicle. If the operator does not respond to a traffic citation affixed to a vehicle within a period of five (5) days, the Municipal Court Clerk may send to the owner of the vehicle to which the traffic citation was affixed, a letter informing the owner of the violation and warning him that in the event that the letter is disregarded for a period of five (5) days, a warrant for the arrest of the owner will be issued.

7.10.215 Owner Responsibility. The owner of a vehicle placed in violation of a parking restriction shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent.

7.10.220 Registered Owner Presumption. Owner is defined as set forth in ORS 481.040 (4).

7.10.225 Unauthorized Alteration or Damage of Traffic Control Devices and Signs.

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

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 designed 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 ordinance.

IMPOUNDMENT/TOWING

7.10.300 Abandoned Vehicles Prohibited.

A. No vehicle which the Police Officer has reason to believe is disabled or abandoned shall be parked or left standing for a period in excess of five (5) days upon the right-of-way of any city street or alley or upon any city property.

B. No vehicle which the Police Officer has reason to believe is disabled or abandoned shall be parked or left standing for a period in excess of five (5) days upon the right-of-way of any private street or alley or upon any private property which is used by business licensees, customers or the public.

C. No vehicle which the Police Officer has reason to believe is disabled or abandoned shall be parked or left standing upon private property for a period in excess of 10 days.

D. A vehicle so parked or left standing may be taken into custody by the Police Officer and shall be held at the expense of the owner or person entitled to possession of the vehicle. The Police Officer may utilize his own personnel, equipment and facilities for the removal and preservation of the vehicle, or may hire other personnel, equipment and facilities for that purpose.

7.10.305 Impounding Hazardous Vehicles.

A. It shall be the duty of the Police Officer upon discovering a hazardous vehicle, to immediately cause the vehicle to be towed and impounded.

B. The owner of the vehicle shall be responsible for the cost of towing and storing the vehicle.

7.10.310 Towing and Storage Liens.

A. A person who, at the request to the Police Officer, takes a vehicle into custody under the provisions of this chapter, 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 87.152 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is \$300 or less, the vehicle shall be disposed of in the manner provided in ORS 483.395.

B. If the vehicle is taken into custody under the provisions of this chapter and held by request, the vehicle shall be disposed of in the manner provided in ORS 483.386 to 483.394.

7.10.315 Pre-Towing Investigation and Notice.

A. It shall be the duty of the Police Officer, whenever a vehicle is found in violation of section 7.10.300, to:

1. Make a routine investigation to discover the owner and request removal of the vehicle; or

2. Failing to discover the owner by such a process, make a diligent inquiry as to the name and address of the owner of the vehicle by examining it for license number, I.D. number, make, style and any other information which will aid in the identification of the ownership, and transmit all available information pertaining to the vehicle to the Motor Vehicles Division of this State with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with that office.

3. If the owner is identified, mail a notice to the owner at the address shown with the Motor Vehicles Division by registered mail, return receipt requested.

4. Whether or not the owner is identified, place a notice upon the windshield or some other part of the vehicle easily seen by the passing public.

B. This section does not apply to a hazardous vehicle.

7.10.320 Contents of Notice.

A. Notices sent or placed pursuant to section 7.10.315 shall have the following information:

1. The name and badge number of the officer or identification of other city employee issuing the notice.

2. That the vehicle is in violation of a city ordinance, the pertinent provisions of the ordinance, and the facts making the vehicle in violation.

3. That the vehicle will be towed unless the owner moves the vehicle or requests a hearing within ten (10) days of the date of the notice.

4. That the owner of the vehicle may request a hearing on the validity of the proposed tow and the creation and amount of the lien.

5. That any person who, at the request of the Police Officer tows an abandoned 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 at public auction to satisfy the lien.

6. How and where the owner of the vehicle may get information about the opportunity for a hearing and the location of the vehicle, if it has been towed.

B. If the owner of the vehicle requests a hearing before the vehicle is taken into custody, the vehicle shall not be taken until a hearing is set and held in accordance with sections 7.10.330 to 7.10.340.

7.10.325 Post-Towing Notice.

A. After an abandoned vehicle has been taken into custody, notice must be provided to the owner indicating:

1. The location of the vehicle.

2. That a lien has arisen on the vehicle in favor of the person who towed the vehicle.

3. That the vehicle may be sold at public auction to satisfy the lien.

4. That a hearing on the validity of the tow and on the creation and amount of the lien may be held, if requested.

5. That at any time prior to the requested hearing, the owner or person entitled to possession of the vehicle may regain possession of the vehicle by posting with the City security in the form of cash in an amount sufficient to cover costs of removing and storage.

B. Notice is deemed given when a certified letter addressed to the registered owner of the vehicle and a similar letter addressed to the legal owner, if any, return receipt requested and postage prepaid thereon, is mailed within 24 hours after the vehicle is taken into possession by or at the direction of the Police Officer.

C. If the vehicle is registered in the office of the Motor Vehicles Division of this State, notice may be addressed to the registered owner and the legal owner, if any, at the latest respective address of each shown by the records in the office of the Motor Vehicles Division. If the vehicle is not so registered, reasonable efforts shall be made to ascertain the names and addresses of the legal owner and persons entitled to possession of the vehicle so that notice may be mailed, if reasonably possible, within the time period outlined in this section. The owner must request a hearing within five (5) days after receipt of the notice. The request may be made in person or in writing, and failure to appear in person or to mail a letter within five (5) days after receipt of the notice shall act as a waiver of the right to a hearing.

D. The Police Officer shall make reasonable inquiry to discover the telephone number where the owner or person entitled to possession of the vehicle may be reached and shall make reasonable attempts to telephone that person to advise them of the contents of the notice required by this section within 24 hours after the vehicle is taken into possession.

7.10.330 Hearing.

A. Upon request of the legal owner or the person entitled to possession of the vehicle, a hearing shall be held before a hearings officer.

B. The hearing shall be set and conducted within 48 hours of receipt of the request, holidays, Saturdays and Sundays not to be included. The hearing can be set for a later date if the owner or person entitled to possession so requests. At the hearing, the owner may contest:

1. The validity of the action of the Police Officer in taking the vehicle into custody.

2. The creation and amount of the lien attached to the vehicle.

C. The city shall have the burden of showing the validity of the taking of the vehicle.

D. At any time prior to the requested hearing, the owner or the person entitled to possession of the vehicle may regain possession of the vehicle by posting with the city security in the form of cash in an amount sufficient to cover costs of removing and storage.

7.10.335 Decision. If the hearings officer finds that:

A. The action of the Police Officer in taking the vehicle into custody was proper, the hearings officer shall enter an order supporting the removal.

B. The action of the Police Officer in taking the vehicle into custody was invalid, the hearings officer shall:

1. Order the vehicle released to the owner.
2. Find that the owner is not liable for any towing or storage charges occasioned by the taking.
3. Order the city to satisfy the towing and storage lien.

C. The action of the hearings officer is final.

7.10.340 Failure to Appear. If the person requesting the hearing does not appear at the scheduled hearing, the hearings officer may enter an order supporting the removal and assessment of the towing and storage costs and apply any security posted against such costs.

OFF ROAD VEHICLES

7.10.350 Operation of Off Road Vehicles.

A. It shall be 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 possesses 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 Administrator; 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 ORS 105.655 to 105.680 by filing such consent and other information necessary to identify the area, with the City Administrator; 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 shall be unlawful for any person to:

1. Falsify the written permission required by subsection A.1. of this section.

2. Falsify the evidence of club or association membership or the written permission required by subsection A.2. of this section.

3. Falsify the filing or consent required by subsection A.3. of this section.

4. Post the notice or remove the posted notice required by subsection A.4. of this section without the consent of the owner, contract purchaser or lessee.

7.10.355 Seizure.

A. The City Police 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 ordinance; except, however, the City Police may issue a citation in accordance with ORS 133.070 in lieu of exercising custody of the operator.

1. The City Police may seize any off road vehicle incident to arrest or citation of the operator if he 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. The City Police 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 Administrator or his designee in a sum equal to the average value of the vehicle as determined by the City Administrator or his designee, which bond or cash deposit shall be conditioned upon the return of the vehicle to the City Police upon disposition of the judgment of the court.

1. If the person arrested is convicted of a violation of this ordinance, and he is the owner of the off road vehicle, the vehicle shall be subject to disposition as provided in section 7.10.360.

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

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 ordinance.

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 ordinance, 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 7.10.360.

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

7.10.360 Disposition of Vehicle.

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 District Attorney, order forfeiture and sale of the vehicle at public auction by the City Police.

1. 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 Police, after deducting \$50.00 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 Police shall advertise the sale of the vehicle and the description thereof not fewer than three (3) times in a newspaper of general circulation in the County of Multnomah, said publication appearing for the first time not fewer than 14 days before the proposed sale and the last time not more than seven (7) 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 of Troutdale. Unsold property may be destroyed.

PENALTIES

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

- A. Violation of 7.10.075 is punishable by a fine not to exceed \$100.00.
- B. Violation of sections 7.10.100 through 7.10.150 is punishable by a fine not to exceed \$50.00.
- C. Violation of sections 7.10.155 through 7.10.170 is punishable by a fine not to exceed \$25.00.
- D. Violation of sections 7.10.175 through 7.10.200 is punishable by a fine not to exceed \$500.00.
- E. Violation of section 7.10.225 is punishable by imprisonment not to exceed six (6) months or a fine not to exceed \$500.00 or both.
- F. Violation of section 7.10.350 is punishable by imprisonment of a period not to exceed one year or a fine not to exceed \$1,000.00, or both.