

ORDINANCE NO. 902

AN ORDINANCE AMENDING CHAPTERS 12.01 AND 12.05 OF THE TROUTDALE MUNICIPAL CODE PERTAINING TO PUBLIC WORKS CODE VIOLATIONS AND PUBLIC SIDEWALK MAINTENANCE

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Current Troutdale Municipal Code providing requirements and procedures for sidewalk maintenance and enforcement of Public Works code violations needs updated to improve and streamline processes and procedures for landowners, staff, police, and the municipal court.
2. City staff experienced in sidewalk maintenance and related compliance programs and municipal court procedures have collaborated to craft improvements to the existing City ordinance.
3. The proposed revisions to Troutdale Municipal Code Chapters 12.01 and 12.05 will more consistently enable timely completion of sidewalk repairs for the benefit of the public, provide a less onerous process for landowners, reduce unnecessary burdens on the court docket, and still recover costs from responsible parties that fail to comply.
4. The proposed ordinance was considered in two public hearings wherein all interested parties had the opportunity to testify.
5. After hearing all testimony offered and thoroughly considering the matter, the City Council finds the proposed ordinance to be prudent and in the public interest.

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

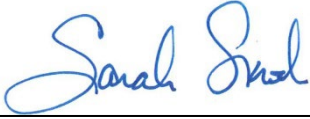
Section 1. Chapter 12.01 and 12.05 of the Troutdale Municipal Code are amended as set forth in Attachment A, attached hereto as if fully set forth.

Section 2. This ordinance will be effective 30 days after approval.

YEAS: 7
NAYS: 0
ABSTAINED: 0



David Ripma, Mayor
Date: October 29, 2025



Sarah Skroch, City Recorder
Adopted: October 28, 2025

Chapter 12.01 GENERAL

Sections:

12.01.010 Applicability.

The provisions of this chapter shall apply to all public services authorized under this Title 12 of this code.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.020 Definitions.

Unless the context suggests otherwise, as used in this Title 12, these terms and phrases mean as follows:

"Account holder" means the person who requests utility service from the city and is billed for such service or, if such person doesn't fulfill the obligations herein, the person who owns the property that receives utility service.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees centigrade, usually expressed as a concentration (milligrams per liter (mg/l)).

"Capital improvement plan (CIP)" means a plan prepared by or for the city identifying proposed additions or modifications to public works facilities.

"City" means the city of Troutdale.

"DEQ" means the state of Oregon's Department of Environmental Quality.

"Director" means the public works director of the city of Troutdale or the director's designate.

"EPA" means the United States Environmental Protection Agency.

"Equivalent residential unit (ERU)" means a unit of wastewater which incurs the same costs for operation and maintenance as the average volume of domestic wastes discharged from a single-family residence in the wastewater treatment service area.

"Exempt load" means a source-separated load of recyclable materials or a mixed load containing solid waste and recyclable materials from single-generator non-residential accounts transported from, in and through the city to a manufacturer, recycling facility or material recovery facility, but not to a transfer station or landfill. Multifamily accounts such as apartment complexes and condominiums are considered to be residential accounts.

"Grease" means animal, mineral or vegetable derived oil or grease.

"Material recovery facility" means a solid waste management facility that separates materials for the purposes of recycling from an incoming highly recoverable mixed load of non-putrescible waste by

using manual and/or mechanical methods and achieves a verifiable minimum twenty-five percent recovery rate. It also means a facility that primarily accepts previously separated recyclables.

"Medical wastes" means isolation wastes, infectious agents, human blood and blood product, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

"Mixed load" means a load containing both: (1) non-recyclable solid waste, and (2) recyclable material, with no more than a trivial amount of putrescible waste.

"Multifamily dwelling" means a residential building containing four or more dwelling units, including units that are located one over the other. It does not include duplex, triplex, zero lot line or attached dwellings.

"NPDES permit" means a national pollutant discharge elimination system permit issued by EPA or by another agency on behalf of EPA.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

"PH" means a measure of the acidity or alkalinity of a substance, expressed in standard units.

"Public works facility" means any element of a water system, sanitary sewer system, storm sewer system or transportation system.

"Public works permit" means a permit issued by the city authorizing work within a public right-of-way or work that modifies or connects to a public works facility.

"Putrescible waste" means solid waste containing organic materials that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

"Recyclable" means material that still has or retains useful physical, chemical or biological properties after serving its original purpose(s) or function(s) and that can be recycled for the same or other purpose(s).

"Sanitary sewer system" means all city-owned facilities utilized in the collection, treatment and disposal of waste water, including sanitary sewer mains, pump stations, manholes and the wastewater treatment plant, but excluding privately-owned sanitary sewer laterals.

"Shall, may." "Shall" is mandatory; "may" is permissive.

"Solid waste" means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste as defined in ORS 459.386. The term does not include:

1. Hazardous waste as defined in ORS 466.005;

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2. Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic applications rates.

"Source-separate" and "source-separated" means that the person who last uses recyclable material separates the recyclable material from solid waste.

"Source-separated recyclable load" means a load of source-separated recyclable materials that contains less than five percent residual by weight.

"Standard industrial classification (SIC) code" means a classification pursuant to the standard industrial classification manual issued by the United States Office of Management and Budget.

"State" means state of Oregon.

"Storm sewer system" means all city-owned facilities utilized in the collection, treatment and disposal of storm water, including catch basins, pipes, ditches, culverts and manholes.

"Storm water" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.

"Street system" means all publicly-owned facilities contained within a public right-of-way, including travel lanes, bicycle lanes or paths, parking lanes and sidewalks.

"Transfer station" means a fixed or mobile facility other than a transportation vehicle where solid waste is deposited temporarily after being removed from the site of generation but before being transported to a final disposal location.

"Transportation system" means the street system, publicly-owned bicycle and pedestrian ways, public parking facilities and public transit facilities.

"Utility service" means city-provided water, sanitary sewer and/or storm sewer service.

"Water system" means all city-owned facilities utilized in the production, storage, treatment and distribution of potable water, including wells, reservoirs, stand pipes, water mains, sampling stations and meters, but excluding privately-owned service lines.

(Ord. 740 § 1 Att. A (part), 2003; Ord. 707 § 1, 2001; Ord. 697 (part), 2000; Ord. 600-94-O (part), 1994)

12.01.030 Ownership and responsibility.

The city is not required to operate, maintain or repair private property connected to public works facilities.

(Ord. 740 § 1 Att. A (part), 2003; Ord. 600-94-O (part), 1994)

12.01.040 Number of connections.

A. There shall be no more than one tax lot served by the same water meter or sanitary sewer lateral.

B. Only one meter and one sanitary sewer lateral will be allowed per tax lot, excepting:

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1. Each half of a duplex shall be served by an individual meter and an individual sanitary sewer lateral.
 2. Multiple sanitary sewer laterals may be required or permitted for the same tax lot when needed for sanitary sewer pretreatment and/or monitoring purposes.
 3. Exceptions may be granted by the director in circumstances where rigid adherence to this standard will be technically infeasible or prohibitively expensive. The exception must be requested in writing with clear and convincing evidence to substantiate the request.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.050 Liability.

- A. The account holder is liable for any damage to public works facilities located on property occupied by the account holder, which damage is caused by the account holder, other occupants or agents of the account holder.
- B. The city shall not be liable for damage resulting from the interruption in service, changes in pressure or lack of service of any public works.
- C. The city shall not be liable for the cost of changing, relocating or upsizing any public works facility due to a change in size, location or usage of any private facility.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.060 Access.

The director or his designated representative shall have access at all reasonable hours to any and all parts of structures and premises serviced by public works for the purpose of inspecting connections, determining the condition of fixtures, reading or servicing meters, determining the condition of fixtures, reading or servicing meters, determining the source or nature of any substance placed in the sanitary or storm sewer, and to correct or eliminate hazards to the public.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.070 Prohibited activities.

- A. It is unlawful to connect to a city water main, sanitary sewer line, storm sewer line or street without applying for and receiving a public works permit.
- B. It is unlawful to connect to a city water main, sanitary sewer line, storm sewer line or street without paying the applicable fees and charges.
- C. It is unlawful to damage, destroy, remove, alter or otherwise tamper with any component of the city water system, sanitary sewer system or storm sewer system without applying for and receiving a public works permit.

D. It is unlawful to cut, break or otherwise alter the pavement of a city street or sidewalk, for the purpose of installing or repairing utilities or otherwise, without applying for and receiving a public works permit.

E. It is unlawful to fail to comply with the terms and conditions of a public works permit.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.080 Violations.

A. Any person that violates subsections A, C, or D of Section 12.01.070 may be fined in an amount established by resolution of the council, and/or denied future public works permits.

B. In addition to the specific remedies stated elsewhere in this code, any person found guilty of violating any provision of Title 12 of this code shall be subject to a penalty not to exceed one thousand dollars per violation. Each day in which the unlawful act is caused or permitted shall be a violation.

C. Any person found guilty of violating any provision of this Title 12 shall also reimburse the city for actual costs incurred by the city for administrative costs of investigation, adjudication, and collection, including legal fees, and the costs of cleanup and repair, if any.

D. Fines are payable as directed by the director. Penalties and costs are payable as directed by the municipal court judge. Fines, penalties and costs under the ordinance codified in this chapter are a debt owing to the city and may be collected in the same manner as any other debt allowed by law.

E. The city may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any written settlement of the public works department or final order of the municipal court judge, including, but not limited to, its suit or action to obtain judgment for any civil penalty imposed by an order of the municipal court judge pursuant to subsection B of this section and/or any assessment for costs imposed pursuant to subsection C of this section.

F. Penalties collected pursuant to the provisions of this section of the code shall be credited to the general fund. Fines and costs collected pursuant to the provisions of this section of the code shall be credited to the fund that sustained the cost.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.090 Enforcement.

A. Enforcement of the policies set forth in this Title 12 shall be the exclusive responsibility of the director, who shall:

1. Investigate alleged violations;
2. Issue complaints and notices to remedy;
3. Reach a written settlement, if appropriate, with the violator;
4. Impose fines and issue proposed assessments;

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5. Represent the City of Troutdale before the municipal court.
- B. A proceeding may be initiated in municipal court by the filing of a complaint with the municipal court which contains the following:
1. The applicable section of the municipal code;
 2. The name and address of the respondent;
 3. The location and nature of the violation;
 4. The signature of the complainant.
- C. The municipal court shall set a date and time for an initial appearance on the complaint and cause notice of this hearing to be given to the respondent(s) by certified United States mail. The notice shall contain a statement of the time, date and place of the hearing, and shall include a copy of the complaint and a notice informing the respondent(s) that they may be represented by a retained attorney in the proceeding, but will not be provided with court-appointed counsel.
- F. The city shall not be represented before the municipal court judge by legal counsel except in preparation of the case or as provided in this section. A respondent charged with an infraction may be represented by a retained attorney provided that ten working days' written notice of such representation is received by the city so that the city may have counsel represent it. The municipal court judge may for good cause waive this notice requirement in individual cases or reset the hearing for a later date.
- G. The city must prove the violation occurred by a preponderance of the admissible evidence. In appeals taken under Chapter 12.05, the city must establish by a preponderance of the admissible evidence that the work ordered in the notice issued by the director was required to maintain the identified property in safe condition and good repair.
- H. The municipal court judge shall have the authority to administer oaths and take testimony of witnesses. Upon the request of either of the parties, or upon his or her own motion, the municipal court judge may issue subpoenas in accordance with the Oregon Rules of Civil Procedure.
1. If either party desires that witnesses be ordered to appear by subpoena, the party shall so request in writing no less than ten calendar days prior to the scheduled hearing.
 3. The municipal court judge may waive the ten-day limitation for good cause.
 4. Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases which shall be the responsibility of those requesting the witnesses' appearance.
 5. If a penalty is declared in the final order, the order shall also provide that the respondent also pay any witness fees attributable to the hearing.
- I. The parties shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on their behalf.
- J. After due consideration of the evidence and arguments, the municipal court judge shall determine whether, by a preponderance of the evidence, the city has proven the violation alleged in the complaint or, in appeals under Chapter 12.05, whether the work ordered in the noticed issued by the director was required to maintain the identified property in safe condition and good repair.

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1. When the determination is that the violation has not been proven or the work ordered under Chapter 12.05 was not required to maintain the property in safe condition and good repair, an order dismissing the complaint or vacating the proposed assessment shall be entered
 2. When the determination is that the violation has been proven or that the work ordered in the notice issued by the director was required to maintain the identified property in safe condition and good repair, or if an answer admitting the same has been received, an appropriate order shall be entered. The order may require a person that violated this title to pay a penalty, costs, restitution and to take specific corrective actions.
 3. The final order issued by the municipal court judge shall contain the amount of the penalty, costs and other penalties imposed and instructions regarding payment.
 4. If the final order requires the person that violated this title to take corrective action(s), the order shall specify the period of time within which the person must complete the corrective action(s).

K. Review:

1. Any motion to reconsider the final order of the municipal court judge must be filed within ten days of the original order.
2. A respondent may appeal a final adverse ruling by writ of review as provided in ORS 34.010 through 34.100.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

12.01.100 Appeals.

An appeal from a decision made by the director concerning any administrative determination made under Title 12, other than determinations pertaining to system development charges made pursuant to Chapter 12.02, determinations pertaining to termination of water services made pursuant to Chapter 12.03, and determinations pertaining to maintenance of sidewalks, curbs, driveway approaches, and landscaping strips made pursuant to Chapter 12.05, may be appealed to the city manager, provided that the appeal is submitted in writing no more than thirty days after the decision is made by the director. The appeal must state the particular matter in dispute, the reason(s) for differing with the director, and the specific relief sought. (Ord. 740 § 1 Att. A (part), 2003: Ord. 655 § 1, 1997: Ord. 600-94-O (part), 1994)

(Ord. No. 801, § 1, 1-11-2011)

12.01.110 Extension of service prohibited.

Public works services shall not be extra-territorially extended except for the provision of water for fire hydrants and fire sprinkler systems to schools and Section 501(c)(3) nonprofit organizations.

(Ord. 762 § 1, 2005: Ord. 740 § 1 Att. A (part), 2003: Ord. 647, 1996: Ord. 600-94-O (part), 1994)

12.01.120 Public works standards.

The city adopts the technical provisions of the latest version of the "Oregon Standard Specifications for Construction", promulgated by the Oregon Department of Transportation, for use on all public works in the city. The council, by resolution, may adopt local construction standards which clarify, modify or expand upon the APWA standards.

(Ord. 740 § 1 Att. A (part), 2003: Ord. 600-94-O (part), 1994)

Chapter 12.05 STREETS AND SIDEWALKS*

Sections:

12.05.010 Title.

This chapter of the code shall be entitled "Streets and Sidewalks."
(Ord. 746 § 6 Att. 4 (part), 2004)

12.05.020 Intent and scope.

Pursuant to the statutes of the state of Oregon and the powers granted in the Charter of the city, the council declares its intent to acquire, own, construct, reconstruct, improve, equip, maintain and repair a street system within the city limits, and outside the city limits when consistent with city policy, intergovernmental agreements and state law.

(Ord. 746 § 6 Att. 4 (part), 2004)

12.05.030 Establishment of a street fund.

There is established a street fund composed of state and local gas tax revenues. Such revenues shall be used for the acquisition, construction, operation, maintenance and repair (to include removal, replacement and improvements) of the city's street system. To the extent that the fees collected may not be sufficient to properly meet the expenses of the street system, the cost of same may be paid from other city funds as may be determined by the council, but the council may order the reimbursement of such funds if additional street funds are collected thereafter. The fees collected by virtue of this chapter shall not be used for general or other governmental purposes of the city except to pay for the equitable share of the cost of accounting, management and other administrative costs attributable to the street system.

(Ord. 746 § 6 Att. 4 (part), 2004)

12.05.040 Street classification.

- A. Streets within the city which are owned by other jurisdictions, such as the state of Oregon or Multnomah County, shall have the classifications as designated by the respective jurisdiction.
- B. City streets shall be designated by resolution of the council. Neighborhood collector streets shall have a right-of-way width of sixty feet or more and a pavement width of more than thirty-two feet. Local streets shall have a right-of-way width of fifty feet or more and a pavement width of thirty-two feet or less.

12.05.080 Maintenance of Sidewalks, Curbs, Driveway Approaches, and Landscaping Strips.

- A. The owner(s) of land abutting any street in the city shall be responsible for constructing, reconstructing, maintaining and repairing the sidewalks, curbs, driveway approaches, and landscaping strips in the public way abutting or immediately adjacent to said land and shall also be responsible for removing ice, snow, trash, and other deleterious materials from the sidewalks and driveway approaches in the public way abutting or immediately adjacent to said land.
- B. Said property owner(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any sidewalk, curb, driveway approach, or parking/landscaping strip in the public way adjacent to said land, or by reason of the property owner's failure to keep such sidewalk, curb, driveway approach, or parking/landscaping strip in safe condition and good repair.
- C. When the director determines that construction, reconstruction, maintenance, or repair of a sidewalk is necessary, the director shall issue written notice to the owner of the property abutting or immediately adjacent to the deficient or defective sidewalk. The notice shall require the owner of the property adjacent to the deficient or defective sidewalk to complete the construction or repair of the sidewalk or remedy the defective condition within sixty days after service of the notice. The sixty-day compliance period may be extended up to thirty days upon receipt of a written request to do so. The notice shall identify the area in need of repair or defective condition with specificity and also state that if the repair or condition is not remedied by the owner, the city may carry out the work to repair or remedy the condition, and the cost of the work and an associated fee shall be assessed against the owner of the property abutting or immediately adjacent to the sidewalk. The notice shall be served upon the owner of the property adjacent to the defective sidewalk by certified mail, return receipt requested. If, after diligent search, the owner is not discovered, the director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by certified mail, return receipt requested. A record of the service setting forth the time, place, and manner of service shall be filed with the city recorder.
- D. The director shall only issue a notice outlined in subsection (C) if the director receives a complaint that a sidewalk, curb, driveway approach, or parking/landscaping strip in the public way needs to be constructed, reconstructed, maintained, or repaired. When a complaint is received that a sidewalk needs to be constructed, reconstructed, maintained, or repaired, it shall be construed to be inclusive of all defects in the existing sidewalks abutting or immediately adjacent to the subject property.
- E. All sidewalk repairs or replacement shall be constructed according to city standards as set forth in the City of Troutdale Construction Standards for Public Works Facilities and shall require that the property owner obtain a public works permit from the city for repair or replacement before work commences.
- F. If the construction, reconstruction, maintenance, or repair of the sidewalk is not completed within sixty calendar days after service of notice, the director may carry out the needed work to repair or remedy the deficient or defective condition. Upon completion of the work, the director shall calculate a proposed assessment that includes the costs of the work completed at the site and the

administrative costs of notice, assessment, and/or lien recording determined by the Finance Director.

- G. The director shall mail a copy of the proposed assessment to the owner of the property adjacent to the sidewalk which contains: (1) the site address of the property; (2) the amount of the proposed assessment against the property and the terms for payment of the proposed assessment; and (3) the manner and deadline for appealing the proposed assessment amount.
- H. An appeal may be taken from a proposed assessment to the Troutdale Municipal Court. The appeal must be made in writing and filed with the court no later than ten (10) calendar days after mailing of the notice of the proposed assessment.
- I. A hearing on an appeal will be scheduled no later than 60 days after filing of the written appeal and notice shall be delivered by the court to the director and the appellant by first-class mail. The hearing shall be conducted in accordance with the provisions of Troutdale Municipal Code Section 12.01.090.
- J. If the proposed assessment is not paid according to the terms outlined therein and no appeal is taken under this Chapter, the city may record any balance owing as a lien against the subject property in accordance with applicable federal, state, and local laws. The lien shall remain valid against the property until fully paid, shall be given priority over all liens except those for taxes and assessments, shall include interest at the legal rate accruing from the date of service of the proposed assessment, and may be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.
- K. Nothing in this section shall be construed as to require a property owner to construct sidewalks, curbs, driveway approaches, and/or parking/landscaping strips unless such requirement is supported by federal or state law or regulations, another portion of the Troutdale Municipal Code, the City of Troutdale Construction Standards for Public Works Facilities, the Troutdale Development Code, a city ordinance or resolution, a condition of land use approval or building permit issuance, or an approved construction plan.
- L. Nothing in this section shall be construed to preclude the City, County, or other agency from performing construction, reconstruction, maintenance, or repair of sidewalks, curbs, driveway approaches, and parking/landscaping strips in public rights-of-way under the respective agency's jurisdiction.