

1. Agenda

Documents:

[CC WS AGENDA 11-01-2017.PDF](#)

2. Meeting Materials

Documents:

[CC AGENDA 11-08-17.PDF](#)

[DAHL BROCHURE EMAIL.PDF](#)

[ORD 349 HAZARD AREAS AND BUILDING HEIGHT LIMITS.PDF](#)

[ORD 350 OBSTRUCTING STREETS.PDF](#)

Our village is a place where natural resources are valued and protected, where diversity is celebrated, and where a vibrant economy and sense of community pride create and recreate a living spirit. Yachats cares not just for its citizens' basic needs but also supports them in their efforts to excel mentally, physically, artistically, and spiritually. It is a community with an enduring sense of itself.



CITY OF YACHATS

CITY COUNCIL WORK SESSION, REGULAR COUNCIL MEETING



441 Hwy 101 N., Yachats Commons, Room 1, Yachats OR

Wednesday, November 1, 2017 at 9:30am

WORK SESSION AGENDA

- I. CALL MEETING TO ORDER
- II. SPECIAL PRESENTATION – Dahl's Disposal in reference to recycling changes/DEQ
- III. WORK SESSION DISCUSSION TOPICS
 - a) Ordinance 349 – Building Height Restriction and Hazard Area (two votes due)
 - b) Ordinance 350 – Parking on public property; impoundment (two votes due)
 - c) Approve agenda for 11/08/17 City Council meeting **at 6:00pm in Room 1**

REGULAR COUNCIL MEETING

- I. Public Comment (**topics not listed on the agenda:** 5-minute limitation per person)
- II. Ordinance 349 – Amendments to Municipal Code: Building Height/Hazard Area VOTE
- III. Ordinance 350 – Amendment to Municipal Code: Parking/Impoundment VOTE

The work session and regular council meeting are open to the public and interested citizens are invited to attend. These are open meetings under Oregon law, but a work session is not a community forum; audience participation is at the discretion of the Council. Meetings are audio-recorded. Public meeting minutes are available for review at City Hall. The meeting place is accessible to persons with disabilities. For accommodations, please call (541) 547-3565, or Oregon Relay 1-800-735-2900 TDD) two days in advance. City of Yachats does not discriminate on the basis of race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation, or any other legally protected status.

In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance.

Posted October 30, 2017

Yachats City Council Vision

Our village is a place where natural resources are valued and protected, where diversity is celebrated, and where a vibrant economy and sense of community pride create and recreate a living spirit. Yachats cares not just for its citizens' basic needs but also supports them in their efforts to excel mentally, physically, artistically, and spiritually. It is a community with an enduring sense of itself.



CITY OF YACHATS

CITY COUNCIL MEETING

441 Hwy 101N, Yachats Commons, Room 1

Wednesday, November 8, 2017 at 6:00pm

AGENDA

- I. Announcements, Correspondence and Proclamations
- II. Public Comment **(topics not listed on the agenda: 5-minute limitation per person)**
- III. Consent Agenda
 - A. Minutes: 10/04/17 Work Session & Regular; 10/11/17 Regular Meeting
- IV. Reports
 - A. Council Reports
 - B. Department Reports: City Manager, Public Works, Code Enforcement
- V. Business

Second of two public hearings on Ordinance 349 and Ordinance 350

 - A. Ordinance 349 – Yachats Municipal Code – Building Height/Hazard Area amendments VOTE
 - B. Ordinance 350 – Yachats Municipal Code – Obstructing Streets amendments VOTE
 - C. Council Shepherding Goals – review matrix
- VI. Other Business
 - A. From Mayor
 - B. From Staff
 - C. From Council

This meeting is open to the public and all interested persons are invited to attend. This meeting will be audio taped. All items to be considered by the Commission must be submitted to City Hall no later than one week prior to the meeting. Minutes of all public meetings are available for review at City Hall, or on the City website at www.yachatsoregon.org. In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance.

POSTED November 2, 2017



Recycling Update



Our drivers are watching for non-recyclable items. If you receive a yellow information tag on your recycling cart, please review and call us with any questions.

Remember to place our recycling carts at least three feet apart and away from any objects.

Thank you!

"Keep It Clean!"



"When in Doubt, Toss It Out!"

- DEQ



5441 W. Hwy 20
P.O. Box 357
Toledo, OR 97391
Phone: 541.336.2932
Fax: 541.336.4817

235 SW Dahl Ave.
P.O. Box 1059
Waldport, OR 97394
Phone: 541.563.3888
Fax: 541.563.7373

Dear Valued Customer:

At Dahl Disposal Service, Inc., we are committed to our recycling efforts and are moving to a stricter adherence to quality control of materials being collected for recycling purposes. This is due to China imposing tougher restrictions on recyclables because Americans toss large amounts of contaminated and non-recyclable materials into their recycling bins. At this time, we are asking all to join in and help us clean up materials collected for recycling because we are in danger of losing recycling markets, meaning that your recycling material may end up at a landfill.

The following items (which must be clean of food and other contaminants) are **ALLOWABLE** in Commingle Recycling:

- ☺ Mixed Waste Paper
- ☺ Magazines
- ☺ Newspaper and Inserts
- ☺ Cardboard
- ☺ Paper Bags
- ☺ Clean Milk Jugs
- ☺ Paper Egg Cartons
- ☺ Clean Cardboard Juice Boxes
- ☺ Aluminum Cans
- ☺ Soda Cans
- ☺ Tin Cans
- ☺ Aluminum Foil in Balls
- ☺ Clean Dairy Tubs
- ☺ Yogurt Cups
- ☺ Detergent Jugs



"Keep It Clean!"



The following items are **PROHIBITED** from Commingle Recycling – these items are garbage:

- ☹ Garbage / Diapers
- ☹ Tissue Paper / Napkins / Paper Towels
- ☹ Wax Paper or Plastic Coated Paper
- ☹ Paper Cups & Paper Plates
- ☹ Pizza Boxes
- ☹ Paper, Plastic, Styrofoam Take-out Food Boxes
- ☹ Pet Food Bags
- ☹ Scrap Metal & Wire Hangers
- ☹ Foil Pouches
- ☹ Containers with Food or Liquid
- ☹ Microwave Cookware
- ☹ Lids or Caps from Plastic Bottles or Tubs
- ☹ Plastic Wrap or Plastic Cups
- ☹ Straws
- ☹ Prescription Pill Containers
- ☹ Meat or Bakery Trays
- ☹ Styrofoam or Styrofoam Cups
- ☹ Packing Peanuts & Packing Foam Blocks
- ☹ Ceramic ware & Dishes
- ☹ Plate Glass & Mirror Glass
- ☹ Light Bulbs
- ☹ Batteries
- ☹ Wood or Yard Waste
- ☹ Clothing

For more information please visit:

www.oregon.gov/deq/mm/pages/recycling-markets.aspx

This list is accurate as of October 1, 2017 and is subject to change. [Sources: registerguard.com and Oregon Recyclers]

ORDINANCE NO. 349

AN ORDINANCE AMENDING SECTIONS 9.52.050 HAZARD AREAS AND 9.52.170 GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS OF THE CITY OF YACHATS ZONING AND LAND USE ORDINANCE

WHEREAS, on June 20, 2017, the Planning Commission met and passed a motion to forward the attached recommended code amendments to Section 9.52.050 Hazard Areas of the zoning and land use ordinance to City Council.

WHEREAS, on July 18, 2017, the Planning Commission met and passed a motion to forward the following recommended code amendments to Section 9.52.170 General Exceptions to Building Height Limitations of the zoning and land use ordinance to City Council.

WHEREAS, on November 1, 2017 and November 8, 2017, the City Council held public hearings on the ordinance amending Sections 9.52.050 and 9.52.170 of the zoning and land use ordinance.

NOW THEREFORE, THE CITY OF YACHATS ORDAINS AS FOLLOWS:

SECTION 1. Section 9.52.050 Hazard Areas is hereby amended to read:

Section 9.52.050 Hazard areas.

- A. Responsibility shall fall on the developer to ensure proper safeguards are taken when developing in any hazard zone whether earthquake, fault lines, landslide, erosion or flood hazard areas. The City accepts no liability. Prior to development, the following shall be required (in flood hazard zones, see Chapter 9.54 Flood Damage Prevention Regulations):
1. On slopes of less than twelve percent (12%): development is allowed without special review.
 2. On slopes of twelve percent (12%) and greater a site analysis report shall be completed in accordance with Section D for the following development activities:
 - a. Gross excavation or fill of greater than forty (40) cubic yards,
 - b. Removal of more than two thousand five hundred (2,500) square feet of vegetative cover (as measured along the slope),
 - c. Road construction, and/or
 - d. Building which entails any fill or excavation.

Development on a site shall be subject to conditions, restrictions, and recommendations outlined by the site analysis report. This report shall be completed within the past five (5) years by a State of Oregon certified engineering geologist.

In addition, the Planning Commission or its designee may also require that the development adhere to additional standards as provided in writing by the Yachats Department of Public Works. At the completion of the project, the developer shall provide certification from the geological consultant and the Yachats Department of Public Works, stating that the conditions and recommendations of the report and the Yachats Department of Public Works have been met.

3. Definition of Slope

- a. A property has a twelve percent (12%) slope or greater if:
 - i. The average slope from the highest to lowest point of the property has a slope of twelve percent (12%) or greater or;
 - ii. The average slope of the building footprint or area to be disturbed measured from the highest to lowest point within the footprint or area to be disturbed is twelve percent (12%) or greater.
- b. Development guidelines shall not apply to a building footprint or area to be disturbed that is located one hundred (100) feet or more from a twelve percent (12%) slope. The distance will be measured from the boundary lines of the building footprint or area to be disturbed to the point of the slope.

4. Slopes twelve percent (12%) and greater are identified on the natural hazards map. The City's designated representative may determine that the average slope on a property is less than twelve percent (12%), and therefore allow development without a certified engineering geologist report. If the applicant disagrees with the City's decision, the applicant shall provide an affidavit from a State of Oregon registered land surveyor showing the site specific slope conditions on the property prior to any excavation, grading or other changes in site topography. If the affidavit indicates that the slopes on the property are less than twelve percent (12%), as defined above, development may be allowed without special review.

B. Developers of property having a slope of twelve percent (12%) or greater, or within five hundred (500) feet of a landslide or fault area shall also be subject to the following requirements:

1. The site must be replanted and stabilized in accordance with the recommendations outlined in the geotechnical report. This vegetation must be maintained to ensure the continuous stability of the area.
2. All construction materials shall be stored in such a manner as recommended by the geotechnical report.
3. The geologist shall certify that all work has been completed as stated in the report.

C. Exceptions to the hazard area requirements shall be allowed under the following circumstances:

1. Improvements to existing roads or drainage ditches or utilities where excavation or fill does not exceed ten (10) cubic feet per one linear foot of roadway/ditch;
2. Gravesites dug in cemeteries;

3. Emergency excavation of landslide materials or emergency utility repairs.
- D. Content Standards for Geotechnical Reports. All geotechnical reports required by this section shall provide at a minimum, the following information, where applicable, prior to review by planning staff or the Planning Commission:
 1. General Information.
 - a. Name and C.E.G. stamp of the Oregon certified engineering geologist preparing the report;
 - b. Scope and purpose of the report;
 - c. General site description;
 - d. Drainage patterns;
 - e. Existing structures, if any;
 - f. Proposed development plan, including roads and driveways.
 2. Geologic Description.
 - a. Lithology;
 - b. Structural features (stratifications, orientation of bedding planes, faults, etc.);
 - c. Surficial or unconsolidated deposits;
 - d. Seismic considerations as they pertain to proximity of faults.
 3. Assessment of Geologic Factors.
 - a. General suitability of proposed land use to geologic conditions:
 - i. Areas to be avoided, if any,
 - ii. Topography and slope,
 - iii. Stability of geologic units,
 - iv. Problems caused by geologic features or conditions in adjacent properties,
 - v. Other general problems;
 - b. Recommendations for site grading/filling:
 - i. Prediction of stability based on geologic factors; recommended avoidance or engineering to cope with existing or potential landslide masses,
 - ii. Excavation considerations,
 - iii. General considerations of proposed fill masses in canyons or on hillsides,
 - iv. Load capabilities of soils;
 - c. Drainage considerations and recommendations;
 - d. Setback recommendations;
 - e. Footing, foundation, and backfilling recommendations;
 - f. Recommendations on vegetation preservation, removal and re-vegetation as it relates to slope stability, and erosion potential;

- g. Recommended methods for protecting the surrounding area from any adverse effects of the proposed development.
- 4. Checklist. Provide a checklist of geological requirements during construction, e.g. erosion protection prior to construction, geological certification prior to pouring foundation footings and slabs, revegetation requirements, etc.

SECTION 2. Section 9.52.170 General Exceptions to Building Height Limitations is hereby amended to read:

Section 9.52.170 General exceptions to building height limitations.

Projections, such as chimneys, spires, domes, towers, aerials, flagpoles and other similar objects not used for human occupancy are allowed as long as the projection: 1) does not exceed nine (9) square feet; 2) has a maximum width of eight (8) feet as viewed from any direction; and 3) has a maximum height of seven and one half (7½) feet above the peak of the roof. Elevator shaft housing may exceed the above dimensions but shall be no larger than the minimum required by building code.

Stand-alone projections such as antennas, cell towers, transmission towers, and similar structures shall have a maximum height of thirty (30) feet.

Any requests for exceptions to the above standards shall be in accordance with Chapter 9.80 Variances.

SECTION 3. SEVERABILITY. Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by unanimous vote on November 1, 2017 and November 8, 2017.

DATED this 8th day of November, 2017.

Gerald F. Stanley, Mayor

ATTESTED TO:

Shannon Beaucaire, City Manager

**CITY OF YACHATS
ORDINANCE NO. 350**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE TITLE 6 – VEHICLES
AND TRAFFIC; ADDING CHAPTER 6.09 – VEHICLE IMPOUNDMENT PROCEDURES; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City Council has determined that there is a public health and safety interest in keeping City streets and other public property free of obstructions, especially for the purposes of efficiently evacuating in the event of a tsunami.

WHEREAS, as a coastal community, the streets within the City are narrow. Therefore, any unauthorized parking or storage of vehicles or other personal property within the City streets or other public property impedes traffic flow and results in dangerous conditions.

WHEREAS, and in consideration of the conditions and issues above, the City enacts the following authorizing the City to remove and impound vehicles or other private property that is located within City streets or other public property.

NOW THEREFORE, the City of Yachats ordains as follows:

SECTION 1. Section 6.04.020, Definitions, of the Municipal Code is amended to add the following:

“Vehicle” has the meaning provided in the Oregon Vehicle Code and includes “Manufactured Dwelling” and “Recreational Vehicle” as those terms are defined in Section 9.04.030 of the Municipal Code.

SECTION 2. Section 6.04.090, Storage of motor vehicles on streets, is amended and replaced with the following:

Section 6.04.090 Storage of vehicles on streets or other public property.

- A. No person shall store or permit to be stored on a street or other public property without permission from the City a vehicle or any other personal property for a period in excess of seventy-two (72) hours. Failure to move a vehicle or other personal property for a period of seventy-two (72) hours constitutes prima facie evidence of storage. Continuity of time is not interrupted by relocation of the vehicle or other personal property to another location that is also a street or other public property in violation of this ordinance or any other city ordinance.
- B. No person shall store or permit to be stored on a street or other public property a vehicle or other personal property, if the registration for the stored vehicle or personal property, if applicable, has expired.
- C. When a vehicle or other personal property is found in violation of this section, a code enforcement officer responsible for enforcement of this section shall issue a citation for the violation, and may order the vehicle impounded, after providing the notice required under chapter 6.09 of this code and, if requested, the hearing procedures in chapter 6.09.

SECTION 3. Section 6.04.100, Obstructing streets, is amended and replaced with the following:

Section 6.04.100 Obstructing streets or other public property.

Except as authorized by the City, no person shall park or leave on a street or other public property, a vehicle part, trailer, box, ware, merchandise of any description, or any other thing that: 1) impedes any traffic, including vehicular, pedestrian, or bicycle; or 2) obstructs the view.

SECTION 4. Section 6.08.010, Prohibited parking, is amended and replaced with the following:

Section 6.08.010 Prohibited parking.

An operator or owner of a vehicle or other personal property may not park a vehicle on a street or other public property 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.
- E. Overnight sleeping, except when a special permit is granted by the city.

SECTION 5. The following chapter is added to Title 6 – Vehicles and Traffic:

Chapter 6.09 - Impoundment Procedures

Section 6.09.010 Impoundment - Owner's Responsibility.

The owner of a vehicle or other personal property will be responsible for the cost of towing and storage of the vehicle and other personal property impounded plus the costs of notice and sale as provided in this chapter.

Section 6.09.020 Impoundment of Vehicles.

- A. When this code or state law provides for impounding a vehicle, it shall be given a citation and may be removed by or under the direction of a code enforcement officer of the city; taken to the city facilities for storing vehicles or to some reputable motor vehicle storage facility and kept there until it is redeemed or sold. Any personal property associated with the impounded vehicle may also be removed and taken to some reputable storage facility and kept there until it is redeemed or sold.
- B. Subsection A. of this section shall not apply to vehicles impounded under the direction of a law enforcement officer for criminal investigative purposes or for safekeeping when the operator of the vehicle is unable to safely and lawfully park the vehicle. If the

owner fails to claim the vehicle within five days after its impoundment or notice of its release from criminal investigations, it shall be impounded, redeemed or sold as provided in this chapter.

Section 6.09.030 Impoundment - Inventory.

- A. When a vehicle or personal property has been lawfully impounded by the city, the contents shall be inventoried. An inventory conducted pursuant to this section shall be made for the following purposes:
 - 1. To ensure the protection of the owner's property while it is impounded;
 - 2. To reduce the potential assertion of false claims against the city or other persons for lost, stolen or damaged property; and
 - 3. To reduce the danger to code enforcement officers and others from the impoundment of non-inventoried property.
- B. The city manager or the manager's designee shall adopt an administrative program for inventories conducted pursuant to this section. These internal policies shall be designed and administered so that the inventories are conducted for the purposes set forth in this section and under specific guidelines which ensure that the inventory involves no exercise of discretion by the person directing or taking the inventory.

Section 6.09.040 Notice Prior to Impoundment for Vehicles Stored on the Street.

When this code or state law provides for impounding a vehicle and to comply with federal constitutional requirements of due process of law, the city shall provide notice of the impoundment.

- A. If the city proposes to impound a vehicle for a violation of one of the provisions under this title of the Municipal Code, the City will, before the proposed impoundment:
 - 1. Provide written notice thereof; and
 - 2. Provide an explanation of the procedures available for obtaining a hearing under Section 6.09.060 of the Municipal Code.
- B. The notice required under subsection A. of this section will be given by affixing a citation to the vehicle or personal property and a notice that states all of the following:
 - 1. That the vehicle will be subject to being taken into custody and removed by the City if the vehicle is not removed before the time set by the City.
 - 2. The statute, ordinance, or rule violated by the vehicle and under which the vehicle will be removed.

3. The place where the vehicle will be held in custody and the telephone number and address of the City department that will provide the information.
4. That the vehicle, if taken into custody and removed by the City, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.
5. That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.
6. That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and removal if a hearing is timely requested.
7. That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.
8. That time within which a hearing must be requested and the method for requesting a hearing.

Section 6.09.050 Notice After Impoundment.

- A. If a vehicle is impounded under state law or any other provision of the Municipal Code, the City will provide, by certified mail within 48 hours of the impoundment, written notice thereof to the owners of the vehicle and any lessors or security interest holders having an interest in the vehicle as shown in the records of the state Department of Transportation.
- B. Any notice given under this section will state all of the following:
 1. That the vehicle has been taken into custody and removed by the City.
 2. The statute, ordinance, or rule under which the vehicle was removed and taken into custody.
 3. The location of the vehicle, or the telephone number and address of the City department that will provide that information.
 4. That the vehicle is subject to towing and storage charges which accrue from the date of towing.
 5. That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if they are not paid by a date specific in the notice.
 6. A description of the procedures for the release of the vehicle.
 7. That the owner, possessor or person having an interest in the vehicle is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing

it, and to contest the reasonableness of the charges for towing and storage, if a hearing is timely requested.

8. The time within which a hearing must be requested and the method for requesting a hearing.
9. That the vehicle and its contents may be immediately reclaimed by posting bail and paying outstanding amounts due to the municipal court and by presentation to the towing company or other person in possession of the vehicle of satisfactory proof of ownership or right to possession, such as title or registration, either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges, and:
 - a. For vehicles impounded under ORS 809.720, submission of proof that a person with valid driving privileges will be operating the vehicle, submission of proof of compliance with financial responsibility requirements for the vehicle, and payment of the City's administrative fee for traffic offense vehicle impoundments.

6.09.060 Hearing to Contest Validity of Impoundment.

- A. A person provided notice under this chapter, or any other person who reasonably appears to have an interest in the vehicle, may request a hearing to contest the validity of the impoundment of the vehicle and the reasonableness of any towing and storage charges for the vehicle.
- B. A hearing under this section will comply with all of the following:
 1. The request for hearing must be submitted to the City department indicated in the notice not more than five days from the mailing date of the notice. The five-day period provided for in this subsection does not include holidays, Saturdays, or Sundays.
 2. If the City receives a request for hearing pursuant to a notice issued under Section 6.09.040 before the vehicle is taken into custody and removed, the vehicle will not be removed unless it constitutes a hazard.
 3. A request for hearing will be in writing and will state grounds upon which the person requesting the hearing believe the custody and removal of the vehicle is not justified.
 4. The City will set a time for the hearing within 48 hours of the receipt of the request and provide notice of the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the state Department of Transportation, if not the same as the person requesting the hearing. The 48-hour period in this subsection does not include holidays, Saturdays, or Sundays.
 5. If the City finds, after hearing and by substantial evidence on the record or, for impoundments under ORS 809.730, by a preponderance of the evidence that there were

reasonable grounds to believe that the vehicle was being operated in violation of statutes, that the custody and removal of the vehicle was:

- a. Invalid, the City will order the immediate release of the vehicle to the owner or person with right of possession. If a vehicle is released under this subsection, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges, the City will reimburse the amount paid to that person. New storage charges will not start to accrue, however, until more than 24 hours after the time the vehicle is ordered released to the person under this subsection.
 - b. Valid, the City will order the vehicle to be held in custody until the costs of the hearing, all towing and storage costs, and other amounts due are paid by the person claiming the vehicle. If the vehicle has not yet been removed, the City will order its removal.
6. A person who fails to appear at a hearing scheduled pursuant to this section is not entitled to another hearing unless the person provides reasons satisfactory to the City for the person's failure to appear.
 7. The City is only required to provide one hearing for each time the City takes a vehicle into custody and removes the vehicle, or proposes to do so.
 8. A hearing scheduled pursuant to this section may also be used to determine the reasonableness of the charge for towing and storage of the vehicle. For purposes of this subsection, towing and storage charges set by law, ordinance, or rule, or that comply with law, ordinance or rule, are reasonable.
 9. The City will provide a written statement of the results of the hearing to the person requesting the hearing.
 10. Hearings may be informal in nature, but the presentation of evidence will be consistent with the presentation of evidence required for contested cases under ORS 183.450.
 11. The hearing will be conducted by a Municipal Court Judge.
 12. The determination of the Municipal Court Judge at the hearing is final, and is not subject to appeal.

Section 6.09.070 Impoundment - Sale and Redemption.

- A. Any vehicle impounded by authority of this chapter will be sold according to the procedures in this chapter. Notice given as required in either 6.09.040, 6.09.050, and 6.09.100 will be sufficient notice to anyone claiming an interest in the vehicle or personal property.
- B. At any time prior to the sale of an impounded vehicle, the City will release an impounded vehicle from custody and release the City's financial interest in the

impounded vehicle when the owner or other person having a financial interest in the vehicle pays all costs, fines, and fees at the municipal court.

Section 6.09.080 Possessory Lien for Towing and Storage.

- A. Any person who, at the request of a code enforcement officer, tows and stores a vehicle as authorized by this chapter:
 - 1. Except as otherwise provided in this section, shall have a lien on the vehicle and its contents in accordance with ORS 87.152 for the just and reasonable charges for towing and storage services performed;
 - 2. May retain possession of the vehicle and contents until such charges are paid; and
 - 3. Shall provide written notice, approved by the city, containing information on the procedures necessary to obtain the release of the vehicle and judicial review or hearing as provided in sections 6.09.050 of this chapter to each person who seeks to redeem the vehicle. A lien described under this section does not attach to the contents of any vehicle until 15 days after taking the vehicle into custody.
- B. No person towing or storing a vehicle as provided in this chapter may release the vehicle without first obtaining the written permission of the municipal court or the city administrator.
- C. Before any net proceeds from the sale of the vehicle are paid to the county treasurer as provided in subsection (3) of ORS 87.206, the net proceeds will be deposited with the municipal court to satisfy any unpaid bail and fines for parking offenses involving said vehicle. Any amount remaining thereafter will then be paid by the city to the county treasurer. At the time the net proceeds are deposited with the municipal court, the lien claimant shall also deliver to municipal court the documents required by subsection (2) of ORS 87.206.

Section 6.09.090 Determination of Value of Vehicle.

If no registered owner, actual owner, lessor or security interest holder claims the vehicle and pays the towing, storage and administrative charges, the city shall have the impounded and towed vehicle appraised within a reasonable time by a person authorized by Oregon law to perform such appraisals.

Section 6.09.100 Public Notice of Sale.

If the impounded vehicle is appraised at over five hundred dollars (\$500) and no claim is made by the owner within the time specified herein, or if the vehicle is valued under five hundred dollars (\$500), but the owner cannot be identified after the search specified herein, the city shall cause to be published in a newspaper of general circulation, within the county, a notice of sale. The notice shall state:

- A. The intended sale of abandoned property in the city's possession;

- B. A description of the vehicle, including the type, make, license plate number, ID number and any other information that will aid in accurately identifying the vehicle;
- C. The terms of the sale;
- D. The date, time and place of the sale.

The notice of sale shall be published two (2) times, with the first publication made not less than ten (10) days prior to the date of the proposed sale, and the second shall be made not less than three (3) days prior to the date of the proposed sale.

Section 6.09.110 Sale of impounded vehicle.

If a vehicle taken into custody under this Chapter is not reclaimed within thirty (30) days after it is impounded, the authority that towed the vehicle may either sell the vehicle and its contents at public auction, as either provided for pursuant to this ordinance or under Oregon law, or dispose of the vehicle as provided herein. The contents of any vehicle sold under this Chapter are subject to the same conditions of sale as the vehicle in which they are found.

If an abandoned vehicle is determined to be valued less than five hundred dollars (\$500) by an automobile dealer or other knowledgeable person, the authority that towed and impounded the vehicle shall notify the registered or apparent owner and secured parties as provided in this Chapter, photograph the vehicle, notify the Department of Transportation that the vehicle will be disposed of, and, unless the vehicle is claimed by a person entitled to possession within fifteen (15) days of the date of notice under this Chapter, dispose of the vehicle and its contents to a person who holds a valid dismantler certificate.

Section 6.09.120 Violations: Penalties.

Any violation of this chapter shall constitute a Class B civil infraction as provided in Section 1.12.070.

SECTION 6. SEVERABILITY. Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by unanimous vote on _____ and _____.

DATED this ___ day of _____, 2017.

Gerald F. Stanley, Mayor

ATTESTED TO:

Shannon Beaucaire, City Manager