



## Staff Report

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**File #:** 23-98

**Version:** 1

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**Item #:** 7.1c.

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**TO:** Mayor and City Council

**THROUGH:** Keith Stahley, City Manager

**FROM:** Dan Atchison, City Attorney

### **SUBJECT:**

Amendment to SRC Chapter 102 - Parking.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Safe Community; Safe, Reliable and Efficient Infrastructure; and Welcoming and Livable Community.

### **SUMMARY:**

The proposed code amendments updates SRC Chapter 102 - Parking - to align the code with state law for the disposition of unclaimed vehicles. Changes also will allow the Salem Municipal Court to adopt rules for virtual appearances of person charged with violations of Chapter 102 designated as an infraction.

### **ISSUE:**

Shall the City Council advance Ordinance Bill No. 6-23 to amend SRC Chapter 102 related to parking to second reading?

### **RECOMMENDATION:**

Advance Ordinance Bill No. 6-23 to amend SRC Chapter 102 related to parking to second reading.

### **FACTS AND FINDINGS:**

The City has recently released a Request For Proposals (RFP) for towing services. In preparing the RFP, Staff identified a benefit to utilizing state law for the disposition of vehicles taken into custody by the City. Currently, Salem Revised Code (SRC) Chapter 102, distinguishes how vehicles are

disposed of based on the value of the vehicle and in many instances referring to process in the City's procurement code. This methodology of vehicle disposition was established to give the City the opportunity to obtain vehicles for the City's operational needs, such as for use as police "bait" cars. However, the City rarely obtains vehicles through this process. Instead, a substantial amount of staff time is taken up generating paperwork to consign unclaimed vehicles to our towers to allow them to dispose of the vehicles pursuant to state law to cover their towing and storage fees. The proposed changes to SRC Chapter 102 are designed to align the code with state law for the disposition of unclaimed vehicles.

The towing RFP relies on these proposed code amendments. These amendments must be passed in a timely manner (Second Reading is proposed for the March 27, 2023 Council meeting) in order to avoid further delay in implementing the towing program under the RFP.

The following is a summary of the changes to SRC Chapter 50 and Chapter 102:

Sections 50.265, 102.040(m), 102.150(g), and 102.170:

Changes to these sections were made to update code section references, and update section titles to avoid confusion with similar section titles.

Section 102.010(b):

Section changed to add language making explicit that administrative fees for City requested tows are set by resolution of the Council. It is the City's practice that the administrative fee for City requested tows are included in the City's Master Fee Schedule adopted annually by Council.

Section 102.065(a):

Section changed to add language that Juneteenth Day is a City holiday for which the time limitations and deposit requirements imposed on metered or time limited parking zones do not apply unless specifically designated on the parking control device. Juneteenth Day was adopted as a City holiday by Council in 2022.

Section 102.085:

Section changed to make consistent with the current provisions of ORS 811.635 which allows for a person holding a "Wheelchair User" or "Oregon Wounded Warrior" placard or decal to park in areas reserved by the City for resident parking and which prohibits parking in a "wheelchair User Only" unless displaying a "Wheelchair User" placard or decal.

Section 102.105:

Section changed to address the use of parking permits in circumstances where the providing or use of the permits is not authorized by SRC Chapter 102. Parking Enforcement staff receive complaints of persons using temporary residential parking permits when they are not bona fide guests of the person the permits were issued to, such as using the permits to park for work. SRC Chapter 102 prohibits using altered, forged, or fraudulently obtained permits. The amendments will allow Staff to address the use of parking permits in circumstances where the providing of or use of the permit is not authorized by SRC Chapter 102.

**Section 102.135:**

Section changed to reclassify a violation of SRC 102.110 "Unauthorized Use of Parking Permits" from a crime to an infraction to be consistent with similar offenses, such as SRC 102.045 "Prohibited Parking in Downtown Parking District", which make it an infraction to park at a time or location when it is prohibited. Changes provide for an elevating fine structure for violating SRC 102.110 multiple times within any one-year structure, consistent with the elevating fine structure for violating SRC 102.045.

Changes to the section also adds a violation of SRC 102.067 "Failure to Display Proof of Payment" to the list of infractions, it is currently only listed in the infraction penalty section. Additionally, a reference to ORS Chapter 153, which sets out the fines for traffic violations, is added to the fines section for violations of SRC 102.085 "Parking for Persons with Disabilities; Parking in Violation of Disabled Parking Laws Prohibited" to address amendments to applicable ORS sections which now only designate the offense type but not the fine amount.

**Section 102.145:**

Section changed to allow the Municipal Court Judge the authority to promulgate court rules regarding waiver of personal appearance or appearance for persons cited for violations of Chapter 102 which are designated as an infraction. This will allow the Municipal Court Judge to adopt court rules allowing persons cited with parking infractions to make first appearances to enter their plea via remote means, thereby promoting court efficiency and increased court access.

**Section 102.155:**

Section changed to add specific authority for Enforcement Officers to enforce violations of ORS 819.100, ORS 819.110 and ORS 819.120, related to the towing of abandoned, disabled, and unattended hazardous vehicles. The City's Code Enforcement Division officers, in their capacity as Enforcement Officers under SRC Chapter 102, are often called upon to address these vehicles for violations of city ordinances. Authorizing Enforcement Officers to enforce these ORS provisions will allow Enforcement Officers to continue to address abandoned, disabled, and unattended hazardous vehicles and allow these vehicles to be disposed of pursuant to state law or city ordinance if they are unclaimed.

**Section 102.160:**

Section changed to include displaying a parking permit when the use or display of the permit is not authorized by SRC Chapter 102 as grounds for immobilizing a vehicle. Changes to SRC Chapter 102 include amendment to SRC 102.105 which make it an offense to use a parking permit when the use is not authorized to by SRC Chapter 102. The proposed change to SRC 102.160 will add the changes to SRC 102.105 as grounds for immobilizing a vehicle. This is consistent with current provisions of SRC 102.160 which allow for immobilization of a vehicle for displaying an altered parking permit or a permit obtained under fraudulent conditions.

Changes to this section also include the requirement that the City provide notice at the time of the immobilization of the right to a hearing regarding the immobilization. It is the City's practice to provides this notice at the time of immobilization.

Section 102.200:

Section changed to clarify that liens held by towing service companies for providing services at the request of the City are subject to the applicable provisions of state law.

Section 102.205:

Section changed to incorporate the pre-tow notice of requirements of ORS 819.170. Changes maintain the requirement of a pre-tow notice for violations of SRC 102.040(j), and also incorporate the City's practice of providing a pre-tow notice for violations of SRC 102.040(i) and SRC 50.260 unless the vehicles pose an immediate hazard. Pre-tow notices provide the vehicle owner with information regarding the opportunity for a hearing to challenge the City's taking the vehicle into custody.

Section 102.210:

Section changed to incorporate post-tow notice requirements of ORS 819.215 for abandoned vehicles appraised at \$500 or less. ORS 819.215 allows for the disposal of low value abandoned vehicles to a vehicle dismantler in an expedited manner. The changes to this section are consistent with utilizing state law for the disposition of unclaimed vehicles.

Section 102.215:

Section changed to make hearing provisions consistent with state law, including ORS 819.190, for vehicles taken into custody by the City. Changes also made to incorporate state law restrictions on towing a vehicle where a pre-tow notice is provided and a hearing is requested prior to the vehicle being towed. Changes also clarify how security posted may be dispersed.

Section 102.230:

Section deleted to make the disposition of unclaimed vehicles taken into custody by the City consistent with state law processes.

Section 102.235:

Section changed to make the disposition of unclaimed vehicles taken into custody by the City in accordance with state law process. Changes also removes language for disposition of unclaimed vehicles at \$2,000.00 or less pursuant to a Public Contracting Rules or contract. Changes make the disposition process for unclaimed vehicles taken into custody the City in accordance with state law and reduces Staff resource expenditures to achieve the disposition of unclaimed vehicle.

Section 102.240:

Section changed to make the disposition of unclaimed vehicles taken into custody by the City in accordance with state law process. Changes include the adoption of a disposal method for ordinance for abandoned, disabled, or unattended vehicles which pose a hazard to traffic or public safety, which have been taken into custody by the City and which remain unclaimed for at least 30 days as authorized by ORS 819.210. Amendment will allow the dismantling of unclaimed vehicles that are the least like to be roadworthy.

**BACKGROUND:**

SRC Chapter 102 regulates parking within the City of Salem. The City has recently released a Request For Proposals (RFP) for towing services. Amendments to Chapter 102 are needed to allow the City to dispose of unclaimed vehicles in accordance with state law. The amendments will promote efficiencies in staff resources regarding the disposition of unclaimed vehicles, while maintained protections for vehicle owners to challenge the taking of a vehicle into custody and the reclaiming of the vehicle and its contents.

Marc Weinstein  
Assistant City Attorney

**Attachments:**

1. Ordinance Bill No. 6-23
2. Exhibit A to Ordinance Bill No. 6-23