

## **TITLE 7 - BUSINESS LICENSES**

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# **TITLE 7 - BUSINESS LICENSES**

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**CHAPTER 7.02 - BUSINESS LICENSE LAW**

(Chapter replaced by Ordinance No. 182137,  
effective September 19, 2008.)

**Sections:**

7.02.005	Short Title.
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### **7.02.005 Short Title.**

Chapter 7.02 of the Portland City Code is known as the Business License Law.

### **7.02.010 Fees for Revenue.**

The term “license” as used in the Business License Law does not mean a permit, nor is it regulatory in any manner. It is strictly for revenue purposes.

### **7.02.020 Conformity to State Income Tax Laws.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Business License Law is construed in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income. Any reference in this Chapter to the laws of the State of Oregon means the laws of the State of Oregon imposing taxes on or measured by net income as those laws existed for that particular tax year. The Division has the authority by written policy to connect to and/or disconnect from any legislative enactment that deals with income or excise taxation or the definition of net income. Should a question arise under the Business License Law on which this Chapter is silent, the Division may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under State law is not in conflict with any provision of this Chapter or the State law is otherwise inapplicable.

### **7.02.100 Definitions.**

(Amended by Ordinance Nos. 184597 and 187339, effective October 16, 2015.) The terms used in this Chapter are defined as provided in this section or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

- A. “Division” means the Revenue Division of the City of Portland, Oregon Bureau of Revenue and Financial Services, along with its employees and agents.
- B. “Business tax” means the tax owed by a taxfiler for any particular license tax year.

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- C.** “Business” means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain, or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.
- D.** “Certificate of Compliance” means the document (or license) issued to a taxfiler upon full compliance with the Business License Law for the license tax year in question.
- E.** “Controlling Shareholder” means any person, alone or together with that person’s spouse, parents, and/or children, who, directly or indirectly, owns more than five (5) percent of any class of outstanding stock or securities of the taxfiler. The term “controlling shareholder” may mean the controlling shareholder individually or in the aggregate.
- F.** “Day” means a calendar day unless otherwise noted.
- G.** “Director” means the Director of the Revenue Division or his or her designee.
- H.** “Doing Business” means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.
- I.** “Employee” means any individual who performs services for another individual or organization and whose compensation is reported by an IRS Form W-2.
- J.** “In Compliance” means that:
  - 1.** a non-exempt business has filed and paid the current year’s required business tax; or
  - 2.** a non-exempt business has filed and paid the previous year’s required business tax and has met the current year filing requirements; or
  - 3.** an exempt business has filed the required income verification; or
  - 4.** a new business has filed a completed registration form and is otherwise in compliance with all provisions of the Business License Law.
- K.** “Income” means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

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- L.** “Individual” means a natural person, including natural persons who report their income to the State of Oregon in a joint personal state income tax return. In such case, the term “individual” shall refer to the joint taxfiler.
- M.** “License Tax Year” means the taxable year of a person for federal or state income tax purposes.
- N.** “Net Operating Loss” means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.
- O.** “Non-business Income” means income not created in the course of the taxfiler’s business activities.
- P.** “Notice” means a written document mailed first class by the Division to the last known address of a taxfiler as provided to the Division in the latest registration form or tax return on file with the Division.
- Q.** “Ownership of Outstanding Stock or Securities” means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.
- R.** “Person” includes, but is not limited to, an individual, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
- S.** “Received” means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.
- T.** “Registration Form” means the initial form that establishes a taxfiler’s account with the Division.
- U.** “Tax return” means any tax return filed by or due from the taxfiler, including an annual exemption request form.
- V.** “Tax Year” means the taxable year of a person for Federal and/or State income tax purposes.
- W.** “Taxfiler” means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

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#### **7.02.110 Income Defined.**

(Amended by Ordinance Nos. 183727 and Ordinance No. 187339, effective October 16, 2015.)

- A.** Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business license tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.
- B.** If one or more persons are required or elect to report their income to the State of Oregon for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single license certificate will be issued to the person filing such return. In such cases, “income” means the net income of the consolidated, combined or joint group of tax filers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.
- C.** The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Division to determine the correct income of the taxfiler through examination under Section 7.02.260.

#### **7.02.200 Administration.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** The Division is responsible for administering the Business License Law. Authority granted to the Director may be delegated, in writing, to another employee within the Bureau.
- B.** The Division may, upon request, interpret how the Business License Law applies, in general or for a certain set of circumstances.
- C.** Nothing in this Chapter precludes the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.

#### **7.02.210 Administrative Authority.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

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- A.** The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.
- B.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.
- C.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- D.** At the public hearing, the Director or designee will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Division's office. Copies of all current rules will be made available to the public upon request.
- E.** Notwithstanding Subsections C. and D. of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

**7.02.220 Presumption of Doing Business.**

(Amended by Ordinance No. 184597, effective June 17, 2011.) A person is presumed to be doing business in the City and subject to this Chapter if engaged in any of the following activities:

- A.** Advertising or otherwise professing to be doing business within the City; or
- B.** Delivering goods or providing services to customers within the City; or
- C.** Owning, leasing, or renting personal or real property within the City; or
- D.** Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this Chapter. Property may be personal, including intangible or real in nature; or

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- E.** Engaging in any activity in pursuit of gain which is not otherwise exempted in this Chapter.

#### **7.02.230 Confidentiality.**

(Amended by Ordinance Nos. 185312 and 187339, effective October 16, 2015.) It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Section 7.02.240 A. and C., to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Business License Law, unless otherwise required by law. Additionally, it is unlawful to divulge, release or make known in any manner identifying information about any taxpayer applying for tax amnesty, including, but not limited to, the name and address of the taxpayer, unless otherwise required by law. Except as noted above, this Section does not prohibit:

- A.** The disclosure of the names and addresses of any persons that have a Division account;
- B.** The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- C.** The filing of any legal action by or on behalf of the Division to obtain payment on unpaid accounts; or
- D.** The assignment to an outside collection agency of any unpaid account balance receivable, provided that the Division notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the Division.

#### **7.02.240 Persons to Whom Information May be Furnished.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** The Division may disclose and give access to information described in Section 7.02.230 to an authorized representative of the Department of Revenue, State of Oregon, or any local government of the State of Oregon imposing taxes upon or measured by gross receipts or net income, for the following purposes:
  - 1.** To inspect the license registration or tax return of any taxfiler;
  - 2.** To obtain an abstract or copy of the license registration or tax return;
  - 3.** To obtain information concerning any item contained in any registration or tax return; or
  - 4.** To obtain information of any financial audit of any tax returns of any taxfiler.

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Such disclosure and access will be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business License Law.

- B.** Upon request of a taxfiler, or authorized representative, the Division will provide copies of the taxfiler's registration and/or tax returns filed with the Division for any license tax year.
- C.** The Division may also disclose and give access to information described in Section 7.02.230 to:
  - 1.** The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Division deems disclosure or access necessary for the performance of the duties of advising or representing the Division, including but not limited to instituting legal actions on unpaid accounts.
  - 2.** Other employees, agents and officials of the City, to the extent the Division deems disclosure or access necessary for such employees, agents or officials to
    - a.** aid in any legal collection effort on unpaid accounts,
    - b.** perform their duties under contracts or agreements between the Division and any other department, bureau, agency or subdivision of the City relating to the administration of the Business License Law, or
    - c.** aid in determining whether a Division account is in compliance with all City, State and Federal laws or policies.
- D.** Officials, employees and agents of the Division or City, prior to the performance of duties involving access to financial information submitted to the Division under the terms of the Business License Law, must be advised in writing of the provision of Section 7.02.730 relating to penalties for the violation of Sections 7.02.230 and 7.02.255. Such employees, agents and officials must execute a certificate in a form prescribed by the Division, stating that the person has reviewed these provisions of law and is aware of the penalties for the violation of Sections 7.02.230 and 7.02.255.
- E.** Prior to any disclosures permitted by this Section, all persons described in Subsection A. above, to whom disclosure or access to financial information is given, must:

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1. Be advised in writing of the provisions of Section 7.02.730 relating to penalties for the violation of Section 7.02.230; and
2. Execute a certificate, in a form prescribed by the Division, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of Section 7.02.230.

#### **7.02.250 Taxfiler Representation.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) No person will be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the Division determines from other available information the person has authority to represent the taxfiler.

#### **7.02.255 Representation Restrictions.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A. No employee or official of the City may represent any taxfiler in any matter before the Division. The restriction against taxfiler representation continues for two years after termination of employment or official status.
- B. Members of the Appeals Board, as described in Section 7.02.295 of the Business License Law can not represent a taxfiler before the Appeals Board. No member of the Appeals Board can participate in any matter before the Board if the appellant is a client of the member or the member's firm.

#### **7.02.260 Information Request; Examination of Books, Records or Persons.**

(Amended by Ordinance Nos. 183727 and 187339, effective October 16, 2015.)

- A. The Division may request information or examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license registration or tax return, or to make an estimate of any business tax. The Division has the authority, after notice, to:
  1. Require the attendance of any person subject to the requirements of the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Division may designate;
  2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
  3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.

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4. Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.
- B. The Director will designate the employees that have the power to administer oaths hereunder. Such employees must be notaries public of the State of Oregon.
- C. The Division may require contact information, including but not limited to, business phone numbers and business email addresses for all officers and/or owners of businesses doing business in the City of Portland. This information may be used by the City for any lawful purpose.

**7.02.270 Records.**

Every person subject to the requirements of this Chapter must keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the taxfiler's registration form and/or tax returns, and the calculation of tax for such license tax year.

**7.02.280 Deficiencies and Refunds.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A. Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, ORS 314.415, and ORS 317.950. The Division may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.
- B. Consistent with ORS 314.410 (4), in cases where no tax return has been filed, there is no time limit for a notice of deficiency and/or the assessment of taxes, penalty, and interest due.
- C. Notwithstanding Subsections A. and B., the Division is not required to accept any tax return from a taxfiler if:
  1. The Division obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and
  2. The Division or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
  3. The tax return is for a taxable year that is the subject of the money judgment; and
  4. The Division gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Division (or its designee) filed a lawsuit for those particular tax years.

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#### **7.02.290 Protests and Appeals.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** Any determination by the Division may be protested by the taxfiler. Written notice of the protest must be received by the Division within 30 days after the Division mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Division must respond within 30 days after the protest is filed with either a revised determination or a final determination. The Division's determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Division's response may be extended by the Division for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the Division's deadline is extended.
- B.** Any final determination by the Division may be appealed by the taxfiler to the Business License Appeals Board (the "Appeals Board"). Written notice of the appeal must be received by the Division within 30 days after the Division mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler ("appellant") and include a copy of the final determination.
- C.** Within 90 days after the Division mails or delivers the final determination to the appellant, the appellant must file with the Appeals Board a written statement containing:

  - 1.** The reasons the Division's determination is incorrect, and
  - 2.** What the correct determination should be.

Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.
- D.** Within 150 days after the Division mails or delivers the final determination to the appellant, the Division must file with the Appeals Board a written response to the appellant's statement. A copy of the Division's response must be mailed to the address provided by the appellant within 10 days.
- E.** The Division must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Division may present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.

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- F.** Decisions of the Appeals Board must be in writing, state the basis for the decision and be signed by the Appeals Board Chair.
- G.** The decision of the Appeals Board is final as of the issue date and no further administrative appeal will be provided.
- H.** The filing of an appeal with the Appeals Board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the Appeals Board.
- I.** Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 7.02.290 A. through 7.02.290 H.. The taxfiler must file a written request with the Division detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Division must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 7.02.700 G., the Division may waive or reduce penalties in certain situations. If the taxpayer has requested that penalties be waived and the Division denies the taxpayer's request for this discretionary waiver of penalties, the taxpayer may request a conference with the Director (or designee) within 30 days of the date of the Division's notice of denial. If the conference with the Director results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Business License Appeals Board.

**7.02.295 Business License Appeals Board.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Business License Appeals Board (the "Appeals Board") hears appeals and consists of the following members:

- A.** A member of the public appointed by the City Auditor for a two year term that expires every even year.
- B.** A member of the public appointed by the elected official in Charge of the Division, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.
- C.** Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.
- D.** Appointments to the Business License Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.

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- E.** No employee or agent of the City may be appointed to or serve on the Business License Appeals Board.

#### **7.02.300 Certificates of Compliance.**

(Amended by Ordinance Nos. 183727 and 187339, effective October 16, 2015.)

- A.** Within 60 days of beginning business, the taxfiler must complete a registration form. The Division may issue or otherwise provide access to either an electronic or printed “Certificate of Compliance” upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year’s tax filing the Division may issue or otherwise provide access to either an electronic or printed Certificate of Compliance indicating that the taxfiler is in compliance with the City’s Business License Tax Law as of a particular date.
- B.** The City’s issuance of a “Certificate of Compliance” does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.
- C.** A taxfiler is deemed to be doing business within the City within any fiscal year he or she receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

#### **7.02.310 Duplicate Certificates of Compliance.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) Upon request by the taxfiler a duplicate Certificate of Compliance may be issued to replace any Certificate previously issued that has been lost or destroyed. Duplicate Certificates will be issued in accordance with the Division’s written policy.

#### **7.02.330 Account Merger or Division.**

When two or more taxfilers combine by merger or acquisition into one reporting entity, or one taxfiler divides or spins off into more than one reporting entity, the business tax for the license tax year after the combination or division will be computed upon the incomes earned by all entities for all tax periods required to be reported under state and federal tax laws and regulations.

#### **7.02.350 License Tax Year Term.**

Each license tax year begins on the first day of the month in which a taxfiler became subject to the requirements of this Chapter. Each license tax year expires at the end of the applicable tax period on the basis of which the taxfiler computes net income under the applicable laws of the State of Oregon imposing taxes on or measured by net income, not to exceed one year.

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**7.02.400 Exemptions.**

(Amended by Ordinance Nos. 183727, 185394 and 187339, effective October 16, 2015.)  
The Division may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007).
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** The following incomes of an individual:
  - 1.** Income from sales, exchanges or involuntary conversions of a primary residence;
  - 2.** Income from the sale of personal property acquired for household or other personal use by the seller;
  - 3.** Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;
  - 4.** Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- G.** Any person whose only business transactions are exclusively limited to the following activities:

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1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
  2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- H.** Gross revenues subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, gross revenue which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

#### **7.02.500 Tax Rate.**

(Amended by Ordinance No. 187743, effective June 10, 2016.)

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, except as provided in Subsections B, C. and D. of this Section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.
1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
  2. For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.
  3. For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.
- C.** Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above.

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The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.

1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
4. If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.

**D.** Heavy Vehicle Use Tax applicable to Tax Years 2016 through 2019. The following tax is imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of this tax are dedicated to supplementing the funding of City of Portland street maintenance and safety and shall be deposited in a Street Repair and Traffic Safety Program of the Transportation Operating Fund where street repair and traffic safety expenditures are recorded.

1. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018 and January 1, 2019, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more Heavy Vehicles on streets owned or maintained by the City of Portland. For purposes of this tax, a Heavy Vehicle is any vehicle that is subject to the Oregon Weight-Mile Tax pursuant to ORS 825.450 et seq. This tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year.
2. The minimum Heavy Vehicle Use Tax due for a tax year is \$100. The minimum tax would be in addition to the \$100 minimum tax described in Section 7.02.545, if applicable.

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3. No penalties or interest for failure to make quarterly estimated payments in the amount of the Heavy Vehicle Use Tax will be charged or imposed for the 2016 tax year only. Thereafter, penalties and interest will be calculated as provided for in the Code.
4. If the Heavy Vehicle Use Tax raises more or less than \$2.5 million plus City costs in the first or second tax year of the tax, the City will adjust the Heavy Vehicle Use Tax rate for subsequent tax years of the tax to reach the four year target of \$10 million plus City costs. The Revenue Division of the Bureau of Revenue and Financial services is authorized to adopt an administrative rule to implement this change, if needed.

#### **7.02.510 Registration Form and Tax Return Due Dates.**

(Amended by Ordinance Nos. 183727 and 187339, effective October 16, 2015.)

- A. All persons subject to the requirements of this Chapter must register with the Division on a form provided or approved by the Division. Thereafter, taxfilers must file tax returns with the Division. The following timing requirements apply:
  1. Registration forms must be filed within 60 days of the person beginning business in the City.
  2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Division must conform to the due date under Oregon tax law.
- B. The Division may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.
- C. Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- D. The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

#### **7.02.520 Quarterly Estimates.**

Every taxfiler expecting to have a tax liability under Section 7.02.500 of \$1,000 or greater must make an estimate of the tax based upon the taxfiler's current tax year and pay the amount of tax determined as provided in Section 7.02.530.

**7.02.530      Schedule for Payment of Estimated Tax.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) A taxfiler required under Section 7.02.520 to make payments of estimated business taxes must make the payments in installments as follows:

- A.**     One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and
- B.**     One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and
- C.**     One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and
- D.**     The balance of the estimated tax must be paid on or before the 15th day of the twelfth (12th) month of the tax year.
- E.**     Any payment of the estimated tax received by the Division for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated taxes due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

**7.02.545      Tax Returns.**

Except as provided in Section 7.02.540, each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

**7.02.550      Presumptive Tax.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.**     If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B.**     Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than \$500 per license tax year.
- C.**     Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.

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- D.** Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Division will send notice of the determination and assessment to the taxfiler.

#### **7.02.560 Payment Plan Fee.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) If a person fails to pay the business tax when due, the Division may establish a payment plan and charge a set up fee pursuant to written policy.

#### **7.02.600 Income Determinations.**

(Amended by Ordinance Nos. 183727, 185781, 186331 and 187339, effective October 16, 2015.)

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Division determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Division’s discretion.

- 1.** For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the Owners Compensation Deduction will be indexed as described above.
- 2.** For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.
- 3.** For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.

- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.

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- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
  2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.
- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.
1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
  2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.
  3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.

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- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.
  2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
  3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
  4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.

5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

**7.02.610 Apportionment of Income.**

(Amended by Ordinance Nos. 182427, 184597 and 187339, effective October 16, 2015.)

- A. “Jurisdiction to tax” occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer’s business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.
- B. “Business activity” means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.
- C. In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler’s business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- D. In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:
  1. Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
  2. Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.

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- E.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Division regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection will be a single factor gross income apportionment as directed under Subsections 7.02.610 C. and 7.02.610 D. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- F.** If the apportionment provisions of Subsection C. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Division to permit the taxfiler to:

  - 1.** Utilize the method of apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or
  - 2.** Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

#### **7.02.620 Changes to Federal and/or State Tax Returns.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Division within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B.** The Division may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C.** The Division may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of

business taxes as a result of the amended tax return if the amended tax return is not filed with the Division within the time limits set forth in Subsection A.

**7.02.630      Income Long Term Construction Contract Methods.**

- A.**     A taxfiler reporting income using a long term construction contract method must file an additional tax return for the taxfiler's income earned during the last license tax year, not later than the 15th day of the fourth (4th) month following the end of the prior license tax year during which either:
  - 1.**     The taxfiler ceases to do business in the City; or
  - 2.**     The taxfiler ceases to receive income from such long term construction contracts.
- B.**     Net income for such taxfiler must include apportioned income arising from all contracts completed during such license tax year.

**7.02.700      Penalties.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.**     A penalty will be assessed if a person:
  - 1.**     Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
  - 2.**     Fails to pay the tax when due.
  - 3.**     The penalty under Subsection A. is:
    - a.**     Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
    - b.**     An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
    - c.**     An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.**     A penalty will be assessed if a person who has filed an extension request:
  - 1.**     Fails to file a tax return by the extended due date; or
  - 2.**     Fails to pay the tax liability by the extended due date.

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3. The penalty under Subsection B. is:
    - a. Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
    - b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C. A penalty will be assessed if a person:
  1. Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
  2. Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
  3. The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.
- D. A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.
- E. The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
  1. Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
  2. Failure to pay any tax within 60 days of the Division's original written notice for payment; or
  3. Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Division's original written notice to provide the documents or information; or
  4. Failure to fully complete any form required under this Chapter.
- F. The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Division gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G. The Division may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

**7.02.710 Interest.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- C.** Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:

  - 1.** The total tax liability of the prior license tax year was less than \$1,000; or
  - 2.** An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or
  - 3.** An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.
- D.** For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Division by the due date of the fourth quarterly payment, the Division may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E.** For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.
- F.** Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G.** Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Division, unless specifically provided for by written policy.

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#### **7.02.715      Payments Applied.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) Business taxes received will be applied first to any penalty accrued, then to interest accrued, then to business taxes due, unless the Division determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

#### **7.02.720      Interest on Refunds.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) When, under a provision of the Business License Law, taxfilers are entitled to a refund of a portion of the business tax paid to the Division, they will receive simple interest on such amount at the rate specified in Subsection 7.02.710 A., subject to the following:

- A. Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:
  - 1. the original due date of the tax return, or
  - 2. the date the tax return was filed or the refund was otherwise requested, or
  - 3. the date the business tax was paid to the date of the refund; and
- B. Any overpayments of taxes that are the result of an amended tax return being filed will be refunded with interest for each month or fraction thereof for the period beginning four (4) months after the date the taxfiler filed the amended tax return. This Subsection applies to tax returns that are amended due to a change to the federal, state, city or county tax return.

#### **7.02.730      Criminal Penalties for Violation of the Business License Law by City Employee or Agent.**

Anyone knowingly violating Section 7.02.230 may be punished, upon conviction thereof, by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding six (6) months, or by both fine and imprisonment. Any City employee that is convicted will be dismissed from employment and is ineligible for holding any position of employment or office in the City for a period of five (5) years thereafter. Any agent of the City that is convicted is ineligible for participation in any City contract for a period of five (5) years thereafter.

#### **7.02.800      Refundable Credit.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) For tax years beginning on or after January 1, 2005, a maximum of four (4) refundable credits of \$500 each are allowed for qualifying businesses that employ disconnected youth. For the purpose of this credit, the terms used in this section are defined below or as defined in written policies adopted under Section 7.02.210 unless the context requires otherwise.

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- A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
  2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
  3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.
- B. “Disconnected Youth”** means a youth that is
1. a resident of the City of Portland,
  2. is 16-24 years old on the date on which the youth begins working with the local business,
  3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
  4. one or more of the following apply:
    - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
    - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
    - c. is a custodial parent; or
    - d. is a high school drop-out; or
    - e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.

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- D.** “**Credit Certificate**” means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E.** “**Youth Certifying Agency**” means an agency that has entered into an agreement or other memorandum of understanding with the Division to act as the Youth Certifying Agency for the purpose of this program.
- F.** “**2005 Tax Year**” means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G.** “**2006 Tax Year**” means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H.** “**Non-exempt**” means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

#### **7.02.810 Credits Issued.**

- A.** For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.
- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.
- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.

- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

**7.02.820 Obligations of Participating Businesses.**

To be eligible to receive a refundable credit and participate in the program, a local business must do each of the following:

- A.** Submit an application to the youth certifying agency that includes an intent to employ an eligible disconnected youth for an average of 25 hours per week and a minimum of 300 hours within four months.
- B.** Contact one or more qualified youth employment organizations for assistance in identifying youth, enrolling a specific youth in one of the qualified youth employment programs in order to pursue eligibility of the youth in the program, and/or seek assistance working with a youth to increase his/her opportunity for employment success.
- C.** Complete employee evaluations or conduct reviews of employees that fall under this program;
- D.** Report employment data for each youth to the participating qualified youth employment organization or the youth certifying agency.

**7.02.830 Collection and Remittance of Donations to “Work for Art,” a Program of the Regional Arts & Culture Council.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Revenue Division is authorized to collect and remit donations from taxfilers to “Work for Art,” a program of the Regional Arts & Culture Council.

- A.** Taxfilers may donate to “Work for Art” by either
  - 1.** paying a sum above what is owed for their City business taxes, or
  - 2.** by designating that all or some of any refund due to them be instead donated to “Work for Art.”
- B.** To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.

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- C.** Once the tax return is filed with the Division, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Division.

#### **7.02.840 Frivolous Filing.**

A \$500.00 penalty will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5) are hereby adopted by direct reference.

#### **7.02.850 Hacking.**

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** Any individual who intentionally accesses the Bureau's computer database without authorization will be fined:
  - 1.** \$500 if the individual acquires any information regarding any business account found in the database;
  - 2.** \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
  - 3.** \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Division's computer database, and, as a result of such conduct, causes damage to the database.
- B.** Definitions. As used in this Section:
  - 1.** the term "Division's computer database" means computer application(s) used by the Division to calculate and store business and financial data collected under the authority granted by the Business License Law;
  - 2.** the term "loss" means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;
  - 3.** the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

**7.02.860 First Year Adjustment Credit.**

(Amended by Ordinance Nos. 182427 and 187339, effective October 16, 2015.)

- A. Any taxfiler that was assessed a “First Year Adjustment” fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.
- B. If the amount of the credit cannot be determined from Division records, a rebuttable presumption exists that the credit amount is equal to the amount of the minimum fee payment due for the tax year in which the City assessed the “First Year Adjustment” fee. A taxfiler may present evidence to the Division showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.
- C. Once the credit amount is determined, the Division will apply 100 percent of that amount towards tax payments due and owing for the 2008 license tax year. If that credit amount exceeds the tax amount due for the 2008 license tax year, the City will issue a refund for the difference or credit the overpayment forward to the next tax year if requested by the taxpayer.

**7.02.870 Business Retention Credit for Qualifying Investment Management Firms.**

(Added by Ordinance No. 183330, effective December 12, 2009.)

- A. An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of
  - 1. \$6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or
  - 2. 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not be carried forward to a succeeding tax year, except as provided in Subsection B.
- B. For purposes of this credit, the “first tax year” would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either
  - 1. The Investment Management Firm was not doing business in the City of Portland in the prior tax year or
  - 2. The prior tax year began prior to January 1, 2009.

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- a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
  - b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
  - c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
  - d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.
- C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:
  1. At least 90 percent of the firm’s gross income for the tax year must consist of fees that are
    - a. Received from Diversified Investing Fund or from persons unrelated to the firm, and
    - b. Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
  2. At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.

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- 3. A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner's Compensation Deduction in Section 7.02.600.
- 4. The firm was physically located within the City of Portland boundaries at the end of the tax year.
- D. The terms "Diversified Investing Fund" and "Qualified Investment Securities" have the meanings as defined by Administrative Rule.
- E. This credit is available for tax years beginning on or after January 1, 2009.

**7.02.880 Youth Employment Credit Programs.**

(Added by Ordinance No. 184716; amended by Ordinance No. 187339, effective October 16, 2015.)

- A. For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires otherwise.
  - 1. **"Local Business"** means a business operating in the pursuit of profit, gain or the production of income that:
    - a. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
    - b. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
    - c. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland 's Business License Law and the Multnomah County's Business Income Tax Law.
  - 2. **"Non-exempt"** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.
  - 3. **"Tax Year"** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.

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4. **“Youth Certifying Agency”** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.
- B. Credits issued under a Youth Employment Credit program will have the following features:
  1. Credits will be non-refundable;
  2. There will be a maximum number of credits per tax year per program;
  3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;
  4. No individual credit will exceed \$500; and
  5. Credit certificates or letters will be provided by the Revenue Division to be attached to the tax return claiming the credit(s).
- C. Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

#### **7.02.881 Foster Youth Employment Opportunity Credit.**

(Added by Ordinance No. 184716; amended by Ordinance No. 187339, effective October 16, 2015.)

- A. A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).
- B. For each tax year, 25 non-refundable \$500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.
- C. To qualify for the credit, a business must:
  1. Employ a certified foster youth.

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- a. If the foster youth is enrolled in an educational program, the youth must average 12 hours per week and must have worked at least 200 hours in a six month period; or
  - b. If the foster youth is not enrolled in an educational program, the youth must average 25 hours per week and must have worked at least 400 hours in a six month period.
- 2. Submit the following documentation no later than one month following the close of the tax year in which the credit is to be claimed. The documentation can be submitted at any time once the youth has worked sufficient hours to qualify for the credit.
  - a. A copy of the youth's DHS certification;
  - b. Sufficient summary payroll records that supports the average hours per week and total minimum hours required; and
  - c. Sufficient documentation of the school or other educational program where the youth was enrolled if claiming the credit based on Subsection 1.a. above.
- 3. The Revenue Division will issue either a credit certificate or credit letter authorizing the maximum credit(s) for the tax year.

**7.02.882 Youth Career Readiness Credit.**

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A. A Youth Employment Credit, known as the Youth Career Readiness Credit, is available for tax years 2011 and 2012 as a pilot program with the goal to increase the number of students who graduate from high school "career-ready" by expanding the number of meaningful career-related learning experiences between the private sector and schools.
- B. For purposes of the Youth Career Readiness Credit:
  - 1. **"Career-Readiness"** involves three major skill areas: core academic skills and the ability to apply those skills to concrete situations in order to function in the workplace and in routine daily activities; employability skills (such as critical thinking and responsibility) that are essential in any career area; and technical, job-specific skills related to a specific career pathway. These skills have been emphasized across numerous pieces of research and allow students to enter true career pathways that offer family-sustaining wages and opportunities for advancement.

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2. **“Career-Related Learning Experiences”** (CRLEs) are structured student activities in the community, the workplace or in the school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning and also help students to clarify career goals and usually take form as “Career Awareness Activities”, “Career Exploration Activities” and “Career Preparation Activities”.
  3. **“Career Awareness Activities”** include workplace tours and field trips, career and job fairs and guest speakers.
  4. **“Career Exploration Activities”** include job shadowing, informational and mock interviews, career mentoring and enterprise and community-based projects.
  5. **“Career Preparation Activities”** include work experience, internships and apprenticeships.
  6. **“CRLE Certifying Agency”** means the partner agency that has entered into an agreement or other memorandum of understanding with the City to act as the certifying agency for CRLE programs and will issue the credit certificate to each qualifying business program.
- C. For each tax year, 75 non-refundable \$500 credits are available on a first-come, first-served basis, to Local Businesses that provide substantial career-readiness activities to high school students. An individual business can claim credits for each separate career readiness activity, up to a maximum of four (4) credits. However, no more than two (2) credits can be claimed for Career Awareness Activities.
- D. To qualify for the credit, a business must:
1. Provide a Career Awareness, Career Exploration or Career Preparation activities program with direct costs of more than \$2,500 or in-kind value of more than \$5,000.
  2. The CRLE program being provided by the business must be certified by the CRLE Certifying Agency.
  3. Complete the certified program as agreed to obtain the credit certificate from the CRLE Certifying Agency.

**CHAPTER 7.03 - TEMPORARY BUSINESSES**

(Chapter added by Ordinance No. 182137, effective  
September 19, 2008.)

**Sections:**

- 7.03.010 Temporary Businesses Exempt from Business License Law.
- 7.03.020 Fees for Revenue.
- 7.03.030 Temporary Businesses Defined.
- 7.03.040 License Required; Fees.

**7.03.010 Temporary Businesses Exempt from Business License Law.**

- A.** Persons doing business as defined in Section 7.03.030 are considered “temporary businesses” and are not subject to the provisions of the Business License Law, Chapter 7.02, but are subject to the provisions of this Chapter. This Chapter does not apply to a business that is currently licensed under the provisions of Chapter 7.02.
- B.** The term “person” includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

**7.03.020 Fees for Revenue.**

The term “license” as used in this Chapter does not mean a permit, nor is it regulatory in any manner. The fees prescribed under this Chapter are for revenue purposes only.

**7.03.030 Temporary Businesses Defined.**

The following persons, as defined, are considered “temporary businesses” subject to the requirements of this Chapter:

- A.** “Amusement Ride Operator” means an operator of amusement rides not in the same location for more than 14 days.
- B.** “Temporary Structure Vendor” means a vendor not located in a permanent structure for more than 14 days.
- C.** “Promoter” means a promoter of commercial entertainment doing business in the City of Portland for no more than three (3) days in any calendar year.
- D.** “Production Company” means a production company filming in the City of Portland for no more than three (3) days in any calendar year.

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- E.** “Seasonal Vendor” means a vendor operating in a temporary location and conducting limited, seasonal sales (including, but not limited to, Christmas trees and fireworks).
- F.** “Special Events Vendor” means a vendor operating in a temporary location and selling special event-related merchandise (including, but not limited to, sporting events).

#### **7.03.040 License Required; Fees.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) Temporary businesses must apply for and obtain temporary business license certificates from the Revenue Division of the City of Portland Bureau of Revenue and Financial Services. Temporary business license fees must be paid as provided below:

- A.** Temporary Structure Vendors and Special Events Vendors must pay \$10 per day per vendor, not to exceed \$100 per location.
- B.** Amusement Ride Operators must pay \$10 per day per vendor and \$10 per day for each ride operated.
- C.** Promoters and Production Companies must pay \$25 per day.
- D.** Seasonal Sales Vendors must pay \$10 per day for each location, not to exceed \$100 per location.

**CHAPTER 7.04 - ADMINISTRATION**

(Chapter repealed by Ordinance No. 166676,  
effective June 24, 1993.)

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**CHAPTER 7.06 - LICENSE REQUIREMENTS  
& APPLICATIONS**

(Chapter repealed by Ordinance No. 166676,  
effective June 24, 1993.)

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**CHAPTER 7.08 - LICENSE FEES**

(Chapter repealed by Ordinance No. 166676,  
effective June 24, 1993.)

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**CHAPTER 7.10 - VIOLATIONS**

(Chapter repealed by Ordinance No. 166676,  
effective June 24, 1993.)

**CHAPTER 7.12 - FRANCHISES AND  
UTILITY PRIVILEGE TAX LAW**

(Chapter replaced by Ordinance No. 186827,  
effective October 31, 2013)

**Sections:**

- 7.12.010 Definitions.
- 7.12.020 Record of Franchises.
- 7.12.030 Authority to Inspect Franchisee Records and Require Reports.
- 7.12.040 Contents of Franchise.
- 7.12.050 Short Title and Administration.
- 7.12.060 Payment of Privilege Tax Required.
- 7.12.070 Privilege Tax Applicable to Other Cases.
- 7.12.080 Report of Earnings.
- 7.12.090 Time Payment of the Privilege Tax.
- 7.12.100 No Waiver or Estoppel.
- 7.12.110 Credits Allowable.
- 7.12.120 Interest and Penalty Applicable.

**7.12.010 Definitions.**

As used in this Chapter 7.12, the following terms are defined as provided in this Section:

- A. “Bureau”** means the Bureau of Revenue and Financial Services of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B. “Director”** means the Bureau Director, as defined in Subsection 3.15.060 A., or the Director’s designee.

**7.12.020 Record of Franchises.**

- A.** Except as otherwise required by the City Charter, the Bureau shall keep a separate record of each franchise granted by the Council, including:
  - 1.** Compliance of franchisees with applicable franchise provisions;
  - 2.** Franchise fee payments made to the City by franchisees; and
  - 3.** Any franchise records and statements required by the City Charter.
- B.** Records and data required under the City Charter, including such information that the Bureau may require the franchisee to furnish to the City. Franchisees shall provide such records and information upon the Bureau’s request, at the franchisees’ own cost and expense.

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#### **7.12.030 Authority to Inspect Franchisee Records and Require Reports.**

- A.** The Bureau shall have the right to inspect franchisee records during normal business hours upon reasonable notice, to determine compliance with obligations under applicable franchise provisions, including relevant financial franchise obligations.
- B.** The Bureau shall have the right to require, in writing and upon reasonable notice, reports and information as appropriate to determine whether franchisees are in compliance with their franchises. Franchisees shall cooperate with the Bureau and shall provide such information and documents as necessary for the City to evaluate compliance. The Bureau may specify the form and details of all franchise reports required under applicable franchise provisions.
- C.** In case any franchisee fails to provide access to records, or refuses to furnish information required under this Section when required so to do, on behalf of the City and if so directed by the City Council, the City Attorney may petition the Circuit Court of the State of Oregon for Multnomah County to compel such franchisee to furnish the information and to pay the City's costs of the court proceedings.
- D.** For purposes of this Section 7.12.030, "record" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, summaries or accounts of personal conversations or interviews, reports, notebooks, sketches, summaries or accounts of meetings or conferences, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, photographs and any other writings or recordings of every kind and description, including magnetic media, and all sound recordings, to the extent related to the enforcement or administration of a franchise.

#### **7.12.040 Contents of Franchise.**

Each franchise granted by the City shall provide that the legal name and title of the franchisee, including where applicable the names of any members of a co-partnership or association to which any franchise may be granted, shall be kept on file in the Bureau and shall be open to public inspection. Each franchise shall also contain provisions setting forth and requiring that:

- A.** Each franchise granted by the City is subject to the Charter of the City of Portland and general ordinance provisions passed pursuant thereto, affecting matters of general City concern and not materially in conflict with the franchisee's existing contractual rights, then in effect or thereafter made effective.

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- B.** Each franchise granted by the City shall incorporate by reference Sections 10-201 through 10-218, inclusive, of the Charter of the City of Portland (1942 compilation, as revised in part by subsequent amendments), and made a part of such franchise.
- C.** Nothing in any franchise granted by the City shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits, fees to be paid or the manner of construction.
- D.** Franchisees shall comply with all applicable City ordinances, resolutions, rules and regulations adopted or established pursuant to the City's lawful authority.
- E.** Unless specifically otherwise declared by the City Council, nothing in any franchise granted by the City shall be deemed a waiver by the City of the rights of the City under applicable law.

**7.12.050 Short Title and Administration.**

- A.** Purpose. Section 7.12.050 through Section 7.12.120 shall be known as the Utility Privilege Tax Law. The authority to impose utility privilege taxes is granted to the City by Oregon statutes and is exercised to the fullest extent of the state laws. The revenues generated by the Utility Privilege Tax Law are for general revenue purposes and are not regulatory.
- B.** Administration.
  - 1.** The Utility Privilege Tax Law shall be administered by the Director. The Director may adopt procedures, forms, and written policies for administering the Utility Privilege Tax Law.
  - 2.** Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.
  - 3.** The Director may, upon request, issue written interpretations of how the Utility Privilege Tax Law applies in general or to specific circumstances.
  - 4.** Nothing in the Utility Privilege Tax Law precludes the informal disposition of controversy by the Director in writing, whether by stipulation or agreed settlement.
  - 5.** The Director may implement procedures, forms, and written policies for administering the provisions of the Utility Privilege Tax Law.
  - 6.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Utility Privilege Tax Law.

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- a.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify utilities and telecommunications utilities. Such notice, which may be provided by mail or electronic means, must be distributed to utilities and telecommunications utilities not less than 10 nor more than 30 days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- b.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be posted on the Bureau's website and made available to the public upon request.
- c.** Notwithstanding Subsections a. and b., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

#### **7.12.060 Payment of Privilege Tax Required.**

- A. Definitions.** As used in the Utility Privilege Tax, the following terms are defined as provided in this Section:

  - 1. "Gross Revenue"** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, or for the furnishing or sale of communications or associated services, and for use, rental, or lease of operating facilities of the utility engaged in such business. "Gross Revenues" shall not include earnings from interstate business, or earnings from the business of the United States government.

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2. **“Telecommunications Utility”** has the meaning provided in ORS 759.005(9) (2011).
  3. **“Utility”** means any electric cooperative, people’s utility district, privately-owned public utility or heating company.
- B.** Any telecommunications utility using or occupying a street, alley or highway for other than travel within the City without a franchise for a period of 30 days or longer shall pay a privilege tax. The privilege tax imposed upon telecommunications utilities under this Subsection shall be in an amount of 7 percent of the telecommunications utility’s gross revenues earned within the corporate limits of the City for each consecutive 3 month period. For the purposes of this paragraph, “gross revenues” shall mean all revenues derived from exchange access services, as defined in ORS 401.710, less uncollectibles from such revenues. The privilege tax shall be computed as of the commencement of business or upon the expiration of any franchise under which the telecommunications utility formerly operated. The privilege tax shall be due and payable so long as the telecommunications utility operates within the City and uses or occupies the streets, alleys or highways.
- C.** Any utility using or occupying a street, alley, or highway within the City without a franchise for a period of 30 days or longer shall pay a privilege tax for the use and occupancy of any street, alley or highway. The privilege tax imposed under this Subsection shall be in an amount of 5 percent of the utility’s Gross Revenues of the City for each consecutive 3 month period. The privilege tax shall be computed as of 30 days after the commencement of business or 30 days after the expiration of any franchise or other authority under which the utility formerly operated. The privilege tax shall be due and payable so long as the utility operates with the City and uses or occupies the streets, alleys or highways.
- D.** In the event a franchise is granted to any utility subject to the privilege tax under the Utility Privilege Tax Law and the franchise becomes effective, then the privilege tax shall cease to apply from the effective date of the franchise. The franchise holder shall pay the proportionate earned amount of the privilege tax for the current quarterly period. The privilege tax shall in all such cases become immediately due and payable, and if not paid, collectible as provided in Section 7.12.080.

**7.12.070 Privilege Tax Applicable to Other Cases.**

- A.** The terms of the Utility Privilege Tax shall not apply to any holder of a current, valid franchise granted or issued by the Council.
- B.** The terms of Section 7.12.060 through Section 7.12.120 shall apply to any utility or telecommunications utility using or occupying a street, alley or highway within

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the corporate limits of the City 30 days after the expiration of the utility or telecommunications utility's franchise.

#### **7.12.080 Report of Earnings.**

Each utility and telecommunications utility subject to the privilege tax as provided in Section 7.12.060 shall file with the Bureau a report of the revenues earned within the corporate limits of the City for each consecutive 3 month period in the form and manner specified by the Bureau ("quarterly report").

- A.** The first quarterly report shall be filed on or before the first payment date of privilege tax. Subsequent quarterly reports shall be filed on or before February 15, May 15, August 15, and November 15 of each year.
- B.** If a franchise is granted to a utility or telecommunications utility which is otherwise subject to the provisions of the Utility Privilege Tax Law, the utility or telecommunications utility shall file a report with Bureau within 10 days after the franchise becomes effective showing the Gross Revenues earned for the proportionate period of the quarter prior to the franchise being granted.

#### **7.12.090 Time Payment of the Privilege Tax.**

- A.** Utilities and telecommunications utilities shall submit quarterly payment of Utility Privilege Taxes under Section 7.12.060 on or before February 15, May 15, August 15, and November 15 of each year and shall be accompanied by the quarterly report of the revenues for that payment period, as provided under Section 7.12.080.
- B.** If a utility or telecommunication utility fails to pay the privilege tax under the Utility Privilege Tax Law, the City Attorney may institute an action in the Circuit Court of the State of Oregon for Multnomah County to recover the amount of the privilege tax due the City, together with any applicable penalties and accrued interest.

#### **7.12.100 No Waiver or Estoppel.**

Nothing in the Utility Privilege Tax Law, or in any ordinance granting a franchise or right to any utility or telecommunications utility, nor anything done or performed or monies expended under ordinance, shall estop or prevent the City from requiring the utility or telecommunications utility to cease using or occupying the streets, alleys or highways within the corporate limits of the City upon the expiration or other termination of such franchise or right to use or occupy the streets, alleys or highways.

#### **7.12.110 Credits Allowable.**

Any amount which any utility or telecommunications utility may have paid to the City under the terms of any provision of franchise, permit or ordinance in lieu of franchise granted by the City Council shall be credited against the amount or amounts which have accrued or shall have accrued under the Utility Privilege Tax Law.

**7.12.120 Interest and Penalty Applicable.**

- A.** Interest will be assessed on any unpaid privilege tax at the rate of 0.833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of the payment.

  - 1.** For purposes of calculating interest under Subsection 7.12.120 A., the amount of the privilege tax due shall be reduced by the amount of any privilege tax payments received by the Bureau on or before the due dates established in the Utility Privilege Tax Law.
  - 2.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.
- B.** Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30 days after the statement is required to be filed with the Bureau, fails, neglects, or refuses to file with the Bureau the quarterly statement of Gross Revenues of such person, association or corporation shall be subject to the penalties, including the criminal penalties, provided for violations of Section 7.02.700 Penalties.

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#### **CHAPTER 7.14 - UTILITY LICENSE LAW**

(Chapter replaced by Ordinance No. 182432,  
effective January 15, 2009.)

##### **Sections:**

- 7.14.005 Short Title.
- 7.14.010 Fees for Revenue.
- 7.14.020 License Required.
- 7.14.030 Administration.
- 7.14.040 Definitions.
- 7.14.050 Application and Issuance.
- 7.14.060 Fees and Payment.
- 7.14.070 Deductions.
- 7.14.080 Reports and Review of Records.
- 7.14.085 Refunds by City to Licensee.
- 7.14.090 Appeals.
- 7.14.100 Interest.
- 7.14.110 Civil Penalties.
- 7.14.120 Collection of Delinquencies.
- 7.14.130 Confidential Financial Information.

##### **7.14.005 Short Title.**

Chapter 7.14 of the Portland City Code shall be known as the Utility License Law.

##### **7.14.010 Fees for Revenue.**

The term “license” as used in the Utility License Law shall not be construed to mean a regulatory permit. The fees prescribed in the Utility License Law are for general revenue purposes and are not regulatory permit fees.

##### **7.14.020 License Required.**

Any person, including any bureau of the City, operating a utility within the City shall obtain a license for such business covering the period of the calendar year, from January 1 through December 31, or if application is made after January 1 of any year, then for the balance of the same calendar year.

##### **7.14.030 Administration.**

- A.** The Utility License Law shall be administered by the Director. The Director may adopt procedures, forms, and written policies for administering the Utility License Law.
- B.** Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.

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- C.** The Director may, upon request, issue written interpretations of how the Utility License Law applies in general or to specific circumstances.
- D.** Nothing in the Utility License Law precludes the informal disposition of controversy by the Director in writing, whether by stipulation or agreed settlement.
- E.** The Director may implement procedures, forms, and written policies for administering the provisions of the Utility License Law.
- F.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Utility License Law.
  - 1.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify Licensees. Such notice, which may be provided by mail or electronic means, must be distributed to Licensees not less than ten nor more than thirty days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
  - 2.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify, it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be posted on the Bureau's website and made available to the public upon request.
  - 3.** Notwithstanding Subsections 1 and 2, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

**7.14.040 Definitions.**

(Amended by Ordinance Nos. 182527, 184882, 185756, 186827, 187339 and 187717, effective June 3, 2016.)

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- A. **“Bureau”** means the Bureau of Revenue and Financial Services of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B. **“Cable Communications Utility”** means a business that provides cable service or telephone service to subscribers, including voice services delivered through the use of Internet protocol, through its own cable system or a cable system owned by another person.
- C. **“Director”** means the Bureau Director.
- D. **“Gross revenue”** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business, or any revenue earned by a Utility within the City from the use, rental, or lease of operating facilities, or any revenue earned within the City for supplying electricity or natural gas. Gross revenues do not include proceeds from:
  - 1. The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or
  - 2. Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, “public purpose charges” means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility’s facilities within the City. “Public purpose” includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.
  - 3. Revenues associated with Universal Service funding requirements under 47 U.S.C. § 254 (2012) or revenues associated with taxes for emergency communications under ORS Chapter 403 (2011).
  - 4. The calculation of gross revenues for telecommunications utilities for purposes of the Utility License Fee shall not include revenues from any tariffed or non-tariffed charge or service applicable to any connection, circuit or equipment which brings an E9-1-1 call to the appropriate

responding Public Safety Answering Point, regardless of where the E9-1-1 call is originated.

- E. “Internet Service”** means a service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the internet or a proprietary subscriber network. "Internet service" includes provision of internet electronic mail, access to the internet for information retrieval, and hosting of information for retrieval over the internet or the graphical subnetwork called the world wide web. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
- F. “Licensee”** means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.
- G. “Public Safety Radio System”** means a radio system whose licensing and use of radio transmitters by state and local government and non-governmental entities is regulated by the Federal Communications Commission as engaged in public safety activities.
- H. “Telecommunications”** means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, laser, microwave, radio, or similar facilities, with or without benefit of any closed transmission medium, but does not include:
1. cable television services;
  2. private telecommunications network services;
  3. over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto;
  4. direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;
  5. services provided solely for the purpose of providing internet service to the consumer;
  6. public safety radio systems;
  7. mobile service within the meaning of 47 U.S.C. § 153(33) (2012) and

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8. services to devices exclusively utilizing electromagnetic spectrum unlicensed by the Federal Communications Commission.

- I. **“Utility”** means the business of supplying electrical energy, gas, district heating or cooling, water, sewage disposal and treatment, or cable, telecommunications, or other services through or associated with telephone or coaxial cable, and other operations for public service. “Utility” does not include transportation service or railroad operations.

#### **7.14.050 Application and Issuance.**

- A. Any person, including any bureaus of the City, operating a utility coming within the provisions of the Utility License Law shall file an application for a utility license on forms supplied by the Bureau.
- B. A person is not required to apply for or obtain a utility license if all its revenues earned from operations as a utility otherwise meet the criteria for deduction under Section 7.14.070. The Director may exercise the authority under Section 7.14.080 to require reports and review records to determine whether revenues are qualified for deduction under Section 7.14.070.
- C. Applications for utility licenses shall be filed with the Bureau on or before December 31 for each subsequent calendar year. In the case of any person operating a utility coming within the provisions of the Utility License Law which commences operations within the City after January 15, 2009, the person operating such utility shall apply for a utility license on or before the date of commencing such operations. The application shall include such information as the Director may require in order to determine whether the utility has paid the license fee owed.
- D. Upon receiving a completed application, together with any payment due, the Director shall issue a utility license to the applicant. A utility license shall be valid for no longer than one year. Each utility license shall expire on December 31 of the year of issuance.
- E. The Director shall prepare application forms and make them publicly available. Failure to receive or secure a form shall not relieve any person from the obligation to obtain a license and pay a license fee under the Utility License Law.

#### **7.14.060 Fees and Payment.**

(Amended by Ordinance Nos. 185756 and 186366, effective January 3, 2014.)

- A. Except as provided in Section 7.14.070, the fee for a utility license shall be measured by a percentage of the gross revenues earned by the utility for each quarter year period of licensed operation. The percentage for each type of utility shall be as follows:

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Electrical Utility	5.0 percent
Gas Utility	5.0 percent
Sewer Utility	5.0 percent
District Heating or Cooling Utility	5.0 percent
Water Utility	5.0 percent
Telecommunications Utility	5.0 percent
Cable Communications Utility	5.0 percent

The licensee shall compute the license fee by multiplying the percentage applicable to the type of operation in which such utility engages, by the gross revenues received during the quarter.

- B.** The licensee shall pay the utility license fee to the Bureau on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1 through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year. All such payments shall be subject to the deductions set forth in Section 7.14.070.
- C.** A licensee commencing operations as provided in Subsection 7.14.050 C. shall make the initial payment to the Bureau on or before the payment date following the first quarter year period after commencing operations. In the event a licensee terminates operations which come within the provisions of the Utility License Law, the final payment shall be made on or before the 45th day following the date of such termination.

**7.14.065 Limitations.**

(Repealed by Ordinance No. 186366, effective January 3, 2014.)

**7.14.070 Deductions.**

- A.** A licensee may deduct from the utility license fee required in the Utility License Law the amount of any payments made or accrued to the City for the period upon which the utility license fee is computed, under any provision of franchise, permit, or ordinance in lieu of franchise granted by the City Council. A licensee may not deduct amounts paid to the City for interest charges or penalties. This Subsection shall not relieve any licensee from paying in accordance with the provisions of a franchise, temporary revocable permit, Charter provision or ordinance when the amount to be paid thereunder exceeds the amount of the utility license fee required under the Utility License Law.

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- B.** A licensee may not deduct from the utility license fee the value of any right given to City to use poles, conduits, or ducts to other facilities in common with the licensee. A licensee may not deduct from the utility license fee any permit or inspection fee imposed under any Code provision or ordinance of the City.

#### **7.14.080 Reports and Review of Records.**

- A.** Each person paying a utility license fee shall simultaneously file a report to the Bureau in a form satisfactory to the Director. The report shall show the licensee's calculations of the license fee, the licensee's gross revenues earned within the corporate limits of the City, and any deductions against the licensee's gross revenues or the amount of the utility license fee. Such reports shall be verified by the licensee or an authorized agent to the effect that all statements made therein are true.
- B.** If a person asserts that any provision of federal, state or local law imposes a limit upon the amount of utility license fees which the City may impose or require from a licensee, the licensee claiming to be within such limitation shall identify in its utility license fee report the specific federal, state or local law, and the service it provides that it claims is subject to the exception.
- C.** Every person required to be licensed under the Utility License Law shall keep and preserve for not less than three (3) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information required to be reported on the licensee's application and calculation of utility license fee for each license year.
- D.** The Director shall have authority to arrange for and conduct reviews of all financial records relevant to the calculation of a licensee's payments to the City under the Utility License Law. The Director shall make all requests for review in writing. The Director may determine the scope of review in each instance.
  - 1.** The Director may examine any books, papers, records, invoices, and other data needed to determine the accuracy of any license fee due. Such records and documentation shall be open for inspection or examination by the Director or a duly authorized agent. The Director shall have the authority, after notice, to:
    - a.** Require the attendance of any person required to be licensed under the Utility License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Director may designate;
    - b.** Take testimony, with or without the power to administer oaths to any person required to be in attendance. The Director may designate

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employees who shall have the power to administer oaths. Such employees shall be notaries public of the State of Oregon; and,

- c. Require proof for the information sought, necessary to carry out the provisions of the Utility License Law.
2. If a licensee has not provided copies of all information reasonably within the scope of the review to the Director within 30 days from the date of the written request, the licensee shall provide the Director with access to the requested records within the Portland metropolitan region, during normal business hours, upon 48 hours prior written notice.
3. If the Director requests in writing that the licensee provide, or cause to be provided, copies of any information reasonably within the scope of the review, and the licensee fails, refuses or neglects to provide copies within 30 days of receipt of the Director's written request, then the three (3) year periods under Subsections 7.14.080 C. and 7.14.120 A. shall be extended by one day for each day or part thereof beyond 30 days that the licensee fails to provide, or fails to cause to be provided, such requested information.
4. If any licensee fails, refuses or neglects to provide or make records available to the Director for determining the amount of utility license fees due or payable, the Director may determine the amount of the utility license fees due or payable based upon readily-available facts and information. The Director shall notify the licensee in writing of the amount of such fee so determined, together with any penalty or interest due. The total of such amounts shall thereupon become immediately due and payable. The licensee may seek to establish the correct amount by appeal to the Code Hearings Officer under Section 7.14.090. In such an appeal, the licensee shall have the burden of establishing that the Director's determination is incorrect, either in whole or in part.

**7.14.085 Refunds by City to Licensee.**

Whenever the amount of any utility license fee, penalty, or interest has been erroneously collected or paid to the Bureau under the Utility License Law, it may be refunded, provided the licensee files with the Bureau a verified claim in writing therefor, stating the specific reason upon which the claim is founded, within 3 years from the date of payment. The claim shall be made on forms provided by the Bureau. If the claim is approved by the Bureau, the excess amount collected or paid may be credited against any amounts due and payable under the Utility License Law from the licensee from whom the overpayment was collected or by whom it was paid, until the licensee is repaid.

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#### **7.14.090 Appeals.**

- A.** Any person who has received a written determination from the Director applying the provisions of the Utility License Law may appeal such determination of the Director to the Code Hearings Officer of the City as provided in Chapter 22.10 of this Code.
- B.** The filing of any notice of appeal shall not stay the effectiveness of the Director's determination unless the Code Hearings Officer so directs.

#### **7.14.100 Interest.**

- A.** If a person fails to pay to the City all or any part of the utility license fee on or before the date on which the fee is due, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of payment. Payment of interest charges shall be due at the same time as the unpaid utility license fee is due.
- B.** For purposes of calculating interest under Subsection 7.14.100 A., the amount of the utility license fee due shall be reduced by the amount of any fee payments received by the Bureau on or before the due dates for fee payment established in the Utility License Law.
- C.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.

#### **7.14.110 Civil Penalties.**

(Amended by Ordinance No. 187717, effective June 3, 2016.)

- A.** The Director may assess civil penalties for any of the following violations of the Utility License Law:
  - 1.** Any failure to file a license application at the time required under the Utility License Law;
  - 2.** Any failure to pay the utility license fee when due;
  - 3.** Any failure to file a utility license fee report when due;
  - 4.** Any failure to provide or make available all books, financial records, papers, invoices, documents, data and related information when required by the Director; or,

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5. For any person to make any false statement on any license application or utility license fee report or to provide false information in any investigation or audit conducted pursuant to the Utility License Law.
- B. The Director may assess civil penalties for any violation under Subsection 7.14.110 A. of the greater of either a minimum of \$500 per occurrence or up to two percent (2%) of the utility's gross revenues subject to the Utility License Law for the period during which the violation occurred.
- C. The Director may assess a civil penalty of \$500 if a person fails to file a reporting form as required under Section 7.14.080.
- D. In assessing civil penalties under this Section, the Director shall produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making such determination, the Director shall consider the following criteria:
  1. The extent and nature of the violation;
  2. Any benefits to the licensee and any impacts to the City or the general public, financial or otherwise, resulting from the violation;
  3. Whether the violation was repeated and continuous, or isolated and temporary;
  4. Whether the violation appeared willful (characterized primarily by substantial acts of commission) or negligent (characterized primarily by substantial acts of omission);
  5. The magnitude and seriousness of the violation;
  6. The City's costs of investigating the violation and correcting or attempting to correct the violation; and,
  7. Any other factors the Director deems relevant in the particular case.
- E. The Director may impose civil penalties under this Section only after having given written notice of the potential for assessment of civil penalties identifying the violation serving as the basis for the assessment.
- F. The Director may waive or reduce any civil penalty for good cause, according to and consistent with written policies.

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#### **7.14.120 Collection of Delinquencies.**

- A.** Upon written approval of the Commissioner in Charge, the Director may have the City Attorney institute legal proceedings in the name of the City to collect any utility license fee or any amount of fee, interest or civil penalties. Any collection action must be filed within three years after the amount required to be collected becomes due and payable to the City, or within three years after any written determination by the Director becomes final, that is otherwise subject to appeal under Section 7.14.090.
- B.** In addition to other enforcement authority, upon written approval of the Commissioner in Charge, the Director may have the City Attorney institute legal proceedings to enforce the Utility License Law or any determinations made by the Director under the Utility License Law.

#### **7.14.130 Confidential Financial Information.**

Except as otherwise required by law, the Bureau, the Auditor, or any officer, employee, or agent of the City, shall not divulge, release, or make known in any manner any financial information submitted or disclosed to the Bureau under the Utility License Law. Nothing in this section shall be construed to prohibit:

- A.** The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of the Utility License Law, or collecting utility license fees imposed under the terms of the Utility License Law, or collecting City business license fees;
- B.** The disclosure to the utility licensee or its authorized representative of its financial information, including amounts of utility license fees, penalties, or interest, after filing of a written request by the utility licensee or its authorized representative and approval of the request by the Director;
- C.** The disclosure of the names and addresses of any persons to whom utility licenses have been issued;
- D.** The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular utility licensee quarterly reports;
- E.** The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Director deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau; or,
- F.** The release of such information in the filing of any legal action by or on behalf of the Bureau to obtain payment on unpaid license fees, interest and penalties, or to enforce any determination by the Director.

**CHAPTER 7.16 - CHARITABLE  
SOLICITATIONS**

(Chapter repealed by Ordinance No. 157640,  
effective July 25, 1985.)

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**CHAPTER 7.18 - LIQUOR LICENSE  
RECOMMENDATIONS**

(Chapter repealed by Ordinance No. 174900,  
effective September 13, 2000.)

**CHAPTER 7.22 - STREET AND SIDEWALK  
USE PERMITS**

(Chapter added by Ordinance No. 176022, effective  
November 16, 2001.)

**Sections:**

- 7.22.010 Purpose.
- 7.22.020 Authorization.
- 7.22.030 Permit Required.
- 7.22.040 Revocation of Permit.
- 7.22.050 Permit Subject to Ordinances and Regulations.
- 7.22.060 Diversion of Traffic.
- 7.22.070 Interference Prohibited.

**7.22.010 Purpose.**

The purpose of this Chapter is to regulate walks, marches, parades, athletic events or other processions in streets or on sidewalks held by sponsors that require use of City resources. This Chapter and the administrative regulations that implement it are necessary to maximize the safety of participants and others and to minimize inconvenience to the general public and disruption of public services while providing the public with the opportunity to exercise constitutionally protected rights of assembly and expression.

**7.22.020 Authorization.**

(Amended by Ordinance No. 186746, effective August 6, 2014.)

- A.** The Street and Sidewalk Use Coordinator of the Portland Bureau of Transportation is authorized to issue street and sidewalk use permits.
- B.** Adoption of Administrative Regulations. The Director of the Portland Bureau of Transportation is authorized to adopt or amend administrative regulations pertaining to use of sidewalks and streets. All administrative regulations shall be in writing.
  - 1.** Prior to the adoption of any administrative regulations the Director of the Portland Bureau of Transportation shall submit the proposed administrative regulations to the Street and Sidewalk Use Review Committee. After consultation with the Street and Sidewalk Use Review Committee, the Director of the Portland Bureau of Transportation shall publish a notice regarding the proposed administrative regulations, and shall make them available for public review and written comments.
  - 2.** No sooner than thirty days from the publication of the notice, the Director of the Portland Bureau of Transportation may adopt the proposed administrative regulations. All administrative regulations adopted by the

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Bureau Director shall be filed in the office of the Portland Bureau of Transportation. Copies of all current administrative regulations shall be made available to the public upon request.

3. Notwithstanding Subsections 1. and 2. of this Section, the Director of the Portland Bureau of Transportation may adopt interim administrative regulations without prior public notice upon the Director's finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for prejudice. Any administrative regulation adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

#### **7.22.030 Permit Required.**

A permit issued by the Street and Sidewalk Use Coordinator is required for use of streets or sidewalks for the purposes of, and as provided in, this Chapter and the Street and Sidewalk Use Administrative Regulations.

#### **7.22.040 Revocation of a Permit.**

A street or sidewalk use permit may be revoked or modified by the Street and Sidewalk Use Coordinator, or the police supervisor assigned to the street or sidewalk use permit, if the sponsor fails to comply with any of the requirements of this Chapter, of the Street and Sidewalk Use Administrative Regulations, or the conditions set forth in the application or permit. If a street and sidewalk use permit is subject to revocation pursuant to this section, on the day of the street and sidewalk use to which the permit pertains, the Street and Sidewalk Use Coordinator or the police supervisor assigned to the street and sidewalk use permit shall attempt to contact or notify the sponsor, the organizer or the day of use coordinator, if any, as provided on the permit application, and attempt to resolve any problems before revoking the permit. If resolution is not possible the permit may be revoked.

#### **7.22.050 Permit Subject to Ordinances and Regulations.**

The sponsor and participants shall comply with all applicable federal, state, and local laws and regulations in connection with their use of streets or sidewalks.

#### **7.22.060 Diversion of Traffic.**

Whenever any street or sidewalk use is in progress, the Bureau of Police shall have the authority to clear the streets or other public places and prohibit motor vehicles, buses, light rail, bicycles, and pedestrians from crossing, parking, stopping, and standing on the streets.

#### **7.22.070 Interference Prohibited.**

It is unlawful for any person to interfere with street or sidewalk use permitted under this Chapter. The following acts, among others, are prohibited by this section, when done with the intent to cause interference:

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- A.** Blocking, obstructing, or impeding the passage of participants, vehicles, or animals along the route.
- B.** Walking, running, driving a vehicle, riding a bicycle or skateboard through, between, with, or among participants, vehicles, or animals.
- C.** Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals.
- D.** Throwing, squirting, dumping, or dropping any liquid, solid or gaseous substance on, toward, among, or between participants, vehicles, or animals.
- E.** Grabbing at, taking hold of, hitting, pulling, or pushing any participant, vehicle, or animal or anything in the possession of any participant.
- F.** Vending or offering for sale any food or merchandise during the hours and on the route of a street and sidewalk use permit without first having obtained the written permission of the sponsor, in addition to any permits and/or licenses otherwise required for such activity.

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**CHAPTER 7.24 - PRIVATE PROPERTY**  
**IMPOUND TOWING**

(Chapter replaced by Ordinance No. 185835,  
effective January 18, 2013.)

**Sections:**

- 7.24.010 Towing of Vehicles from Private Property.
- 7.24.020 Administrative Authority.
- 7.24.030 Definitions.
- 7.24.040 Private Property Impound (PPI) Tower Registration.
- 7.24.050 Towing Regulations.
- 7.24.060 Towing and Storage Rates.
- 7.24.070 Conditions.
- 7.24.080 Prohibitions.
- 7.24.090 Remedies.
- 7.24.100 Appeals.

**7.24.010 Towing of Vehicles from Private Property.**

- A.** Short Title. Sections 7.24.010 through 7.24.100 will be known as the PPI (Private Property Impound) Code.
- B.** Purpose. The purpose of the PPI Code is to require that towing from private parking facilities be performed safely and at a reasonable price. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure that the public safety and convenience are protected.
- C.** Conformity to State Laws. The PPI Code should be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property. The Director shall have authority to adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code.
- D.** Savings Clause. If any provision of the PPI Code is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of the PPI Code.

**7.24.020 Administrative Authority.**

(Amended by Ordinance No. 186746, effective August 6, 2014.)

- A.** The Director is authorized and directed to enforce all provisions of the PPI Code. The Director shall have the power to investigate any and all complaints regarding alleged violations of the PPI Code. The Director may delegate any or all authority granted under this Section to the Towing Coordinator or any Portland Bureau of Transportation officer, employee or agent.

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- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
- 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to establish procedures for the conduct of the hearings, to hear evidence, and to preserve order.
  - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
  - 3.** Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Portland Bureau of Transportation and the Office of the City Auditor in compliance with Section 1.07.030. Copies of all current rules are available to the public upon request.
  - 4.** Notwithstanding Subsections 7.24.020 C. 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules will detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph will be effective for a period not to exceed 180 days.
- D.** Rates. The Director is authorized to establish a schedule of maximum rates permissible for all PPI tows from properties located within the city limits of Portland. The jurisdiction of this code section may be expanded by intergovernmental agreement with other agencies.
- E.** Inspection of Records. The City of Portland reserves the right to review and/or copy the records of any PPI tow for purposes of auditing or complaint resolution. Such records will be made available for inspection during normal business hours within 24 hours of written notice by the Director.

**7.24.030 Definitions.**

(Amended by Ordinance No. 186746, effective August 6, 2014.) For the purposes of the PPI Code and administrative rules adopted by the Director pursuant to the PPI Code, certain terms, phrases, words, abbreviations and their derivations are construed as specified in this

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Section. Words used in the singular include the plural and the plural the singular. Terms, phrases, words, abbreviations and their derivatives used, but not specifically defined in this Section, either have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, have the meanings commonly accepted in the community.

- A. **"Director"** means the Director of the Portland Bureau of Transportation.
- B. **"Dispatching facilities"** means the PPI tower's facilities used for communication with Tow Desk and maintaining radio contact with tow vehicles.
- C. **"Oversized tow vehicle"** means a tow truck equipped to perform towing of automobiles or other vehicles, and which has a maximum gross vehicle weight rating (GVWR) of over 10,000 pounds. Vehicles with maximum GVWR of at least 19,000 pounds are designated as "Class B." Vehicles with maximum GVWR of at least 44,000 pounds are designated as "Class C."
- D. **"Owners agent"** means a person bearing documentation from the registered owner officially authorizing them to possess or operate the vehicle.
- E. **"PPI permit"** means the permit issued to a private towing company signifying that the permit holder has met the requirements of this Chapter and the administrative rules and is allowed to tow vehicles from private property within the City of Portland at the request of the private property facility owner/operator without prior consent of the vehicle owner.
- F. **"PPI Police tow"** means any PPI tow that, upon notification to the local police agency, is found to have been reported stolen, or for any other reason becomes a police tow as defined in the Contract for Vehicle Towing and Storage of the City of Portland, or requires a police release.
- G. **"PPI tower"** means any towing firm duly registered and permitted to perform Private Property Impound tows within the City of Portland.
- H. **"Private parking facility"** means any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking. Private parking facility does not include "proscribed property."
- I. **"Private parking facility owner"** means the owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner authorized to enter into a PPI towing agreement with the tower.
- J. **"Private Property Impound"** (PPI) means the impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee,

manager or person in lawful possession of the private property facility, without the prior consent of the vehicle's registered owner.

- K. "Proscribed property"** means any part of private property:
1. Where a reasonable person would conclude that parking is not normally permitted at all or where land use regulation prohibits parking; or,
  2. That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling, or a duplex, or
  3. Designated as railroad right-of-way.
- L. "Release at Scene" (RAS)** means the fee allowed to be charged when a vehicle owner/owner's agent returns before the PPI tower has departed in tow. Not applicable until the hookup is complete and tow truck is in motion.
- M. "Storage facility"** means a secure area, meeting all requirements of PPI administrative rules, used by PPI tower for storing towed vehicles.
- N. "Storing"** means holding a towed vehicle in an approved secure storage facility until it is redeemed by the registered owner/owner's agent or until a possessory lien is foreclosed.
- O. "Tow Desk"** means the private tow dispatching company contracted with the City of Portland for municipal tow dispatching and data management or any government agency serving this function.
- P. "Towing"** means to draw or pull along a vehicle by means of a tow truck or car carrier.
- Q. "Towing Agreement"** means an agreement between a PPI tower and a private property owner/operator authorizing the PPI tower to tow vehicles from their private property. Such agreement must contain all information specified in PPI administrative rules.
- R. "Towing Coordinator"** means the person designated by the Director to provide direct enforcement and administration of all provisions of this Section and PPI administrative rules.
- S. "Towing firm" or "PPI Tower"** means any entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

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- T.**     **"Tow vehicle"** means a tow truck equipped as specified in PPI administrative rules to perform towing of automobiles, motorcycles, or other motor vehicles, and which has a minimum Gross Vehicle Weight Rating (GVWR) of 10,000 lbs.
- U.**     **"Vehicle owner"** means the person registered with the Department of Motor Vehicles as the owner of the vehicle, or a person in lawful possession of the vehicle.

#### **7.24.040     Private Property Impound (PPI) Tower Registration.**

(Amended by Ordinance No. 186746, effective August 6, 2014.)

- A.**     Initial registration. No PPI tower will tow or store vehicles towed from private parking facilities located inside the City of Portland unless the PPI tower has registered with the Portland Bureau of Transportation, and complied with all provisions of the PPI Code.
  - 1.**     Pay and Park and Non-Pay Private Parking facilities. All towing from any property registered as a Pay and Park or Non-Pay facility, must meet the conditions for towing established in Chapter 7.25 Pay and Park and Non-Pay Private Parking Facilities, at all times.
  - 2.**     If all conditions specified by Chapter 7.25 for towing from a Pay and Park facility have been met, performance of the subsequent tow is subject to requirements of this PPI Code with regard to PPI permits, fees established by the Director and notices to Tow Desk, including initiation of the tow, completion of the tow and release of towed vehicles.
- B.**     Applications. The PPI tower will submit to the Director an application form containing all information specified in PPI administrative rules.
  - 1.**     Except for single family or duplex dwellings, PPI towers must register for approval all properties that they wish to designate as "proscribed" in order to exempt them from this Code. The City will provide a form for registration of "proscribed" properties.
  - 2.**     A determination will be made within 3 business days of receipt of registration of a proscribed property.
- C.**     After December 31, 2012, only those towing companies with a vehicle release office and vehicle storage facility located within the city limits of Portland are eligible to obtain a Portland PPI permit. Such office and storage facility must be staffed during regular business hours and comply with all City PPI standards.
- D.**     Reporting Changes. Changes in information contained in the PPI tower's application, including office and/or storage locations, insurance provider,

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employees or additional trucks will be filed with the Director within 3 business days of implementation of such changes.

- E.**     Inspection. The PPI tower's towing equipment, dispatching and storage facilities will be inspected prior to issuance of a new PPI permit. If an applicant is currently in good standing as a Tow Contractor with the City of Portland and the storage facility and tow vehicles to be inspected are currently approved for use under the City Tow Contract, the qualifying PPI inspection may be waived by the Director.
- F.**     Registration/expiration dates. PPI permits are valid for no more than 1 year, and expire annually on December 31st.
- G.**     Renewal. Renewal notices will be sent to all registered PPI towers not less than one month prior to the annual expiration date. A renewal form requesting any changes in the registered information will be provided. Re-inspections are not required for renewal. Any permit not renewed within 30 days after the expiration date is invalid and a new application must be submitted and approved before PPI towing resumes.
- H.**     Non-assignability. A registration issued or renewed pursuant to the provisions of this Section is not assignable or otherwise transferable.
- I.**     Indemnification and Insurance. PPI towers subject to the PPI Code agree to hold harmless, defend and indemnify the City of Portland, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI permit.

  - 1.**     PPI tower will maintain such public liability and property damage insurance as will protect the PPI tower from all claims for damage to property or personal injury, including death, which may arise from operations pursuant to the PPI Code. Such insurance must include a single limit liability policy with coverage of not less than \$1,000,000. PPI tower will also maintain fire and theft insurance (garage keepers insurance) to protect stored vehicles in a minimum amount of \$100,000 and maintain cargo insurance in the minimum amount of \$50,000.
  - 2.**     PPI tower will maintain insurance in the limits provided by this Section to cover liability for transportation required by Subsection 7.24.070 H. In no case shall the policy deductible for garage keepers and cargo insurance exceed \$2,500 per event.
  - 3.**     The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the permit. The insurance must be without prejudice to coverage otherwise existing.

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4. The insurance shall name as additional insureds the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insureds on the policy.
5. The insurance shall provide that the insurance shall not terminate or be canceled without thirty days written notice first being given to the Towing Coordinator.
6. The adequacy of the insurance shall be subject to the approval of the City Attorney.
7. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the Director.

#### **7.24.050 Towing Regulations.**

(Amended by Ordinance No. 187514, effective January 15, 2016.) Except for towing allowed under ORS 98.854(3), a PPI tower may lawfully tow a vehicle without the registered owner's permission from private property in the City of Portland only if:

- A. The PPI tower has express written authorization from the private parking facility owner, or person in lawful possession of the property, in compliance with Chapters 98.812, 98.830 and 98.854 of the Oregon Revised Statutes; and,
- B. The PPI Tower first contacts the private parking facility owner or agent at the time of the tow; and
- C. The private parking facility fully complies with this Chapter and the PPI administrative rules; and,
- D. The vehicle is towed directly to the PPI tower's storage facility within the Portland city limits; and,
- E. The vehicle is not occupied by any person or persons.

#### **7.24.060 Towing and Storage Rates.**

- A. The Director will issue a schedule of approved maximum fees for PPI towing and storage at the beginning of each permit period. Such schedule will be published annually and supplied to all applicants with the application materials for new permits and renewals. PPI towers may submit a request for an increase in the approved maximum fees not later than two months before the end of any permit

period. The Director will consider such requests and decide whether such an increase is in the public interest. If changes are made, a public hearing will be held for the purpose of determining fair and reasonable prices prior to making any changes in the PPI rate schedule.

- B.** PPI towers may charge less than the maximum rates allowed. However, PPI towers may not waive the data service fee or City PPI service fee without authorization by the Towing Coordinator.

**7.24.070 Conditions.**

PPI towers registered under this Section will:

- A.** Perform all PPI tows in a safe manner, taking care not to cause damage to the person or property of others while towing or storing a vehicle; and,
- B.** Practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle; and,
- C.** Cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle; and,
- D.** Issue to the person redeeming a PPI towed vehicle a clearly legible receipt complete with all required information and with all fees and considerations itemized; and,
- E.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing the current list of approved PPI rates; and,
- F.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing a statement of the rights of the vehicle owner; and,
- G.** Be considered in possession of any vehicle towed under this Section, and therefore entitled to charge a Release at the Scene fee, when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward. Until these conditions are met, the PPI tower is not entitled to charge any fee; and,
- H.** Offer to call for or provide transportation to the vehicle owner/operator at a reasonable cost, from within the immediate vicinity of the tow scene to the location of the towed vehicle storage; and,
- I.** Photograph vehicle to be towed and signs posted prior to hookup in order to demonstrate compliance with all PPI regulations and illustrate conditions, such as absence of a parking permit, warranting the tow; and,

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- J.** Have staff or dispatch service available at all times to provide information about the location of a towed vehicle and/or instructions for release of a towed vehicle; and
- K.** Staff the storage facility with an attendant between 10 a.m. and 6 p.m., Monday through Friday, excluding official City holidays, and at all other hours have personnel available at the storage facility to release a vehicle within 30 minutes after an appointment time agreed on by the vehicle owner. Gate fees are not applicable between 8 a.m. and 10 a.m., Monday through Friday; and
- L.** Accept at least the following methods of payment for any fees assessed:
  - 1.** Cash. Adequate cash must be available at all times at the storage facility for the purpose of making change. After hours and on holidays, PPI tower will provide exact change, in person or by mail, not later than the end of the business day following receipt of payment; and,
  - 2.** By any valid credit card or debit card bearing the VISA emblem and issued in the name of the registered owner/owner's agent. PPI tower may also accept credit or debit cards from other issuers.
  - 3.** If for any reason, a PPI tower becomes unable to process payments by credit or debit card, the tower must notify the Towing Coordinator within 24 hours and provide an estimate of when service will resume. During any period when the PPI tower is unable to process credit or debit card payments, the PPI tower must accept personal checks; and,
- M.** At no extra charge, make the vehicle available to the owner/owner's agent for retrieval within 30 minutes of the time of payment, or other time mutually agreed upon; and,
- N.** Notify Portland Police of the intent to tow by a telephone call by the tow driver to the Tow Desk prior to attaching any equipment to a vehicle at a private parking facility; and,
- O.** Notify Portland Police of the location of the vehicle by facsimile transmission to the Tow Desk within one hour after the vehicle is placed in storage; and,
- P.** Provide to Tow Desk all information required for completion of the tow record by facsimile transmission within 60 minutes after the vehicle is placed in storage; and,
- Q.** Notify the local police agency of the release of a vehicle to the registered owner/owner's agent, acceptance of a vehicle title in lieu of payment, or foreclosure of a possessory lien by facsimile transmission to the Tow Desk within 8 hours after the release; and,

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- R.** Review the daily Tow Desk report of PPI tows and releases, and report errors to Tow Desk or the Towing Coordinator within 24 hours of discovery; and,
- S.** Provide verification, or additional information, about a towed vehicle as requested by a police agency within 30 minutes of receiving the request; and,
- T.** Pay a data service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such data service fees are payable to the Tow Desk by the 20th day of each month; and,
- U.** Pay a service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such service fees are payable to the City of Portland by the 20th day of each month; and,
- V.** Accept as proof of ownership vehicle title or registration in addition to valid photo-identification of the person seeking the release. If the registered owner is not available to redeem the towed vehicle, the PPI tower will assist the owner's agent in finding an acceptable alternate proof of ownership, as detailed in PPI administrative rules; and,
- W.** Exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, as detailed in PPI administrative rules.

**7.24.080 Prohibitions.**

PPI towers will not:

- A.** Perform any PPI tows within the city limits of Portland, or from City-owned/operated property, unless the tower is registered with the City of Portland and in compliance with all provisions of this Chapter and administrative rules.
- B.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- C.** Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed or relieving the PPI tower from responsibility for the condition of the vehicle or its contents.
- D.** Require any vehicle owner/owner's agent to pay any fee, except a gate fee if after hours, as a condition of allowing them to inspect their vehicle or remove an animal or personal belongings of an emergency nature, within 15 days of the tow.
- E.** Solicit PPI towing business by means of payment of a gratuity, commission or any other consideration, except as provided in this PPI Code, to the private property owner, operator, manager or employee. This violation may result in revocation of the tower's PPI permit, at the Director's discretion.

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- F.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- G.** Use predatory practices, as defined in PPI administrative rules, to secure PPI tows.
- H.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.
- I.** Assess or collect a penalty or surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Chapter 7.25 "Pay and Park and Non-Pay Private Parking Facilities."
- J.** Make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this Code.
- K.** Pursuant to ORS 90.485, PPI towers shall not remove a legally parked vehicle because the vehicle's registration has expired or is otherwise invalid.
- L.** Property owners or operators are prohibited from knowingly allowing an unpermitted PPI tower to impound vehicles from any property within the Portland city limits.
- M.** Property owners or operators may not require, solicit or accept payment from any PPI tower, nor from any person acting on behalf of a PPI tower, in exchange for authorization to tow from a property.
- N.** Pursuant to ORS 87.186, possessory liens by PPI towers may be foreclosed only by public auction held within the county in which the vehicle was towed.
- O.** No person shall attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way without consent of the vehicle owner.

#### **7.24.090 Remedies.**

Failure to comply with any part of the PPI Code or the administrative rules may be punishable by any or all of the following:

- A.** Suspension. The Director or designee may suspend a PPI tower's permit if investigation reveals any substantial violation of the PPI Code or the PPI administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods have failed to resolve. Suspension may be for a period of up to 14 calendar days. The suspension will be effective from the date of written notice of a suspension. If the violation is not corrected within the 14 day period, the Director may revoke the permit.

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- B.**     Revocation. The Director may revoke a permit for any substantial violation of the PPI Code or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. The revocation will be effective immediately upon issuance of written notice by the City of Portland to the PPI tower. No new application will be accepted from any PPI tower with outstanding penalties or who has been revoked within the current term for the remainder of the current permit period. Prior revocation may be grounds for denial of a permit application.
- C.**     A private property owner or operator in the City of Portland is subject to civil penalties up to \$700 per tow from their property for violations including, but not limited to:
1.     Knowingly authorizing non-compliant PPI towing to be performed on property they own or operate;
  2.     Requiring, soliciting or accepting payment from any PPI tower, or from any person acting on behalf of a PPI tower, in exchange for authorization to tow from a property.
- D.**     Civil penalty. The Director may impose a civil penalty of up to \$1,000 for any substantial violation of the PPI Code or the administrative rules, including:
1.     Towing any vehicle from private property inside the City of Portland or from City owned or operated property without a PPI permit.
  2.     Towing from a property without authorization in the form of a current agreement or owner/operator's signature on the tow invoice.
  3.     Late payment of data service fees to Tow Desk. The penalty will be \$100 for each incident.
  4.     Late payment of service fees to the City of Portland. The penalty will be \$100 for each incident.
  5.     Failure to initiate a tow, as required by administrative rule. The penalty will be refund of all fees assessed to the citizen, plus \$300 penalty for each incident.
  6.     Failure to notify Tow Desk of the completion of a tow within one hour of its arrival at the storage facility. The penalty will be \$150 for each incident.
  7.     Late report or failure to report a release. The penalty will be \$100 for each incident.

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8. Failure to release a vehicle when contacted by the vehicle owner/owner's agent prior to completion of the hookup. The penalty is \$100 per 10 minute delay of release for each incident.
  9. Late response or failure to respond to a police agency's request for information. The penalty is \$150 for each incident.
  10. Late response to a complaint notice without approval of the Towing Coordinator. The penalty is \$100.
  11. Failure to respond to a request for information pertaining to a complaint. The penalty is \$500.
  12. Failure to provide a person redeeming a towed vehicle with an invoice, complete with all required information. The penalty is \$50 per missing item.
  13. Civil penalties are payable to the City of Portland.
- E.** Refund to vehicle owner/owner's agent. Upon a finding of any violation by a PPI tower, the Director may direct release of a vehicle at no charge or a refund of all or part of fees paid by a vehicle owner/owner's agent for towing and storage, in lieu of, or in addition to, civil penalties.
- F.** Civil remedies. Nothing in this Section is intended to prevent any person from pursuing legal remedies.

#### **7.24.100 Appeals.**

(Amended by Ordinance No. 186746, effective August 6, 2014.)

- A.** Any towing firm whose application for initial PPI permit registration or renewal of PPI permit registration has been denied, or whose permit registration has been revoked or suspended, or who has been directed by the Director or director's designee to pay a civil penalty or refund, may appeal such action of the Director or director's designee by submitting a written request for a hearing before the Code Hearings Officer of the City of Portland, within 10 business days of receiving the Director's written findings, as set out in Chapter 22.10.
- B.** PPI Board of Appeals. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the PPI Board of Appeals. The PPI Board of Appeals will hear and resolve protests and appeals arising from adoption of administrative rules by the Director. The findings of the PPI Board of Appeals are final.
1. Composition of the PPI Board of Appeals. The PPI Board of Appeals shall consist of three members. A quorum shall consist of three members. The Commissioner in Charge of the Portland Bureau of Transportation shall

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appoint a representative member from a public agency and a representative member of the general public, and shall approve a representative member from the towing industry selected by the towing industry.

2. Compensation. All members of the PPI Board of Appeals shall serve without pay, except that they may receive their regular salaries during the time spent on Board matters.
3. Procedures and Rules. The Director shall establish rules and procedures for the Board and the Board shall follow those procedures in all matters heard by the Board.
4. Staff. The Portland Bureau of Transportation shall provide staff and assistance to the Board.
5. Powers of the Board. The PPI Appeals Board shall hear protests of administrative rules adopted by the Director. Written notice of the protest must be received by the Towing Coordinator within 30 days after the notice of adoption of the administrative rule. The protest must state the name and address of the PPI tower and an explanation of the grounds for the protest. Requests not received within 30 days of the notice of adoption will not be heard.
6. Written notice of the findings of the Board will be provided to the appellant within 10 business days of the conclusion of the hearing.

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**CHAPTER 7.25 - PAY AND PARK AND NON-  
PAY PRIVATE PARKING FACILITIES**

(Chapter added by Ordinance No. 185835,  
effective January 18, 2013.)

**Sections:**

7.25.010	Purpose.
7.25.020	Savings Clause.
7.25.030	Definitions.
7.25.040	Authorization.
7.25.050	Registration as the Operator of a Facility.
7.25.060	Registration of a Facility.
7.25.070	Payment Device.
7.25.080	Signage Requirements.
7.25.090	Assessment of Penalties.
7.25.100	Parking Penalty Notice.
7.25.110	Penalty Payment Letters.
7.25.120	Unlawful to Tow Vehicles.
7.25.130	Complaint Handling Procedures.
7.25.140	Maintenance of Records.
7.25.150	Insurance Required.
7.25.160	Prohibitions.
7.25.170	Remedies.
7.25.180	Appeals.
7.25.190	Locking Parked Cars.

**7.25.010 Purpose.**

The purposes of this Section are to ensure that the regulation of parking at pay and park and non-pay private parking facilities is applied objectively with proper notice; and to protect fairness and convenience for the parking public.

**7.25.020 Savings Clause.**

If any provision of this Section is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding has no effect on the validity, legality and enforceability of any other provision of this Section.

**7.25.030 Definitions.**

(Amended by Ordinance Nos. 186267 and 186746, effective August 6, 2014.) Except where the context requires otherwise, the following words and phrases have the definitions given in this Section:

- A. “**Administrative Fee**” means a fee assessed by a department of motor vehicles for the purpose of determining the registered owner of a vehicle.

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- B. "Boot"** means a mechanical device attached to a vehicle to prevent its movement.
- C. "Director"** means the Director of the Portland Bureau of Transportation or his or her designee.
- D. "Operator"** means any person or entity whose business includes assessing and collecting penalties at registered parking facilities.
- E. "Park"** means to leave a vehicle standing, while the driver has exited the registered parking facility, or to leave a vehicle standing for more than 5 minutes.
- F. "Parker"** means any person in control of any vehicle that is parking at a registered parking facility.
- G. "Payment device"** means any device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
- H. "Penalty"** means an amount assessed for failure to pay, or properly display proof of payment, for parking at a pay and park facility or for unauthorized or over-time parking at a non-pay private parking facility.
- I. "Penalty payment letter"** means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 10 days of the date the penalty notice was affixed to a vehicle.
- J. "Penalty notice"** means the notice affixed to vehicles parked without payment, parked without properly displaying proof of payment or parked without authorization at a registered facility, and which is the initial demand for payment.
- K. "Registered Facility"** means a parking lot or structure that is accessible to the public that has been registered with the Portland Bureau of Transportation and is either:
  - 1.** A non-pay private parking facility at which the free parking or storage of vehicles is limited by time or authorization by the property owner/operator, where the limitations are enforced by issuance of penalty notices; or
  - 2.** A pay and park facility that is open for parking or storage of vehicles by the general public, at which a fee must be paid for parking, where payment of parking fees is enforced by issuance of penalty notices, and where parkers receive a receipt or ticket at the time of payment that has the parking expiration time printed on it.
- L. "Registered Facility"** does not include property used for governmental purposes by any agency or special district.

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- M.** “**Second penalty payment letter**” means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 30 days of the mailing date of the first penalty demand for payment letter.

#### **7.25.040 Authorization.**

- A.** Enforcement. The Director is authorized to enforce all provisions of this Chapter.
- 1.** Investigation. The Director has the power to investigate any and all complaints regarding alleged violations of this Chapter.
  - 2.** Inspection. The Director may inspect any operator records required to be maintained pursuant to this Section. Such records must be made available for inspection during normal business hours within 24 hours of notice by the Director.
  - 3.** Delegation. The Director may delegate the authority provided under this Section to any City employee or agent thereof.
- B.** Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Chapter.
- C.** Adoption of rules. The Director may adopt rules pertaining to matters within the scope of this Chapter.
- 1.** Before the Director adopts a rule, a public hearing must be conducted. The Director must give notice of the public hearing in a reasonable manner not less than 10 nor more than 30 days before the hearing. The notice must include the place and time of the hearing; where copies of the full text of the proposed rules may be obtained; and a brief description of the proposed rules.
  - 2.** During the hearing the Director will consider oral and/or written testimony. The Director will adopt, modify or reject the proposed rule based on the testimony received. Unless otherwise stated, all rules are effective upon adoption by the Director and will be kept on file at the Bureau. Copies of all rules will be made available to the public upon request.
  - 3.** Notwithstanding Subsections 1. and 2. above, the Director may adopt an interim rule without prior public notice upon a finding by the Director that failure to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this Subsection will be effective for a period of not longer than 180 days.

**7.25.050 Registration as the Operator of a Facility.**

(Amended by Ordinance Nos. 186267 and 186746, effective August 6, 2014.) No person may assess any penalty at any facility unless that person is in compliance with the provisions of this Chapter.

- A.** Applications. An applicant for registration as an operator of a facility must submit to the Bureau:
1. The name, address and telephone number of the applicant;
  2. The name, email address and telephone number of the person that will be the point of contact for the Bureau. This person will be available to respond to inquiries, informational requests, or complaints at all times during normal business hours from 9 a.m. to 5 p.m. Monday through Friday;
  3. Proof of valid insurance as described in this Chapter;
  4. A sample copy of the proposed penalty notice;
  5. A sample copy of the proposed penalty payment letters;
  6. The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
  7. Such other information relating to the purposes of this Chapter as the Director may require.
- B.** Penalty notices, penalty payment letters and any subsequent demands for payment must include:
1. The name, address and telephone number of the operator;
  2. The vehicle's make, model, color and license plate number;
  3. The time and date the penalty notice was issued;
  4. The location of the facility, including the street address or the intersection nearest the entrance as provided on the original registration application;
  5. Any facility number that may be assigned by the operator;
  6. The amount of the penalty demanded;
  7. Instructions describing deadlines and acceptable methods of payment;

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8. Warning that an Administrative Fee may be assessed if the payment of the penalty is not received within 10 days of issuance of a penalty notice;
  9. Any additional penalty that may be added if not paid within 30 days; and
  10. A statement that the vehicle owner may submit a written complaint to the Portland Bureau of Transportation if attempts to resolve the complaint with the operator have been unsuccessful anytime within 90 days of the date of the first penalty payment letter. The Bureau's contact and mailing address and website address for complaints must be included on penalty payment letters.
- C. The penalty notice must not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The penalty notice form is subject to review and approval by the City Attorney's Office.
- D. The Bureau must approve all notices and letters. If a proposed penalty notice or penalty payment letter is rejected by the Bureau, it will be returned to the applicant for amendment and resubmission without additional fees. If such documents have previously been approved by the City and if no changes to the Section have been made, it is not necessary to resubmit them with each new location application. Changes to penalty notices and letters proposed by the operator must be approved by the Bureau before they are implemented.
- E. The Director shall reject any incomplete application.

#### **7.25.060 Registration of a Facility.**

(Amended by Ordinance No. 186746, effective August 6, 2014.) No operator shall assess any penalties at any facility unless it is registered with the Portland Bureau of Transportation.

- A. Application. To register a facility with the Bureau an operator must submit:
1. A written request from the registered operator that includes the facility's number (designated by the operator) and the facility's address;
  2. A drawing of the facility showing adjacent street names, facility entrances and exits, and location of payment devices;
  3. A nonrefundable registration fee for each facility in an amount as required by Administrative Rule.
- B. As a condition of registering a pay and park or non-pay private parking facility under this Chapter, the operator shall hold the City of Portland and its officers and employees free and harmless, and shall defend and indemnify the City for any

claims for damage to property or injury to person that may be occasioned by any work and/or services furnished or carried on under the terms of registration.

- C.** The Director shall inspect an operator's facility following receipt of the written request for registration, the facility drawing, and the registration fee. If the Director determines that a facility complies with this Chapter's requirements, the Director will issue a registration certificate to the operator for the facility. If the Director determines that the facility does not comply with this Chapter's requirements, the application will be denied and notice will be sent to the operator that lists the requirements the facility failed to meet. If an application is denied, the operator may resubmit the application without payment of additional registration fees at any time within 60 days of the notice date if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of registration fees may be made with respect to each facility. If upon such reapplication the registration is again denied, the operator must file a new facility application accompanied by the required registration fee.
- D.** Facility registrations are valid from the date of issuance until the last day of that same month the following year.
- E.** Reporting Changes. Operators must notify the Director of any changes to the operator's office location, contact information, and insurance provider prior to implementation of the change. Operators must also notify the Director of any changes to a facility that affect a parker's use of the facility including, but not limited to, location of entrances and exits and location of a payment machine. Changed facilities must be reinspected before any penalty notices are issued.
- F.** Renewal. The Bureau will send invoices for facility registration renewal to all operators at least 1 month prior to the expiration date. Registrations will be renewed upon payment of the nonrefundable fee for each facility as required by the Administrative Rules.
- G.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Chapter is not assignable or otherwise transferable.

**7.25.070 Payment Device.**

Payment devices must be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.

**7.25.080 Signage Requirements.**

(Amended by Ordinance No. 186267, effective October 25, 2013.) All signs required pursuant to this Section must be unobstructed, reflectorized and visible during all hours of operation. All signs required to be posted at a facility entrance must be no more than 10 feet from the entrance, must be located within 2 feet of the property line, and the center of such sign must be at least 4 feet from the ground.

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#### **A. Pay and Park Signage.**

- 1.** Pay and Park facilities must have a sign posted at each entrance (in letters at least 7 inches high) stating either "PAY TO PARK ALL HOURS," or "PAY TO PARK POSTED HOURS." For facilities with a "POSTED HOURS" sign, the sign must also state (in letters at least 3 inches high) the exact hours that the facility is operated as a pay and park facility.
- 2.** At each facility containing a payment device, there must be a sign (in letters at least 9 inches high) visible from every vehicle entrance stating "PAY HERE," indicating the location of the payment device.
- 3.** At each payment location there must be a sign(s) that states (in letters at least 2 inches high):
  - a.** all applicable charges for parking including the posted hours at a "PAY TO PARK POSTED HOURS" facility;
  - b.** that proof of payment must be displayed and clearly visible through the windshield;
  - c.** the phone number for the release of vehicles if they are subject to being towed;
  - d.** a warning that the facility may be monitored; and
  - e.** that vehicles parked without valid proof of payment or permit are subject to a parking penalty.
- 4.** In spaces reserved for parkers with a disabled person parking permit, the operator must attach a sticker or sign to the disabled parking sign at the front of each space that notifies the disabled parking customer that he/she is responsible for payment, regardless of having a disabled person parking permit.

#### **B. Non-Pay Private Parking Signage.**

- 1.** Non-pay facilities must have a sign posted at each entrance stating:
  - a.** that parking is prohibited, reserved or otherwise restricted;
  - b.** who is authorized to park;
  - c.** all limitations on parking;
  - d.** the hours during which parking is restricted;

- e. that the facility may be monitored; and
    - f. that parking in violation of posted restrictions may result in assessment of a penalty or towing and storage of a vehicle at the vehicle owner's expense.
  - 2. If a private parking facility is shared by more than one business, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.
- C. Notwithstanding Subsection 7.25.080 A. and B., if the Director determines that the requirements are not sufficient to protect the parking public due to a facility's site-specific conditions, configurations, or location, the Director may impose additional facility requirements. These requirements may include, but are not limited to, additional lighting, signage, landscaping, pavement markings, and restrictions on the hours during which penalties may be issued.

**7.25.090 Assessment of Penalties.**

- A. Pay and park facilities. The operator of a pay and park facility may assess and collect a penalty from any parker found to have either parked without paying the required parking fees upon parking the vehicle, or parked without placing the proof of payment in the vehicle so that it is clearly visible through the windshield.
- B. Non-pay private parking facilities. The operator of a non-pay private parking facility may assess and collect a penalty from any parker found to have parked without authorization.
- C. The penalty amount assessed to vehicles described in Subsections A. and B. above must not exceed the following amounts:
  - 1. Not more than the overtime parking penalty set by Multnomah County Circuit Court if paid within 30 days of the mailing date of the penalty payment letter.
  - 2. Not more than double the overtime parking penalty set by Multnomah County Circuit Court if paid after 30 days from the mailing date of the penalty payment letter.

**7.25.100 Parking Penalty Notice.**

- A. When a vehicle is parked in violation of a registered facility's requirements, the operator may affix to the vehicle, in a prominent location, a penalty notice.
- B. The penalty notice must be processed as follows:

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1. A copy must be affixed to the vehicle,
2. A record of the notice must be retained by the operator for not less than 1 year, and
3. All records of penalty notices must be available to the Director upon request.

#### **7.25.110 Penalty Payment Letters.**

(Amended by Ordinance No. 186267, effective October 25, 2013.)

- A. If the operator does not receive payment within 10 days from the day the operator affixed the penalty notice to the vehicle, the operator may mail a penalty payment letter to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle. The letter must be mailed no earlier than 10 days nor later than 30 days from the penalty notice issuance date. The letter must include:
  1. The amount demanded;
  2. Acceptable method(s) of payment;
  3. The schedule of increases for continued non-payment as described in Chapter 7.25;
  4. Space for the recipient to inform the operator that the person to whom the letter was sent is not the current registered owner of the vehicle;
  5. A statement that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve any disputes with the operator have been unsuccessful;
  6. The mailing address of the Bureau, and
  7. A statement to the effect that the Bureau will only investigate complaints by parkers regarding the issuance of a parking penalty notice filed within 90 days of the date of the first penalty payment letter.
- B. Administrative Fees.
  1. If an operator incurs costs from the Department of Motor Vehicles (DMV) in its efforts to obtain the name and address of a vehicle's registered owner, the operator may add a one-time administrative fee in addition to the penalty amount, provided that:
    - a. 10 days have elapsed since the penalty notice issuance;

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- b. The operator indicates the amount assessed as a separate itemized amount on the penalty payment letter;
  - c. The amount assessed is no more than the amount charged to the operator by the DMV.
2. Operators may not demand payment for an administrative fee until they have been charged said fee by the DMV.
3. Although operators may only charge the administrative fee once, the fee may be a combination of more than one DMV charge if the first attempt to obtain registered owner information resulted in invalid information. In no event may an operator charge for more than two attempts.

**7.25.120            Unlawful to Tow Vehicles.**

It is unlawful for any person to tow any vehicle parked at any registered facility without the permission of the parker unless:

- A.** The vehicle has been parked at the registered facility without the payment of the required parking fees or without authorization for a period in excess of 24 hours after the period for which parking fees have been paid or authorization has been given; or
- B.** The vehicle is parked at the registered facility in such a manner as to clearly impede vehicular ingress or egress to and from designated parking stalls or the facility itself, or is parked in any area that is clearly and conspicuously designated by signs or other traffic control devices as areas in which parking is restricted or forbidden; or
- C.** The vehicle is parked at any of the operator's registered parking facilities, and:

  - 1.** Within the previous 2-year period, the vehicle was parked at any of the operator's registered facilities without payment of parking fees or authorization, three times or more; and
  - 2.** During that time the operator affixed and mailed the notices and payment letters as provided for in this Chapter; and
  - 3.** Three or more penalties remain unpaid; and
  - 4.** The operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle will be towed if the vehicle is again parked at a registered parking facility. The notice must also state the total amount due for outstanding penalties, the issue date and parking facility.

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location for each outstanding penalty, the method(s) of payment accepted, the name, address and phone number of the operator, and that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful. The operator shall retain a copy of each notice for not less than 1 year and make such copies available upon request of the Director. The notice must be in a form approved by the City Attorney's Office; and,

5. Such towing is performed in compliance with Chapter 7.24 Private Property Impound Towing.

#### **7.25.130 Complaint Handling Procedures.**

(Amended by Ordinance Nos. 186267 and 186746, effective August 6, 2014.)

- A. Operators responding to the complaints of parkers or registered owners of vehicles must follow these guidelines:
  1. The operator must be available by telephone, fax and e-mail to the public during normal business hours to accept and respond to public complaints. The operator must have voicemail and must respond to telephone messages by the end of the next business day.
  2. The operator must respond in writing to written complaints within 10 days from the date the operator received the complaint.
  3. The operator's written response must include the mailing address of the Portland Bureau of Transportation and a statement that the parker or registered owner of the vehicle may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful.
  4. All efforts to collect the penalty and related amounts must be suspended upon the filing of a complaint with the operator or the Director, pending final resolution.
  5. The operator must respond in writing within 10 days to inquiries from the Director regarding complaints or operations of a registered facility.
  6. Penalties must not increase from the time a complaint is received by the operator or the Director, pending final resolution.
  7. The operator must void the penalty if the parker or registered owner provides evidence within 30 days of issuance of the penalty notice that the parking fee payment was made at the time the vehicle was parked at the facility or that the parker was authorized to park.

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8. The operator must notify appropriate credit agencies immediately upon voiding any penalty.
- B.** Upon receipt of a complaint the Director shall conduct an investigation.
1. Upon a finding by the Director or Bureau staff that a penalty is invalid, the operator must immediately cancel the penalty, cease all efforts to collect the penalty, and refund any payments that have been made.
  2. If the investigation determines that a violation of this Chapter has occurred, the Director will initiate remedies provided in this Chapter.
  3. The Director shall not investigate complaints by parkers regarding the issuance of a notice of demand for payment of penalties filed any time after 90 days from the date of the first mailed penalty payment letter.

**7.25.140 Maintenance of Records.**

(Amended by Ordinance No. 186267, effective October 25, 2013.)

- A.** The operator shall keep and maintain records of all penalties, any transactions relating to collection of past due accounts, written warnings, requests for vehicle towing, and any other transactions or written complaints relating to penalties or the impoundment of vehicles for a period of at least 1 year from the date the penalty notice was issued.
- B.** For the purpose of investigating complaints and to aid in enforcement of the requirements of this Chapter, the Director may require the operator to report financial and operating data listed in Subsection A. above, in such form as the Director requires.
- C.** The operator must compile the necessary data and submit reports to the Director within 10 days of a written request.

**7.25.150 Insurance Required.**

Operators must provide and maintain commercial general liability insurance covering any and all claims for damage to property or personal injury, including death and automobile damage that may arise from operations under the registration.

- A.** Such insurance must provide coverage of not less than \$1 million combined single limit per occurrence, with aggregate of \$1 million for bodily injury or property damage.
- B.** The limits of the insurance are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.

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- C.** The insurance must be without prejudice to coverage otherwise existing.
- D.** The insurance must name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance must protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein will operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.
- E.** The coverage must apply as to claims between insureds on the policy.
- F.** The insurance policy must provide that it will not terminate or be canceled without 30 days written notice first being given to the Director.
- G.** The adequacy of the insurance is subject to the approval of the City Attorney.
- H.** Failure to maintain liability insurance is cause for immediate revocation of the registration of the operator by the City.

#### **7.25.160 Prohibitions.**

No operator shall:

- A.** Require any person to make any statement or sign any document promising not to dispute the validity of a penalty or relieving the operator from responsibility for the condition of the vehicle.
- B.** Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a facility.
- C.** Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle.

#### **7.25.170 Remedies.**

Upon a violation by the operator of any requirements of this Chapter, the Director may exercise the following authority and may apply one or more of the following remedies:

- A.** Suspension or revocation. The Director may suspend a registration of any facility if investigation reveals that the violation has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension will be effective from the operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation will be effective upon the mailing of written notice by the Director.

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- B.** Civil Penalty. The Director may impose a civil penalty of up to \$500 for each violation.

**7.25.180 Appeals.**

Any operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10.

**7.25.190 Locking Parked Cars.**

It is unlawful for the operator or an employee of a public parking lot to close and leave the lot without first removing the keys from any vehicle remaining upon the lot. It is unlawful for the operator or employee to close and leave the lot prior to the posted time of closing without locking any vehicle remaining on the lot. If no closing time is posted it shall be unlawful for the operator or an employee to close and leave the lot without locking any vehicle remaining on the lot. The operator of any lot where the operator or employee removes keys to any location other than the lot itself shall post and maintain a sign on the premises stating where and during what hours keys may be obtained when the lot is not attended. The sign shall be placed in a location meeting the requirements of signs giving notice of impoundment fees required by Section 7.25.080 of this Code.

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**CHAPTER 7.26 - REGULATION OF PAYDAY  
LENDING**

(Chapter added by Ordinance No. 179948,  
effective February 22, 2006.)

**Sections:**

7.26.010	Purpose.
7.26.020	Definitions.
7.26.030	Permits.
7.26.040	Administrative Authority.
7.26.050	Payment of Principal Prior to Payday Loan Renewal.
7.26.060	Cancellation of Payday Loan.
7.26.070	Payment Plan for a Payday Loan.
7.26.080	Remedies.
7.26.090	Appeals.
7.26.100	Complaints.
7.26.110	Severability.

**7.26.010 Purpose.**

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to cancel a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This Chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

**7.26.020 Definitions.**

(Amended by Ordinance No. 186746, effective August 6, 2014.) As used in this Chapter unless the context requires otherwise:

- A. “Borrower” means a natural person who receives a payday loan.
- B. “Cancel” means to annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.
- C. “Director” means the Director of the Revenue Division.
- D. “Payday Lender” means a “lender” in the business of making payday loans as defined in ORS 725.600.
- E. “Payday Loan” means a payday loan as defined by state law.

- F.** “Principal” means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

**7.26.030 Permits.**

Within 60 days of the effective date of the ordinance enacting this Chapter, any Payday Lender operating in the City of Portland shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Portland and shall be renewed annually. The application shall be in a form to be determined by the Director. The Director shall require the Payday Lender to report its fee schedule in the Payday Lenders permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Portland. The annual cost for the permit shall be \$1,500.00, payable to the City of Portland; this permit is in addition to the City of Portland business license required by PCC 7.02.

**7.26.040 Administrative Authority.**

(Amended by Ordinance No. 186746, effective August 6, 2014.)

- A.** The Director is authorized and directed to enforce all provisions of this Chapter. The Director shall have the power to investigate any and all complaints regarding alleged violations of this Chapter. The Director may delegate any or all authority granted under this Section to any Revenue Division officer, employee or agent.
- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying this Chapter. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
- 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.
  - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
  - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue Division and the Office of the City Auditor in compliance with PCC

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1.07.030. Copies of all current rules shall be available to the public upon request.

4. Notwithstanding subsections 1 and 2 of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

- D. Inspection of Records. The City of Portland reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Director or its designee.

#### **7.26.050 Payment of Principal Prior to Payday Loan Renewal.**

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

#### **7.26.060 Cancellation of Payday Loan.**

- A. A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:
  1. Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and
  2. Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.
- B. A Payday Lender shall disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

#### **7.26.070 Payment Plan for a Payday Loan.**

- A. A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.
- B. A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals

allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

- C.** After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.
- D.** The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.
- E.** The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for early payment on the payment plan.
- F.** A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Chapter. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Chapter.

**7.26.080 Remedies.**

- A.** Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Director may impose a civil penalty of up to \$1,500.00 for a substantial violation of this Chapter or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.
- B.** Civil penalties shall be payable to the City of Portland.
- C.** Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.
- D.** No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

**7.26.090 Appeals.**

Any person upon whom a civil penalty has been imposed, or who has been directed by the Director to resolve a complaint, may appeal to the Code Hearings Officer pursuant to the provisions of Chapter 22.10 of this Code.

## **TITLE 7**

### **BUSINESS LICENSES**

#### **7.26.100 Complaints.**

The Director shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules.

- A.** The Director may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Director shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.
- B.** The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the Director by telephone or in writing within two (2) business days from initial contact by the Director.
- C.** If the proposed resolution is satisfactory to the Director, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Director.
- D.** If the proposed resolution is not satisfactory to the Director, the Director shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided by PCC 7.26.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by PCC 7.26.090.

#### **7.26.110 Severability.**

If any provision of this Chapter, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Chapter and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the Chapter shall be severed.