

## **UPDATE INFORMATION**

### **Vols. I & II – Portland City Code**

### **September 30, 2017 – Quarterly Update**

Retain this page to document what update was last applied to your books.

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1. Go to <http://www.portlandoregon.gov/efiles>
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Contact the Auditor's Office Council Clerk/Contracts  
Section if you have questions: 503-823-4082.

Previous Update Packet June 30, 2017



**CODE OF THE CITY OF PORTLAND, OREGON**  
**Insertion Guide for Code Revisions**  
**Office of the City Auditor 503-823-4082**  
**3rd Quarter 2017 (September 30, 2017)**

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**CHAPTER 3.21 - CITY AUDITOR'S  
INDEPENDENT POLICE REVIEW**

(Chapter replaced by Ordinance No. 175652;  
amended by Ordinance No. 188331, effective May  
19, 2017.)

**Sections:**

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**3.21.010 Purpose.**

(Amended by Ordinance No. 188331, effective May 19, 2017.) The City hereby establishes an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to act on complaints against Police Bureau personnel for alleged misconduct, and recommend appropriate changes of Police Bureau policies and procedures toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of community policing services. This office shall be known as the Independent Police Review.

**3.21.020 Definitions.**

(Amended by Ordinance Nos. 176317, 183657, 186416 and 188331 effective May 19, 2017.) In this Chapter:

**A.** “Appellant” means either:

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- 1.** A person who has filed a complaint with IPR and subsequently requested review of the investigation or
  - 2.** A member about whom a complaint has been filed with IPR and who has subsequently requested review by the Committee of the investigation.
- B.** “Bureau” means the Bureau of Police of the City of Portland, Oregon.
- C.** “Chief” means the Chief of the Bureau.
- D.** "Citizen" or “community member” means any person who is not an employee of the Bureau.
- E.** “Commissioner In Charge” means the Commissioner In Charge of the Bureau.
- F.** “Committee” means the Citizen Review Committee, which is appointed by City Council members to assist IPR in the performance of its duties and responsibilities pursuant to this Chapter.
- G.** “Complaint” means a complaint by a citizen, the Director, a member or other employee of the Bureau of alleged member misconduct.
- H.** "Complainant" means any person who files a complaint against a member of the Portland Bureau.
- I.** "Director" means the director of the Independent Police Review or the Director’s designee.
- J.** "Finding" means a conclusion reached after investigation as to whether facts show a violation of Bureau policy.
- K.** "Early Warning System" means the Bureau's method of identifying officers exhibiting a pattern of behavior that signals potential problems for both the Bureau and public, as explained in General Order 345.00.
- L.** “IAD” means the Internal Affairs Division of the Bureau, whose responsibilities and procedures are described in Section 330.00 of the Manual of Rules and Procedures of the Bureau, as amended from time to time.
- M.** "IPR Investigator" means an investigator of the Independent Police Review.
- N.** "IPR" means the Independent Police Review.
- O.** "Member" means a sworn employee of the Bureau or a supervisor of sworn employees. An “involved” member is a member about whom a complaint has been submitted to IPR or the Bureau.

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- P.** “Misconduct” means conduct by a member which conduct violates Bureau regulations or orders, or other standards of conduct required of City employees.
- Q.** “Request for Review” means a request by an appellant that the Committee review an IAD or IPR investigation of alleged member misconduct.
- R.** “RU (Responsibility Unit) Manager” means a commanding officer or manager of a Bureau division, unit or precinct.
- S.** “Supported by the Evidence.” A finding regarding a complaint is supported by the evidence when a reasonable person could make the finding in light of the evidence, whether or not the reviewing body agrees with the finding.
- T.** “Police Review Board” means the board established by Code Section 3.20.140.
- U.** "Policy-related issue" means a topic pertaining to the Police Bureau's hiring and training practices, the Manual of Policies and Procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct.
- V.** “Supervisory Investigation” means a formal, non-disciplinary process where the involved member’s supervisor is tasked with reviewing a complaint stating a member provided poor quality of service or committed a rule violation that if sustained would not result in corrective action greater than command counseling, as defined by the Bureau’s discipline guide.

**3.21.030 Independent Police Review.**

(Amended by Ordinance No. 188331, effective May 19, 2017.) There is established by the City Council the Independent Police Review, a division within the Auditor's Office.

**3.21.040 Director Selection.**

(Amended by Ordinance No. 186416, effective February 7, 2014.) The City Auditor shall select the Director of IPR in accordance with any applicable civil service regulations and other laws. The Director shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of administration, and public policy, and shall have a working knowledge in criminal justice commensurate to the powers and duties of the office.

**3.21.050 Staff and Delegation.**

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A.** The Director may appoint other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the IPR.
- B.** The Director may delegate to a designee any or all duties or responsibilities.

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#### **3.21.060 Office Facilities and Administration.**

- A.** The City shall provide suitable office facilities for the Director and staff in a location convenient for the public but separate from the Bureau.
- B.** The IPR office shall be located within the City Auditor's office, and be accountable to the City Auditor. The Director shall comply with City purchasing procedures but shall have sole discretion in choosing consultants to assist with investigations.

#### **3.21.070 Powers and Duties of IPR.**

(Amended by Ordinance Nos. 176317, 183657, 185076, 186416, 188331 and 188547, effective September 8, 2017.) The Director's powers and duties are the following:

- A.** Intake. IPR shall receive complaints and select the appropriate manner to address the complaint.
- B.** Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type as well as frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- C.** Access to Police data and data sources. IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- D.** Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations. IPR is authorized to identify complaints or incidents involving members that are of community concern which merit additional involvement of the Director and to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigations in conjunction with or independent of the Bureau.
  - 1.** For investigations conducted by IPR, investigation reports will include recommended findings.
  - 2.** The Bureau shall notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation.



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- E.** Compel review. In accordance with the procedures of Code Section 3.20.140, the Director may compel review by the Police Review Board of any RU Manager's or Commanding Officer's proposed findings and discipline resulting from a Bureau or IPR administrative investigation of a member. The Director may compel review by the Police Review Board on the basis of recommended discipline whether or not discipline was recommended as a result of the investigation.
- F.** Communicate with Complainants. IPR will be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Member.
- G.** Arrange hearings of appeals. IPR will explain the appeal options to complainants and schedule hearings before the Committee and Council.
- H.** Recommend policy changes. IPR will evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems. Policy change recommendations shall be published for public review.
- I.** Outreach. IPR will widely distribute complaint forms in languages and formats accessible to citizens, educate them on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.
- J.** Access to records. Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law, and police databases, subject to any applicable state or federal laws. The Director shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Director shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- K.** Adoption of rules. IPR shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Director's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Director may not levy any fees for the submission or investigation of complaints.
- L.** Review of closed investigations. IPR shall hire a qualified person to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis. IPR shall issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The Director and the Citizen Review Committee shall address any policy-related or quality of investigation issues that would warrant further review.

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- M.** Additional public reports. The Director may issue public reports related to member misconduct trends and Bureau disciplinary practices.
- N.** Conduct investigative interviews of Bureau employees.
- O.** All Bureau employees shall be truthful, professional and courteous in all interactions with IPR. No member shall conceal, impede or interfere with the filing, investigation or adjudication of a complaint.
- P.** The Auditor may work through the City Attorney's Office to hire outside counsel when the Auditor and City Attorney agree that outside legal advice is necessary and advisable.

#### **3.21.080 Citizen Review Committee.**

(Amended by Ordinance Nos. 177688, 185076, 186416 and 188331, effective May 19, 2017.)

- A.** The Committee shall consist of eleven citizens. Five members shall constitute a quorum of the Committee. Decisions shall be made by a majority of Committee members present and constituting a quorum. However, adoption or amendment of rules of procedures or protocols requires an affirmative vote of six members. The Committee members shall be appointed as follows:
  - 1.** The Director shall solicit applications from the Office of Neighborhood Involvement, the seven Neighborhood Coalition offices, Mayor and commissioners' offices, PPB advisory committees, and the general public.
  - 2.** The City Auditor shall appoint a committee that shall recommend to the Auditor the appropriate number of nominees to fill impending vacancies. The selection committee shall consist of three CRC representatives, either past or not applying for reappointment, two members of the community, and the Director. Three of the selection committee members, including one CRC representative and the Director, shall serve as the interview panel.
  - 3.** Selection criteria shall include a record of community involvement, passing a criminal background check performed by an agency other than the Bureau, and absence of any real or perceived conflict of interest. The selection committee will nominate individuals who are neutral, unbiased, and capable of making objective decisions. The Mayor and commissioners may each submit an applicant meeting these qualifications.
  - 4.** The Auditor shall recommend nominees to Council for appointment.
  - 5.** In the event a majority of the Council fails to appoint a person nominated under the provisions of City Code Section 3.21.080 the Auditor shall initiate the process again within 30 days after the Council action.

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6. In selecting Committee members, consideration shall be given to the current composition of the Committee and appointments should be made that will cause the group to best reflect the demographic make-up of the community.

**B.** The Committee members shall:

1. Participate in orientation and training activities that may include review of Bureau and IPR procedures, participation in Bureau training to become familiar with police training, policies and investigative practices, including Police Review Board process, participate in ride-alongs with officers, to maintain sufficient knowledge of police patrol procedures.
2. Each serve a term of three years, subject to reappointment by Council. Upon expiration of the term, a committee member shall serve until re-appointed or replaced.
3. Attend committee meetings or provide an explanation in advance for an absence.
4. Serve staggered terms to better ensure continuity. Four members of the Committee shall be appointed to one year terms in July 2001.
5. Select a chair from among their members. Adopt such operating policies and procedures as necessary to carry out their duties.
6. Sign a confidentiality agreement.
7. Serve on the Police Review Board when the Board reviews use of force cases as defined in Chapter 3.20. Committee members shall serve on the Police Review Board on a rotating basis for no more than two terms of three years.

**3.21.090 Powers and Duties of the Committee.**

(Amended by Ordinance Nos. 177688 and 185076, effective December 14, 2011.)

**A.** The Committee's duties and powers are the following:

1. Conduct meetings. To schedule and conduct at least four meetings per year for the purpose of exercising the authority delegated to it in this chapter. Quarterly meetings and hearings conducted pursuant to the Chapter shall be subject to the Oregon Public Meetings Law, ORS 192.610 through 192.710. The number of Committee members required for a quorum shall be five.
2. Gather community concerns. To participate in various community meetings to hear concerns about police services.

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3. Recommend policy changes. To evaluate complaint, investigative practices, and other information to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems.
4. Advise on operations. To review methods for handling complaints and advise on criteria for dismissal, mediation, and investigation.
5. Hear appeals. To hold hearings of complainant or member appeals as defined in City Code Section 3.21.160; to recommend referral to a final hearing before Council; to publicly report its findings, conclusions and recommendations.
6. Outreach to public. To advise and assist the Director to disseminate information about IPR and Committee activities to organizations in the community; to present reports to Council.
7. Create other committees. To create special purpose subcommittees or committees including other citizens to address particular short-term issues and needs.

#### **3.21.100 Council Role.**

- A. Council shall review applications of nominees to the Committee and vote whether to approve each appointment.
- B. Council shall hear final appeals as specified in 3.21.160.

#### **3.21.110 Intake.**

(Amended by Ordinance Nos. 179162, 186416 and 188331, effective May 19, 2017.)

- A. The Director shall receive complaints from any source concerning alleged member misconduct. The Director shall make reasonable accommodation when complainants cannot file their complaint at the IPR office. All allegations of use of excessive force shall be subject to a full and completed investigation resulting in findings, unless there is clear and convincing evidence to IPR that the allegation has no basis in fact.
  1. A community member may file a complaint or commendation regarding alleged member misconduct with IPR, Internal Affairs, a Police Bureau Precinct, the Police Commissioner, or with any Bureau member.
    - a. All complaints regardless of intake point will be forwarded to IPR or Internal Affairs and entered into the Administrative Investigation Management database.

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- b. All Bureau facilities will have complaint and commendation forms available in areas accessible to the public.
    - c. All Bureau issued business cards intended to be given to community members during calls for service will have IPR's phone number and email address printed on them.
  - 2. All complaints of alleged member misconduct will be investigated as either:
    - a. Formal administrative investigations conducted by either Internal Affairs or IPR.
    - b. Supervisory investigations conducted by a supervisor assigned to the same responsibility unit as the involved member.
      - (1) Supervisory investigations will only be used for non-disciplinary complaints, such as those related to quality of service or minor rule violations.
      - (2) All supervisory investigations will include a recommended disposition.
      - (3) All completed supervisory investigations must be reviewed by Internal Affairs and IPR.
      - (4) Completed supervisory investigations will not be subject to appeal.
  - 3. The Director will be notified in a timely manner by either the Assistant Chief of Investigations, Captain of IAD, or a member of the Police Commissioner's staff upon their knowledge that a member has engaged in conduct that may be subject to criminal and/or administrative investigation.
  - 4. IPR may request that the Bureau open an administrative deadly force investigation into any incident where IPR believes the physical force used by a member was such that it was readily capable of causing death or serious physical injury.
  - 5. When members of the public make complaints that do not allege member misconduct but do raise issues of a broader systemic nature, IPR may conduct reviews of Bureau policies and practices.
- B. The Director shall develop procedures for handling complaints and appeals involving matters currently in litigation or where a notice of tort claim has been filed. The Director shall not initiate a case where a grievance or other appeal has

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been filed under a collective bargaining agreement or City personnel rules; or with respect to employee or applicant discrimination complaints.

- C.** The Director, when requested, shall protect the confidentiality of complainants, members or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Director to carry out his or her duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. When considering a request for public records, the Director shall consult with appropriate Bureau personnel and obtain approval from the Bureau prior to disclosure of records under the Oregon Public Records Law.
- D.** No member of the community or the Police Bureau shall face retaliation, intimidation, coercion, or any adverse action for reporting misconduct or cooperating with a misconduct investigation.

#### **3.21.120 Handling Complaints.**

(Amended by Ordinance Nos. 179162, 183657, 186416, 188331 and 188547, effective September 8, 2017.) To ensure appropriateness and consistency in handling complaints the Director shall work with the Committee to establish procedures for taking action based upon the characteristics of the complaint.

- A.** Mediation. The complainant, the Member who is the subject of the complaint, and Bureau administration must all agree before mediation can be conducted. A complaint that undergoes mediation shall not be investigated. A mediation may be suspended if, in the opinion of the mediator, there is no reasonable likelihood of reaching resolution.
- B.** Complaint Types:

  - 1.** Complaint Type I: IPR is the intake point for complaints from community members and others regarding the conduct of members during an encounter involving a community member. Type I complaints involve alleged misconduct of a member during an encounter involving a community member.
  - 2.** Complaint Type II: A complaint about alleged member misconduct that does not occur during an encounter involving a community member is a Type II complaint. Such a complaint may be initiated by another Bureau employee or supervisor, or may be based on information obtained from another law enforcement agency, an employee of governmental agency acting in an official capacity or a community member. These complaints may be filed with the Bureau or with IPR.

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3. Complaint Type III: A complaint may be initiated by the Director at the discretion of the Director that an administrative investigation is warranted. IPR can initiate a complaint whether or not the alleged misconduct occurred during an encounter involving a community member and is not dependent on a community or Bureau member filing a complaint.
  - a. IPR will initiate and conduct administrative investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.
  - b. If a criminal investigation has been initiated against the involved member, or during the course of an IPR administrative investigation a basis for conducting a criminal investigation arises, IPR shall advise the City Attorney and/or District Attorney prior to initiating or continuing an administrative investigation. IPR shall take all steps necessary to meet constitutional requirements and comply with existing provisions of City labor agreements.
4. Complaint Type IV: When Bureau supervisors generate complaints about poor member performance or other work rule violations. RU managers are responsible for intake and investigation of allegations of Type IV cases.
5. For all complaint types, the Bureau shall notify IPR prior to the termination of any administrative investigation that has not been assigned for recommended findings.

#### **C. Initial Handling and Investigation of Type I Complaints**

1. Once IPR receives a Type I complaint regarding alleged misconduct of a member during an encounter involving a community member, IPR will:
  - a. Gather information about the complaint through an intake interview;
  - b. Assign an IPR/IAD Case Number;
  - c. Make a case handling decision; and
  - d. Send a letter to the complainant summarizing the complaint and the Director's case handling decision.
2. If IPR determines an investigation is appropriate, IPR will identify the complainant's allegations and either:
  - a. Recommend that the Bureau/IAD conduct an investigation

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IPR shall gather information from the complainant and forward it to the Bureau/IAD. IPR shall monitor the on-going Bureau investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD the Director shall notify the Captain of IAD of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.

IPR personnel shall have an opportunity to review and comment on draft reports regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation cannot be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

**b. IPR may conduct an independent investigation.**

The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member.

IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. The Director shall notify the Captain of IAD that IPR has undertaken an investigation and the reason.

To facilitate review, IPR shall tape record all interviews with witnesses, including members of the Bureau, conducted during an investigation and shall make those tapes, or accurate copies, available during a review of an investigation.



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The Director shall provide the Captain of IAD and the Police Chief with a report on the investigation, including recommended findings, and present the IPR investigation, with recommended findings to the RU manager for preparation of RU Manager's proposed findings and discipline. At the completion of the investigation and any appeal process the records of the investigation shall be transferred to the IAD offices for retention.

- 3.** Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.
- 4.** Administrative Closure. After an initial investigation, IPR may decline to take further action on a complaint. If there is an administrative closure, IPR will provided notification to the complainant. IPR will also notify the involved officer(s) and their commanding officer within 30 calendar days of the administrative closure. The Director may administratively close a complaint for the following reasons:
  - a.** Another remedy exists that would resolve the complainant's issue.
  - b.** The complainant delayed too long in filing the complaint to justify present examination;
  - c.** Even if all aspects of the complaint were true, no act of misconduct would have occurred;
  - d.** The complaint is trivial, frivolous or not made in good faith;
  - e.** Where there is clear and convincing evidence that the involved member did not engage in misconduct.
  - f.** The complainant withdraws the complaint or fails to complete necessary steps to continue with the complaint.
  - g.** IPR was unable to identify the involved member.
  - h.** Lack of jurisdiction.

#### **D. Initial Handling and Investigation of Type II Complaints**

- 1.** If a Type II complaint is filed with IPR, IPR will gather information about the complaint and make a case handling decision. When appropriate, IPR will assign an IPR/IAD case number. Before disposing of a complaint of

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alleged misconduct or initiating an investigation, IPR shall notify the Bureau in writing how it intends to process the complaint and whether it intends to refer the case to the Bureau/IAD to conduct an investigation or conduct an independent investigation as set forth below. IPR will make an entry regarding the allegations in the Administrative Investigation Management (AIM) or other appropriate database which can be reviewed by the Director.

2. If a Type II complaint is filed within the Bureau, Bureau/IAD staff will create an intake worksheet and assign an IPR/IAD case number for use by IAD. Before disposing of a complaint of alleged misconduct or initiating an investigation, the Bureau/IAD shall notify the Director in writing how it intends to process each complaint and whether it intends to conduct an internal investigation. In addition, the Bureau/IAD will make an entry regarding the allegations in the Administrative Investigation Management (AIM) database or other appropriate database which can be reviewed by the Director.
3. Bureau/IAD Investigation. If the Type II complaint is filed with IPR, IPR shall gather information from the complainant and forward it to the Bureau/IAD. IPR shall monitor the on-going investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD, the Director shall notify the Bureau/Captain of IAD of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.

IPR personnel shall have an opportunity to review and comment on draft reports and recommended findings regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

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4. IPR independent investigation. The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member. The IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. The Director shall notify the Bureau/Captain of IAD that IPR has undertaken an investigation and the reason.

To facilitate review, IPR shall tape record all interviews with witnesses, including members of the Bureau, conducted during an investigation and shall make those tapes, or accurate copies, available during a review of an investigation.

The Director shall provide the Captain of IAD and the Police Chief with a report on the investigation, including recommended findings and present the IPR investigation with recommended findings to the RU manager for preparation of RU Manager's proposed finding and discipline. At the completion of the investigation the records of the investigation shall be transferred to the IAD offices for retention.

5. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.

#### **E. Initial Handling and Investigation of Type III Complaints**

Upon opening a Type III IPR initiated complaint investigation. IPR staff will create an intake worksheet and assign an IPR/IAD case number. If a Type III case involves alleged member misconduct during an encounter involving a community member, the case will be handled following the same procedures as a Type I complaint. If a Type III case involves alleged member misconduct that does not occur during an encounter involving a community member, the case will be handled following the same procedures as a Type II complaint.

#### **F. Initial Handling and Investigation of Type IV Complaints**

RU managers are responsible for intake and investigation of allegations of Type IV cases. The RU manager will provide the Director a summary of the complaint and a summary of any subsequent investigation of a sworn member. The Director may refer the matter to IAD for further investigation, conduct additional investigation, or controvert the RU manager's recommendations and compel review by the Police Review Board after receiving the completed investigation.

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#### **G. Type I, II, III & IV Post-Investigative Case Handling Procedures:**

- 1.** Adequacy of investigation. When an investigation of any type of complaint is conducted by IAD or other designated PPB division, after the investigation, including RU Manager's proposed finding and discipline, is complete, IAD will provide the Director with a copy of and provide unrestricted access to the entire investigation file. Upon review of the file, the Director or designee must determine whether or not the investigation is adequate, considering such factors as thoroughness, lack of bias, objectivity, and completeness. If the Director determines that the investigation is not adequate, the investigation shall be returned to the IAD or other designated division within the Bureau explaining the determination and providing direction. Such direction shall include, but not limited to, rewriting portions of the summary, gathering additional evidence, conducting additional interviews, or re-interviewing officers or civilians. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete. Upon receipt of IPR's determination that the investigation is complete, IAD shall send the investigation to the appropriate RU Manager.
- 2.** Submission of recommended findings to RU Manager. The RU manager will review the investigation and recommended finding for any type of complaint when the investigation is conducted by IAD, other designated PPB division or IPR and submit the RU Manager's proposed finding and discipline to the Captain of IAD. The Captain of IAD will circulate the RU Manager's proposed finding to the Director and the Supervising Assistant Chief. After receipt of the RU Manager's proposed finding and discipline, the supervising Assistant Chief, the Director or the Captain of IAD may controvert the RU Manager's proposed finding and/or discipline. All controverts shall be documented in a memo that clearly articulates that the reviewer wishes to controvert and provides an adequate explanation for the writer's basis for disagreeing with the recommended finding or discipline.
  - a.** If the RU Manager determines that an investigation by IAD or IPR is not adequate, the RU Manager may return the investigation to the investigating entity for further investigation explaining the determination and providing direction for further investigation. Such direction shall include, but not be limited to, investigating additional allegations of misconduct, gathering additional evidence, conducting additional interviews, re-interviewing officers or civilians, or requesting factual errors within the investigative report be corrected.
  - b.** If the RU Manager disagrees with the recommended finding by IA or IPR the RU Manager will document their disagreement, based on

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the evidentiary record, with the investigative entity in the RU's proposed finding and discipline

3. Police Review Board meeting. If the RU Manager's proposed findings and/or proposed discipline are controverted, the Bureau shall schedule a Police Review Board meeting on the complaint. As specified in Code Section 3.20.140, the Police Review Board shall also hold a meeting for review of a case if it involves an officer-involved shooting, physical injury caused by an officer that requires hospitalization, an in-custody death, a less lethal incident where the recommended finding is "out of policy" or if the investigation resulted in a proposed sustained finding and the proposed discipline is suspension without pay or greater.
4. Notification and Appeals of Type I and III complaints without Police Review Board meeting. In Type I cases, and Type III cases where the alleged misconduct occurred during an encounter involving a community member, if the RU Manager's proposed findings and discipline are not sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. Both the complainant and involved member will be notified of the investigative entity's recommended finding. IPR will notify the complainant that they have a right to request a review of the Bureau's proposed findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the disposition of the complaint. The Bureau will notify the involved member of the right to request a review of the proposed findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.
5. Notification and Appeals of Type I and III complaints after Police Review Board hearing. In Type I cases and Type III cases where the alleged misconduct occurred during an encounter with a community member and the RU Manager's proposed findings and discipline are sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. Both the complainant and involved member will be notified of the investigative entity's recommended finding. IPR will notify the complainant that they have a right to request a review of the proposed findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the proposed findings of the Police Review Board. The Bureau will notify the involved member of the right to request a review of the proposed findings to the Committee. The Bureau will be responsible for

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providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.

6. No appeal of Type II and certain Type III complaints. In Type II cases and Type III cases that involve alleged member misconduct that does not occur during an encounter involving a community member, the recommended findings may not be appealed to the Committee.
7. Nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this Section.
8. The Police Commissioner and the City Auditor shall be notified and provided with explanatory information in all cases where an administrative investigation exceeds 129 days, and the information posted on the City's website.

#### **3.21.130 Communications.**

The IPR shall ensure that the complainant and member complained about are informed of the progress and status of the complaint or appeal. Communication may be accomplished orally or by first class mail.

#### **3.21.140 Filing of requests for review.**

(Amended by Ordinance Nos. 183657 and 187136, effective June 19, 2015.)

- A. Any complainant or member who is dissatisfied with an investigation of alleged member misconduct that occurred during an encounter with a community member may request a review.
- B. The request for review must be filed within 14 calendar days of the complainant or member receiving IPR's notification regarding disposition of the case. The Director may adopt rules for permitting late filings. When good cause has been established, the Director may accept late filings. Good cause includes, but is not limited to:
  1. Appellant has limited English language proficiency.
  2. Appellant has physical, mental or educational issues that contributed to an untimely request for review.
- C. A request for review must be filed in writing personally, by mail or email with the IPR Office, or through other arrangements approved by the Director.
- D. The request for review shall include:
  1. The name, address, and telephone number of the appellant;

2. The approximate date the complaint was filed (if known);
  3. The substance of the complaint;
  4. The reason or reasons the appellant is dissatisfied with the investigation.
- E. The complainant or member may withdraw the request for review at any time.

**3.21.150 Case File Review.**

(Replaced by Ordinance No. 187136; Amended by Ordinance No. 188331, effective May 19, 2017.)

- A. When the Director receives and accepts a timely request for review, a Case File Review and Appeal Hearing shall be scheduled before the Committee. The Director will notify the CRC Executive Committee upon receipt of a request of review. The Case File Review shall take place prior to the Appeal Hearing either on the same day or on an earlier date.
- B. The Case File Review will be an opportunity for the Committee to assess the completeness and readiness of the investigation for an Appeal Hearing. Public comment will be allowed before the Committee has made a decision whether a case is ready for an Appeal Hearing. In the event that the Committee conducts a Case File Review and Appeal Hearing on the same day, public comment will be allowed before the Committee has made its recommendation to the Bureau.
- C. During either the Case File Review or Appeal Hearing, the Committee may direct, by majority vote, additional investigation by either IAD and/or IPR.
1. Only Committee members who have read the case file are eligible to vote.
  2. The Committee will have one opportunity to direct additional administrative investigation, all other requests will be at the discretion of either IAD or IPR.
  3. The request for additional investigation may include multiple areas of inquiry.
  4. All additional investigation will be conducted in a timely manner, with the Committee given regular updates.
- D. If the committee agrees no further investigation and consideration of the evidence appears warranted, the committee shall vote on when to hold an Appeal Hearing.

**3.21.160 Hearing Appeals.**

(Amended by Ordinance Nos. 185076, 188331 and 188547, effective September 8, 2017.)

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- A.** An Appeal Hearing shall be conducted after a majority vote of the Committee to hold such a hearing at the case file review or other meeting of the full Committee. Public comment will be allowed before the Committee has made its recommendation to the Bureau.
- 1.** At the Appeal Hearing the Committee shall decide by majority vote:
- a.** To recommend further investigation by IAD or IPR; or
  - b.** If the finding is supported by the evidence. In a case where the majority of the voting members of the Committee affirms that the Bureau's proposed findings are supported by the evidence, the Director shall close the complaint; or
  - c.** If the finding is not supported by the evidence. In a case where a majority of the voting members of the Committee challenges one or more of the Bureau's proposed findings by determining that one or more of the findings is not supported by the evidence, and recommends a different finding, the Director shall formally advise the Bureau in writing of the Committee recommendation.
    - (1)** If the Bureau accepts the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall close the case.
    - (2)** If the Bureau does not accept the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall schedule the case for a conference hearing.
      - (a)** At the conference hearing, if the Committee, by a majority vote, is able to reach an agreement with the Bureau on the proposed findings, the Director shall close the case.
      - (b)** If, by majority vote, the Committee can not reach an agreement with the Bureau on the proposed findings, the Committee shall vote whether to present the appeal to City Council.
      - (c)** If, by majority vote, the Committee decides to present the appeal to City Council, the Director and the Committee Chair will schedule an appeal hearing before City Council. The Committee shall appoint one of its members to present its recommended findings during the appeal to City Council.



2. In its hearing the Council shall decide:
  - a. If the finding is supported by the evidence. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint; or
  - b. If the finding is not supported by the evidence. The Council shall decide what the finding is. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint.
- B. In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the complainant or the member or other officers involved or any other citizen. The complainant or member may appear with counsel. When the Committee's review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.
- C. In reviewing the investigation, the Council may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, any documents accumulated during the investigation, the recording of the Committee's case file review and appeal hearing, the Committee's Case File review Worksheet, and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Council may receive any oral or written statements volunteered by the complainant or the member about whether or not they believe the finding is or is not supported by the evidence in the record. No new evidence may be introduced in the hearing. The complainant or member may appear with counsel.
- D. Witnesses.
  1. The Committee and Council may require within its scope of review the investigators and Captain of IAD and the Director to appear and answer questions regarding the investigation and may also require the responsible Bureau Commander to answer questions regarding the basis and the rationale for a particular decision.
  2. Other Witnesses. Other witnesses shall not be required to appear involuntarily before the Committee.

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- 3.** Council may utilize the full powers granted by Section 2-109 of the Charter, including the power to compel the attendance and testimony of witnesses, administer oaths and to compel the production of documents and other evidence. The power to compel the attendance and testimony of witnesses in accordance with City Code Section 3.21.160 D.3. shall not be delegated by the Council to the Committee.

#### **3.21.170 Monitoring and Reporting.**

(Amended by Ordinance No. 181483, effective January 18, 2008.)

- A.** The Director shall develop a data system to track all complaints received, develop monthly reports to inform IAD and the Chief regarding IAD workload and performance, and inform complainants and members regarding the status of complaints and appeals.
- B.** The Director shall use complaint and OMF Risk Management Division data to support the Bureau's Early Warning System.
- C.** The Director shall work with the Committee to develop recommendations to modify Bureau policies and procedures in order to prevent problems, improve the quality of investigations, and improve police-community relations.
- D.** The Director shall work with the Committee to develop quarterly and annual summary reports for the Chief, Commissioner in Charge, Council and public on IPR and IAD activities, policy recommendations, and Bureau follow-through on recommendations. The report may include analysis of closed files which were not appealed, but it is not the intent that the files be reopened.

#### **3.21.180 Increasing Public Access.**

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A.** The Director shall work with the Committee to make complaint forms available in formats and locations to reach as many community members as possible.
- B.** The Director shall work with the Committee to develop programs to educate the public about IPR and the importance of reporting problems.
- C.** The Director shall work with the Committee to develop programs to educate Bureau personnel on the complaint process, mediation, and IPR activities. Bureau personnel shall be informed that IPR is the primary means for citizens to file complaints.
- D.** IPR, Committee and Bureau shall develop guidelines for situations when a commander or supervisor in a precinct is directly contacted by a complainant with a complaint. In general, they may intervene and attempt to resolve the complaint

themselves, but they must also inform complainants that they can still file with IPR if they do not achieve satisfaction.

**3.21.190 Response of Chief.**

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A.** The Chief, after reviewing a report provided by IPR under City Code Section 3.21.170, shall respond promptly to IPR in writing, but in no event more than 60 days after receipt of the report. The response shall indicate what, if any, policy or procedural changes are to be made within the IAD or the Bureau.
- B.** If the Chief fails to respond within 60 days after receipt of the Committee Report, the Auditor shall place the matter on the Council Calendar, for consideration by City Council, within 15 days thereafter.

**3.21.200 Limitation on Power.**

The Committee and Director are not authorized to set the level of discipline for any member pursuant to any request for review made under this Chapter. However, this Section shall not be construed to limit the authority granted to City Council by the City Charter, City Code, state statutes, and other applicable law.

**3.21.210 Subpoenas.**

(Added by Ordinance No. 183657; Amended by Ordinance No. 186416, effective February 7, 2014.) IPR shall have the authority to issue subpoenas for the purpose of compelling witness testimony or the production of documents, photographs, or any other evidence necessary for IPR to fully and thoroughly investigate a complaint or conduct a review.

IPR personnel will not subpoena a sworn Bureau member employed by the Portland Police Bureau, but is authorized to direct Bureau members to cooperate with administrative investigations as described in Sections 3.21.120 and 3.21.220.

Any person who fails to comply with a subpoena will be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.

**3.21.220 Bureau Witnesses.**

(Added by Ordinance No. 186416, effective February 7, 2014.)

- A.** A Bureau employee shall attend investigative interviews conducted by IPR, cooperate with and answer questions asked by IPR during an administrative investigation of a member conducted by IPR. If an employee refuses to attend an investigative interview after being notified to do so by IPR or refuses to answer a question or questions asked by IPR during an investigative interview, the Police Chief or Police Commissioner shall direct the employee to attend the interview and answer the question or questions asked.

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- B.** All IPR interviews of Bureau employees shall be conducted in conformance with legal requirements and collective bargaining provisions.
- C.** Prior to being interviewed, a Bureau employee will be:
  - 1.** Notified of the time, date, and location of the interview.
  - 2.** Informed of the right to bring a union representative to the interview.
  - 3.** Read a statement, issued under the authority of the Police Chief or Police Commissioner, that the employee is directed to attend the interview, cooperate during the interview and answer all questions fully and truthfully and, if the employee fails to attend the interview, cooperate during the interview or answer any questions fully and truthfully, the employee will be subject to discipline or discharge
  - 4.** Provided with any other information or protections required by any applicable collective bargaining agreement.
- D.** A representative of the Police Bureau shall attend IPR interviews of Bureau employees for the purpose of reading the statement referenced in Subsection C. and to provide any assistance required by IPR.

# **TITLE 6 - SPECIAL TAXES**

## **TITLE 6 SPECIAL TAXES**

### **CHAPTER 6.04 - TRANSIENT LODGINGS TAX**

(Chapter replaced by Ordinance No. 161506,  
effective January 1, 1989.)

#### **Sections:**

- 6.04.010 Definitions.
- 6.04.020 Tax Imposed.
- 6.04.025 Administrative Authority.
- 6.04.030 Collection of Tax by Operator.
- 6.04.040 Operator's Duties.
- 6.04.050 Exemptions.
- 6.04.060 Registration of Operator; Form and Contents; Certification of Authority.
- 6.04.070 Due Date; Returns and Payments.
- 6.04.080 Penalties and Interest.
- 6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.
- 6.04.100 Redeterminations.
- 6.04.110 Security for Collection of Tax.
- 6.04.120 Credits or Refunds.
- 6.04.130 Administration and Recordkeeping.
- 6.04.140 Business License Appeals Board; Hearings Officer; Appeal; Rules.
- 6.04.150 Appeal to Business License Appeals Board, Hearings Officer.
- 6.04.155 Appeal of Penalty or Interest Assessments.
- 6.04.165 Presumptive Tax for Failure to Register or File Returns.
- 6.04.170 Civil Penalties for Violations of this Chapter.

#### **6.04.010 Definitions.**

(Amended by Ordinance Nos. 162647, 186985, 187339 and 188170, effective January 20, 2017.) Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. "Accrual Accounting"** means the Operator enters the Rent due from a Transient on their records when the Rent is earned, whether or not it is paid.
- B. "Booking Agent"** means any Person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent's hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:

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1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; or
  2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; or
  3. A hosting or other online site that provides a means through which an Operator, Host or agent may offer a Short-Term Rental unit for transient lodging occupancy; or
  4. Any Person who lists commercial Hotel rooms or long-term rentals for transient lodging occupancy; or
  5. Any Person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third party providers receive information about a transaction and collect funds for the transient lodging occupancy from a Transient.
- C. **“Division”** means the Revenue Division of the Bureau of Revenue and Financial Services of the City of Portland.
- D. **“Director”** means the director of the Revenue Division, or designee.
- E. **“Business License Appeals Board”** means the Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- F. **“Cash Accounting”** means the Operator does not enter the Rent due from a Transient on their records until Rent is paid.
- G. **“Host”** means the owner or person who resides at a Short-Term Rental or has been designated by the owner or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or through the use of a Booking Agent.
- H. **“Hotel”** means any structure, or any portion of any structure which is used, occupied, intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, boutique hotel, lodging house, rooming house, apartment house, single family house or any portion of such house, duplex, condominium, bed and breakfast facility, vacation home, multi-dwelling structure, accessory dwelling unit, trailer home, houseboat, public or private

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dormitory, hostel, fraternity, sorority, public or private club, corporate housing or executive housing space or facility, and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 31-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

**I. “Occupancy”** means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any Room, Rooms or portion thereof in a Hotel as defined above.

**J. “Operator” means:**

1. Any Person who provides one or more Rooms for Occupancy for periods of 30 days or less to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents or any other person the Hotel consents to allow to process reservations and accept payments from the Transient on behalf of the Hotel; or
2. Any Person that facilitates the reservation of an accommodation and collects the payment for the Room reservation from the Transient; or
3. Any Transient Lodging Provider, Transient Lodging Intermediary or Transient Lodging Tax Collector as defined in ORS 320.300; or
4. A Booking Agent as defined in this Chapter.

There may be more than one Operator for a Hotel and each Operator is independently responsible for compliance with this Chapter though the tax will only be collected once. Operators include, but are not limited to, the Hotel owner and/or management, online travel companies, Booking Agents or other online travel facilitators, travel agents or companies, contracted management companies or any other Person that secures the right to occupy a Room on behalf of the Transient and receives payment from the Transient for that right whether or not the Operator is the ultimate recipient of the payment.

**K. “Person”** means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

**L. “Rent”** means the full consideration charged to the Transient for the right to occupy a Room in a Hotel, valued in money, goods, gift cards, labor, credits, property or other consideration of value without any deduction. Rent is considered to be the



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total amount represented to the Transient by an Operator as the consideration charged for the Occupancy including any accommodation fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

- M. “Rent Package Plan”** means the consideration charged for both food and Rent where a single rate is made for the total of both. The amount applicable to Rent for determination of transient room tax under this Chapter is considered the same charge made for Rent of the identical room when it is not a part of a package plan.
- N. “Room”** means each portion of a Hotel which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations, such as meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk or dormitory style rooms, each bed is counted as a room.
- O. “Short-Term Rental”** means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a person rents guest bedrooms for transient lodging Occupancy. Generally, a Short-Term Rental is zoned residential or has a building occupancy that only allows for residential use.
- P. “Tax”** means either the tax payable by the Transient or the aggregate amount of taxes due from an Operator during the period for which the Operator is required to report their collections.
- Q. “Transient”** means any individual who exercises Occupancy or is entitled to Occupancy in a Hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a Transient checks out of the Hotel is not included in determining the 30-day period if the Transient is not charged rent for that day by the Operator. Any such individual so occupying space in a Hotel is deemed to be a Transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of Occupancy, and the tenancy actually extends more than 30 consecutive days.

**6.04.020 Tax Imposed.**

(Amended by Ordinance No. 188170, effective January 20, 2017.) For the privilege of Occupancy in any Hotel, each Transient shall pay a tax in the amount of 6 percent of the Rent charged by the Operator. The Tax constitutes a debt owed by the Transient to the City, which is extinguished only by payment by the Operator to the City. The Transient shall pay the Tax to the Operator of the Hotel at the time the Rent is paid. The Operator must enter the tax on their records when Rent is collected if the Operator keeps their records on the Cash Accounting basis and when earned if the Operator keeps their records on the

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Accrual Accounting basis. If Rent is paid in installments, a proportionate share of the tax must be paid by the Transient to the Operator with each installment. In all cases, the Rent paid or charged for Occupancy may exclude the sale of any goods, services and commodities, other than charges associated with furnishing rooms, including but not limited to cleaning fees, non-refundable deposits, reservation or service fees.

#### **6.04.025 Administrative Authority.**

(Added by Ordinance No. 188170, effective January 20, 2017.)

- A.** The Revenue Division administers this Chapter. Nothing in this Chapter precludes the disposition of a controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.
- B.** The Director may implement procedures, forms and written policies for administering the provisions of this Chapter.
- C.** The Director may adopt rules relating to matters within the scope of this Chapter or to obtain compliance with this Chapter.
- D.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director must mail notice of the public hearing to each Operator currently registered with the Division at the last known mailing address provided or post the rule on the City of Portland website. The notice must be mailed not less than 10 nor more than 30 days before the hearing. Such 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.
- E.** At the public hearing, the Director must accept oral or 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.

#### **6.04.030 Collection of Tax by Operator.**

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** Operators must collect a Tax from the Transient. The Tax collected or accrued by the Operator constitutes a debt owing by the Operator to the City.
- B.** In cases of deferred payment of Rent, the payment of Tax to the Operator may be deferred until the Rent is paid, and the Operator shall not be liable for the Tax until credits are paid or deferred payments is made. Adjustments may be made for uncollectible Rent where appropriate.

#### **6.04.040 Operator's Duties.**

(Amended by Ordinance Nos. 186985, 187339, 188170 and 188501, effective July 5, 2017.)

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- A.** Operators must collect the Tax imposed by this Chapter at the same time as the Rent is collected from every Transient. The amount of Tax must be separately stated upon the Operator's records, and any receipt rendered by the Operator. If a single amount is stated on the Operator's records or receipts without a breakout between Rent and Tax, the Division will deem the entire amount is Rent and Tax will be calculated on the total amount. No imputation of Tax is permitted. No Operator may advertise that the Tax or any part of the Tax will be assumed or absorbed by the Operator, or that it will not be added to the Rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.
- B.** Upon request of the Division for any regulatory or tax administration purpose or upon issuance of a subpoena in accordance with this Chapter, Operators must provide all physical addresses of transient lodging occupancy locations within Portland city limits and the related contact information, including the name and mailing address of the general manager, agent, owner, Host or other responsible Person for the location. Any location and related contact information provided under this Subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns.

**6.04.050 Exemptions.**

(Amended by Ordinance Nos. 162647 and 188170; effective January 20, 2017.) No tax imposed under this Chapter shall be imposed upon:

- A.** Any occupant for more than 30 successive calendar days (a Person who pays for lodging on a calendar month basis, irrespective of the number of days in such a month, shall not be deemed a Transient);
- B.** Any occupant in a hospital room, medical or mental health facility, convalescent home, skilled nursing facility, assisted living facility, foster home, rehabilitation center or a government owned and operated public institution.
- C.** Any Person housed through an emergency shelter or disaster program where the Rent is paid with government assistance funds;
- D.** Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization. An exemption may also be granted for direct bills to a Federal Government department, agency or instrumentality. An exemption may not be granted for Rents paid by contractors of the Federal Government, even if the Occupancy was for a Federal Government employee on official business, and notwithstanding the fact that such Rents may be reimbursed by the Federal Government or paid under the contract with the Federal Government.

**6.04.060 Registration of Operator; Form and Contents; Certification of Authority.**

(Amended by Ordinance Nos. 186736, 187339 and 188170, effective January 20, 2017.)

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- A.** Person engaging or about to engage in business as an Operator in this City must register with the Division on a form provided by the Division. Operators starting business must register within 15 calendar days after commencing business. The failure to register with the Division does not relieve any Person from the obligation of payment or collection of Tax. Registration must state the name under which an Operator transacts or intends to transact business, any affiliated companies or brands that are associated with the registration, the location of the place of business and such other information necessary to facilitate the collection of the Tax as the Division may require. The Operator must sign the registration form.
- B.** Within 10 days after registration, the Division will issue a Certificate of Authority and establish an account to collect the tax from the Transient. Certificates of Authority are non-assignable and non-transferable and will be returned to the Division upon the cessation of business or business sale or transfer at the location listed on the certificate, if applicable. Certificates of Authority must be prominently displayed so as to be seen by all occupants and persons seeking occupancy. If the Rent transaction is facilitated online, the Certificate of Authority must be able to be viewed by the Transient by clicking on link to the Certificate of Authority at a reasonable place during the payment transaction.
- C.** The Certificate of Authority will include at least the following:

  - 1.** The name of the Operator;
  - 2.** The date the certificate was issued;
  - 3.** “This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the City of Portland for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any Person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a Hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Portland. This certificate does not constitute a permit.”
- D.** Hosts of Type A and Type B Accessory Short-Term Rentals must comply with the requirements of Chapter 33.207. In addition, all Operators of Type A and Type B accessory Short-Term Rentals as described in Chapter 33.207 must prominently display the Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No Operator will advertise or otherwise represent that an accessory Short-Term Rental is available for Occupancy unless all applicable legal requirements allowing the Occupancy of a Short-Term Rental has been met and the Operator has registered with the Division as required above. Additionally, this Permit Number, Conditional Use case file

number or other number issued directly by the Division must be prominently displayed in the rental unit so as to be seen by all short-term occupants.

**6.04.070 Due Date; Returns and Payments.**

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** The tax imposed by this Chapter must be paid by the Transient to the Operator at the time that Rent is paid. All amounts of such taxes collected by any Operator are due and payable to the Division on or before the last day of the following month for the preceding 3 months. If the due date falls on a Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows. Payments and returns received or postmarked before the first business day that follows will be deemed to have been received on the due date. The Division has authority to classify and/or district Operators for determination of applicable tax periods, and will notify each Operator of the due dates for returns.
- B.** On or before the last day of the month following each quarter of collection, or month of collection if an Operator is required or elects to file monthly returns, a return for the preceding period's tax collections must be filed with the Division. The return must be filed in such form as the Division may prescribe for payment of the tax.
- C.** Returns must show the amount of tax collected or otherwise due for the related period. The Division may require returns to include additional information to explain the tax calculation.
- D.** The Person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Division at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- E.** For good cause, the Division may extend for 1 month the time for making any return or payment of tax. No further extension will be granted, except by the Director. Any Operator to whom an extension is granted will pay interest at the rate of 1.25 percent per month on the amount of tax due without proration for a portion of a month or reduction for any prepayments or credits available. If a return is not filed, and the tax and interest due is not paid by the end of the extension period, then the interest will be added to the tax due for computation of penalties and additional interest described elsewhere in this Chapter.
- F.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods. If an Operator is required to report on a more frequent basis, the Division will provide a schedule showing the tax periods, due dates and delinquent dates.

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#### **6.04.080 Penalties and Interest.**

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** Original delinquency. Any Operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter on or before the due date will pay a penalty of 10 percent of the tax due in addition to the tax. There is no grace period between the due date and the assessment of a penalty and interest; the day following the due date is considered to be the delinquent date.
- B.** Continued delinquency. Any Operator who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the tax due plus all penalty and interest assessments at the time of the continued delinquency calculation.
- C.** Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the tax will be added in addition to the penalties stated in paragraphs A. and B. of this Section and interest stated in paragraph D. of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculations.
- D.** Interest. In addition to the penalties imposed, any Operator who fails to file or pay any tax imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the first day following the original due date. Interest will be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the tax required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.
- F.** Petition for waiver. Any Operator who fails to pay the tax within the time stated must pay the tax, penalties and interest assessed; however, the Operator may petition the Director for waiver and refund or credit of all or part of the penalty assessed and the Director may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

#### **6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.**

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

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- A.**     Deficiency determinations. If the Division determines that a return is incorrect, that required reports or returns have not been filed, or that an Operator has otherwise failed to comply with the terms of the Code, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable within ten days. The Division may assess penalties and interest as set forth in Section 6.04.080.
1.     In making a deficiency determination, the Division may offset overpayments, if any, which may have been previously made against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
  2.     The Division must give to the Operator or Transient (in the case of a refund request) a written notice of its deficiency determination. The notice may be served personally or by mail. If by mail, the notice will be addressed to the Operator at the address as it appears on the records of the Division or as the Division can best determine if the Operator has not provided that information to the Division. In case of service by mail or any notice required by this Chapter, the service is complete at the time of deposit with the United States Post Office.
  3.     Any deficiency is due and payable within 10 days. The Operator or Transient (in the case of a refund request) may petition for a redetermination if the petition is filed within 10 days of service as provided in Section 6.04.100. Nothing prohibits the Division from extending the time for petition beyond 10 days at its sole discretion.
  4.     Every deficiency determination must be made and notice mailed within 5 years after a return was originally filed, subsequently amended or the tax was paid, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return, or willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of such deficiency may be commenced, at any time and is not subject to the 5 year limitation above.
- B.**     Operator delay. If the Division believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any deficiency determination will be jeopardized by delay, the Division may make a deficiency determination of the tax or amount of tax required to be collected, noting the fact upon the deficiency determination. The amount so determined is immediately due and payable, and the Operator will immediately pay such determination to the Division after service of notice thereof; provided,

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however, the Operator may petition, after payment has been made, for a redetermination of the Division's assessment, if the petition is filed within 10 days from the date of the written notice from the Division.

#### **6.04.100 Redeterminations.**

(Amended by Ordinance Nos. 184772, 187339 and 188170, effective January 20, 2017.)

- A.** Any Person against whom a deficiency determination is made under Section 6.04.090 or civil penalties assessed under Section 6.04.170 may petition for a redetermination within the time required in Section 6.04.090. The deficiency determination becomes final at the expiration of the allowable time.
- B.** If a petition for redetermination is filed within the time provided in Subsection 6.04.090 A.3., the Director will reconsider the deficiency determination or civil penalties, and, if requested in the petition, will grant an oral hearing and give 10 days notice of the time and place of the hearing. The Director may continue the hearing from time to time as may be necessary.
- C.** The Director may adjust the amount of the deficiency determination as a result of the hearing and, if an increase is determined, such increase will be payable immediately after the hearing.
- D.** The Director's order or decision becomes final 10 days after service upon the petitioner unless an appeal is filed with the Business License Appeals Board or Hearings Officer, if applicable, within 10 days after service.
- E.** No petition for redetermination or other appeal will be accepted and no petition or appeal is effective for any purpose unless the Operator has first complied with the payment provisions and has paid in full the amount determined to be due in the deficiency determination or civil penalty that is being appealed.

#### **6.04.110 Security for Collection of Tax.**

(Amended by Ordinance Nos. 162647, 187339 and 188170, effective January 20, 2017.)

The Division, whenever deemed necessary to ensure compliance with this Chapter, may require any Operator to deposit security in the form of cash, bond or other security as the Division may determine. The amount of the security will be determined by the Division but will not be greater than twice the Operator's largest quarterly liability, determined in such manner as the Division deems proper. No interest will accrue on any security required by the Division.

#### **6.04.120 Credits or Refunds.**

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** Credits by City to Operator. Whenever the amount of any tax, penalty, or interest has been paid in error to the Division under this Chapter, it may be credited to the



Operator's account, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Division within 3 years from the date of payment. If the claim is approved by the Division, the excess amount collected or paid may be credited against any current or future amounts due and payable from the Operator. If there is no future liability, the Division may issue a refund.

- B.** Refunds by City to Transient. Whenever the tax required by this Chapter has been collected by the Operator, and paid by the Operator to the Division, and it is later determined that the tax was erroneously collected by the Operator, it may be refunded by the Division to the Transient or the party who paid the tax if different from Transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Division within 3 years from the date of payment. Prior to any refund, the Division will audit the Operator's records to determine that the tax was collected and paid to the City.
- C.** Refunds by Operator to Transient. Whenever the tax required by this Chapter has been collected by the Operator and it is later determined that the tax was collected in error, the Operator will refund to the Transient the tax previously collected. The Operator will account for such collection and refund to the Division. If the Operator has remitted the tax prior to refund to the Transient, the Operator may request a credit for the refunded tax when the next report is filed with the City.

**6.04.130 Administration and Recordkeeping.**

(Amended by Ordinance Nos. 187339, 188170 and 188501, effective July 5, 2017.)

- A.** Records required from Operator. Operators must keep appropriate records, including but not limited to registration forms or logs, accounting and bank records, supporting documentation for all deductions taken and any other documentation necessary to support the tax report filed or required to be filed. All records must be retained by the operator for a period of 5 years and 6 months after the filing of the tax return, amended return or payment of the tax, whichever is later.
- B.** Examination of records; investigations. The Division, or any person authorized in writing by it, may examine during normal business hours the books, papers and accounting records relating to tax returns filed by any Operator, after notification to the Operator liable for collecting and remitting the tax, and may investigate the business of the Operator in order to verify the accuracy of any return made, or if no return is made or, to determine the amount required to be paid.
- C.** Subpoenas. For purposes of determining compliance with this Chapter, the Director may issue subpoenas to any Operator or Person for the production of all information, documents, reports, records, accounts, papers, and other data and documentary evidence, in whatever format or however stored, necessary to ensure compliance with this Chapter.

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1. It is unlawful for any Operator or Person so subpoenaed to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter at issue or to allow records to be examined, unless the Operator or Person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objections or raised that specific defense in seeking the order to quash.
  2. If an Operator or Person subpoenaed as provided fails to appear or produce any records as required, or whenever any Operator or Person so summoned refuses to answer any question pertinent to the subject under inquiry, the City Attorney may apply to any court of competent jurisdiction for an order to the Operator or Person to attend and testify, or otherwise comply with the subpoena.
  3. The City Attorney's application to the court may seek an order requiring the Operator or Person against whom the subpoena is directed to comply with the subpoena within 3 days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.
- D. Should the City prevail in any legal proceedings in any state or federal court to collect the taxes, penalties and interest assessed in accordance with this Chapter, or to enforce a subpoena, the City shall be entitled to its reasonable costs and attorneys' fees.
- E. At any time within 5 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within 5 years after any determination becomes final, in the case where no tax returns have been filed, the Division may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount tax due, together with all penalties and interest amounts assessed under this Code.
- F. Confidential financial information. Except as otherwise required by law, it is unlawful for the Division, or any elected official, employee or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Division under the terms of Chapter 6.04. Nothing in this subsection prohibits:
  1. 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 this Chapter, or collecting taxes imposed under the terms of this Chapter, or collecting City permit fees or business license taxes; or

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2. The disclosure to the Operator or an authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request and approval of the request by the Director; or
3. The disclosure of the names and addresses of any persons to whom Certificates of Authority have been issued; or
4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular Operator's return; or
5. The disclosure of financial information to the City Attorney 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.
6. The disclosure of financial information or unpaid tax balances, including penalty and interest assessments, to an outside collection agency on contract with the City to provide collection services.

**6.04.140 Business License Appeals Board; Hearings Officer; Appeal; Rules.**

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A. Except as provided herein, the Business License Appeals Board has authority to hear and determine appeals of orders or decisions of the Division or Director made upon petitions for redetermination. The Board may affirm, modify, or reverse such orders or decisions or dismiss the appeals and prescribe such forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the Division or Director's decision or order, the Board may take such evidence and make such investigation as it may deem necessary. It will give notice of its determinations in the manner prescribed for service of a notice of the Division or Director's decision and will file a copy of each such determination with the Division. Such determination will become final after 10 days and any increase to the determination becomes due and payable once final, subject to interest and penalties, and enforceable by the Division as an order or decision of the Division or Director.
- B. For an amount in controversy greater than \$10,000 and less than \$50,000, an appellant may request a hearing by an appointed Hearings Officer instead of a hearing by the Business License Appeals Board.
- C. An appeal involving an amount in controversy greater than \$50,000 will be heard by a Hearings Officer instead of a hearing by the Business License Appeals Board.

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The Hearings Officer will be appointed by the City Attorney, will be a member of the Oregon State Bar and will not be a City employee.

- D.** In appeal hearings held before a Hearings Officer, the appellant and the City's representative will each have the right to appear in person and be represented by legal counsel, to receive notice, to respond to and present evidence, to call and cross-examine witnesses under oath and to present argument on all issues involved. Subject to the provisions herein, the City Attorney may promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.
- E.** The record in a proceeding before the Hearings Officer will include:

  - 1.** All pleadings, motions, and intermediate rulings;
  - 2.** Evidence received or considered;
  - 3.** Stipulations;
  - 4.** A statement of matters officially noticed;
  - 5.** Questions and offers of proof, objections, and rulings thereon;
  - 6.** Proposed findings and exceptions; and
  - 7.** Any proposed, intermediate, or final order prepared by the Hearings Officer.
- F.** The Hearings Officer has the power to compel attendance of witnesses by deposition or at hearing and the production of documents by subpoena to any party upon showing of general relevance and subpoena in accordance with civil law.
- G.** The formal rules of evidence do not apply and any relevant evidence that is the sort of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of serious business affairs is admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Hearsay evidence may be considered by the Hearings Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The Hearings Officer will give effect to the rules of privilege recognized by law.
- H.** The Hearings Officer may take notice of judicially recognizable facts, and the Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of City employees.
- I.** A verbatim, written, mechanical, or electronic record will be made on all motions, rulings, and testimony if requested by any party. The record will be transcribed for

the purposes of court review. If the City prevails on such review, the reasonable costs of preparing the transcript will be allowed as a part of the City's costs in such action.

- J.** The Hearings Officer is authorized to rule upon issues of law or fact and to determine the amount of the tax, penalty or interest due in accordance with the Transient Lodgings Tax Law. The Hearings Office does not have any jurisdiction to waive, mitigate or suspend the collection of any tax, penalty or interest assessment found to be duly imposed.
- K.** The decision of the Hearings Officer will be issued in writing in a final order. The final order becomes final on the date specified in the order, which date will be within 30 days after the conclusion of the hearing. The decision is the final administrative remedy of the appellant. Any amounts due are payable to the City of Portland within 10 days of the order becoming final. The Hearings Officer will notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

**6.04.150 Appeal to Business License Appeals Board, Hearings Officer.**

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.) Any Operator or Transient aggrieved by a decision of the Director made pursuant to Section 6.04.100 may appeal to the Business License Appeals Board or Hearings Officer as allowed in Section 6.04.140 by filing a notice of appeal with the Director within 10 days of the service of the notice of a Director's decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals.

**6.04.155 Appeal of Penalty or Interest Assessments.**

(Added by Ordinance No. 188170, effective January 20, 2017.) Appeals of penalty and/or interest assessments are not subject to the appeals process or timeline outlined in Section 6.04.140 or 6.04.150 above. The Operator must follow the "Redetermination" procedures under Section 6.04.100. The decision of the Director regarding penalty and interest assessments is final.

**6.04.160 Appeals to City Council.**

(Repealed by Ordinance No. 184772, effective August 26, 2011.)

**6.04.165 Presumptive Tax for Failure to Register or File Returns.**

(Added by Ordinance No. 188170, effective January 20, 2017.)

- A.** The Director may impose a presumptive tax upon any Person failing or refusing to register as an Operator or file tax returns as required under this Chapter.

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- B.** In calculating the presumptive tax amount when imposed under this Section, the Division will determine:
  - 1.** The number of rooms that the Operator controlled for each day that it was not registered; and
  - 2.** The room rental rate, based upon the best available information, including comparable operations by a similarly situated Operator; or
  - 3.** Use any other reasonable method available to the Division to impose a presumptive tax, including but not limited to tax returns filed by similarly situated Operators.
- C.** Any presumptive tax issued under this section will include penalty and interest assessments based on when the registration or tax returns were originally due, following the rules established within this Chapter.
- D.** Presumptive taxes are not intended to approximate actual taxes that may be due and nothing prohibits the Division from assessing excessive tax amounts due based on reasonable assumptions and calculation methods.

#### **6.04.170 Civil Penalties for Violations of this Chapter.**

(Amended by Ordinance Nos. 186985, 187339 and 188170, effective January 20, 2017.) It is unlawful for any Operator or other Person so required to fail or refuse to register or to fail or refuse to file any return required, or to fail or refuse to file a supplemental return or any other data required by the Division, or to render a false or fraudulent return, or to fail to perform any of the duties required in Chapter 6.04. No Person required to make, render, sign, or verify any report will make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter. In addition to any presumptive taxes assessed under Section 6.04.165, the Director may impose a civil penalty of up to \$500 for each violation of this Chapter. Violations may be assessed as frequently as necessary to achieve compliance with this Chapter, up to and including daily. A violation includes, but is not limited to:

- A.** Failure to file any required Transient Lodgings Tax payment and/or report, including any penalties and interest, within 60 days of the due date;
- B.** Filing a false or fraudulent report;
- C.** Failure to register a Hotel or Short-Term Rental, or failure to register as an Operator with the Division as described in Section 6.04.060;
- D.** Failure to maintain a separate account for the transient lodgings tax collected when required by the Division;

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- E.** Failure to provide any data or other information requested by the Division, including but not limited to, the physical address of a transient lodging occupancy location within Portland and the related contact information;
- F.** Failure by a Host or failure by any Operator to prominently display the Type A Permit Number, Type B Conditional Use case file number or Revenue Division issued advertising number in advertising or other listing services, or failure by the Host to post the number in the Short-Term Rental unit; and
- G.** Failure by an Operator to prominently display the Accessory Short-Term Rental permit number, case file number or other number issued by the Division in all advertisements and/or in the Short-Term Rental.
- H.** Failure by an Operator to maintain records required in Subsection 6.04.130 A.

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**CHAPTER 6.05 - TOURISM IMPROVEMENT  
DISTRICT**

(Chapter added by Ordinance No. 185443, effective  
July 20, 2012.)

**Sections:**

- 6.05.010 Portland Tourism Improvement District.
- 6.05.020 Definitions.
- 6.05.030 License Required.
- 6.05.040 License Transfer.
- 6.05.050 License Term.
- 6.05.060 Portland Tourism Improvement District License Rate.
- 6.05.070 Due Date; Returns and Payments.
- 6.05.080 Disposition of License Fees.
- 6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.
- 6.05.100 Late Penalties and Interest.
- 6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.
- 6.05.110 Civil Penalties.
- 6.05.120 Revenues and Programs.
- 6.05.130 Portland Tourism Improvement District Periodic Sunset Review.
- 6.05.140 Severability.

**6.05.010 Portland Tourism Improvement District.**

The Portland Tourism Improvement District includes all hotels, as defined in Section 6.05.020, with 50 or more rooms within the Portland City limits.

**6.05.020 Definitions.**

(Amended by Ordinance Nos. 187339, 187828 and 188171, effective January 20, 2017.)

- A.** “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- B.** “Division Director” and “Director” mean the Director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, or his or her designee;
- C.** “District” means the Portland Tourism Improvement District as described in this Chapter;
- D.** “Notice” means a written document mailed by the Division by first class mail to the last known address of a hotel as provided to the Division in the latest application or return on file at the Division; or, if mailed to a hotel who is not a licensee, then to the last known address of the hotel as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the



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latest business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;

- E.** “Hotel” means any structure, or any portion of any structure which is used, occupied, intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, boutique hotel, lodging house, rooming house, apartment house, single family house or any portion of such house, duplex, condominium, bed and breakfast facility, vacation home, multi-dwelling structure, accessory dwelling unit, trailer home, houseboat, public or private dormitory, hostel, fraternity, sorority, public or private club, and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 30-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.
- F.** “Engaged in hotel management activities” means:
1. Being financially responsible for a water service provided to a hotel;
  2. Being financially responsible for operation of a hotel business;
  3. Being financially primarily responsible for the indicia of management of a hotel, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
    - a. Being responsible for waste disposal service provided to a hotel;
    - b. Being responsible for providing fire insurance for a hotel;
    - c. Being responsible for repair and maintenance of a hotel;
    - d. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a hotel; and
    - e. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a hotel.
- G.** "City Council" means the City Council of the City of Portland, Oregon.
- H.** "Rent" means the full consideration charged to the Transient for the right to occupy a Room in a Hotel for the occupancy of guest rooms only, valued in money, goods, gift cards, labor, credits, property or other consideration of valued, without any deduction. Rent is considered to be the total amount represented to the Transient as the consideration charged for the occupancy including any accommodation fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

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- I.** “Management Corporation” means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.
- J.** “Person” means any individual, firm, partnership, joint venture, limited liability company, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in Hotel management activities within the District.
- K.** “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.
- L.** “Room” means each portion of a hotel which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations such as, meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk and dormitory style rooms, each bed is counted as a room under this definition. This definition is included for purposes of determining if a hotel is included in the District.

#### **6.05.030 License Required.**

(Amended by Ordinance No. 187828, effective July 15, 2016.) Any person engaged in hotel management activities of any hotel with 50 or more rooms within the District shall obtain a license for such activities covering each license year, or if application is made after the beginning of a license year, then for the balance of the license year. Only one person need obtain a license for each hotel in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of hotel property management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the Division shall not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

#### **6.05.040 License Transfer.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** Except as provided in this Section, no license shall be transferred or assigned from one person to another.
- B.** The Division shall allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted hotel management

activities requiring a license under this Chapter. Any transfer shall be reported to the Division in writing or on a form provided by the Division and shall be effective when the Division approves the transfer as complete. The licensee shall be responsible for any license fee installments which become payable prior to the Division's approval; and the transferee shall be responsible for any license fee installments which become payable after the Division's approval.

**6.05.050 License Term.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** Each license issued under this Chapter shall be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter shall expire on the first September 30 following the date on which the license was issued.
- B.** Any person under license who wishes to continue engaging in hotel management after the expiration of a license term must file a license renewal at least 30 days before the license expires or such other time as is established by Division rule.

**6.05.060 Portland Tourism Improvement District License Rate.**

The license assessment established by this Chapter for hotel management activities in the Portland Tourism Improvement District for a license year shall be calculated as follows:

- A.** Gross rent charged by the hotel;
- B.** Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);
- C.** Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and
- D.** Minus rent received from stays by any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E.** Multiplied by .02 (two percent).

**6.05.070 Due Date; Returns and Payments.**

(Amended by Ordinance Nos. 187828 and 188171, effective January 20, 2017.)

- A.** The assessment imposed by this Chapter is due and payable on or before the last day of the following month for the preceding three months. If the due date falls on a Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows. Payments and returns received or postmarked

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before the first business day that follows will be deemed to have been received on the due date. The Division has the authority to classify and/or district the Hotels for determination of applicable collection periods.

- B.** On or before the last day of the month following each quarter of collection, or month of collection if a Hotel is required or elects to file monthly returns, a return for the preceding period's assessment on a form prescribed by the Division must be filed. The return must be filed in such form as the Division may prescribe for payment of the assessment.
- C.** Returns must show the amount of assessment owed for the period. The Division may require returns to include additional information to explain the assessment calculation.
- D.** The Person required to file the return shall cause to be delivered the return, together with the remittance of the amount of assessment due, to the Division at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the day of delivery for determining delinquencies.
- E.** For good cause shown, the Division may extend the time for making any return or payment of the assessment for one month. No further extension will be granted, except by the Director. Any person granted an extension will pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month or reduction for any prepayments or credits available. If an extension is granted and the assessment and interest due is not paid by the end of the extension granted, then the interest will be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.
- F.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the Division of the amount of assessments in any individual case, may require returns and payment of the amount of assessments for other than quarterly periods. If a Hotel is required to report on a more frequent basis, the Division will provide a schedule showing the assessment periods, due dates and delinquent dates.

#### **6.05.080 Disposition of License Fees.**

(Amended by Ordinance No. 187828, effective July 15, 2016.) The Division shall forward revenues collected, minus any amount withheld to cover administrative costs incurred by the Division to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

#### **6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.

**B. Adoption of Rules.**

1. Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
2. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be 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 shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Division's office. Copies of all current rules shall be made available to the public upon request.
3. 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, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

**6.05.100 Late Penalties and Interest.**

(Amended by Ordinance Nos. 187828 and 188171, effective January 20, 2017.)

- A. Original Delinquency. Any Licensee that has not been granted an extension of time for remittance of the assessment due and who fails to remit any assessment imposed by this Chapter on or before the due date will pay a late penalty of 10 percent of the amount of the assessment due in addition to the assessment. There is no grace period between the due date and the assessment of penalty and interest; the day following the due date is considered to be the delinquent date.
- B. Continued Delinquency. Any Licensee who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the assessment due plus all penalty and interest assessments at the time of the continued delinquency calculation.
- C. Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of

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25 percent of the assessment shall be added in addition to the late penalties stated in Subsections A. and B. of this Section and interest stated in Subsection D. of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculation.

- D.** Interest. In addition to the penalties imposed above, any Licensee that fails to file or pay any assessment imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the assessment due from the first day following the original due date. Interest shall be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merged with assessment. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the assessment required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.
- F.** Petition for Waiver. Any Licensee that fails to pay the assessment within the time stated must pay the tax, penalties and interest assessed; however, the Hotel may petition the Division for waiver and refund or credit of all or part of the penalty assessed and the Division may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

#### **6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.**

(Added by Ordinance No. 187828, effective July 15, 2016.) Any person engaged in hotel management activities aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal to the Business License Appeals Board or Hearings Officer as allowed in City Code Section 6.04.140 by filing a notice of appeal with the Division Director within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals. The procedures and rules of City Code Section 6.04.140 will apply to any such appeal.

#### **6.05.110 Civil Penalties.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.05.105.

**6.05.120 Revenues and Programs.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit hotels paying the assessment. Programs may include:

  - 1. Internet, radio, television, and print advertising;
  - 2. Branding efforts;
  - 3. Sales promotions;
  - 4. Sponsorship of special events which attract out-of-town visitors; and
  - 5. Other programs designed to increase overnight stays at hotels.
- B.** Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:

  - 1. Prepare and submit to the City Council, and make available to lodging businesses, an annual report on expenditures and activities;
  - 2. Manage funds in accordance with the provisions of this Chapter;
  - 3. Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
  - 4. Enter into an Agreement with the City of Portland relative to management of district funds.
- C.** The Portland Tourism Improvement District is intended to provide supplemental funding for marketing programs above and beyond those currently provided. Portland Tourism Improvement District funds shall supplement the existing funding of one percent of transient lodging tax dedicated to promotion, solicitation, procurement and service of convention business and tourism in the City of Portland.

**6.05.130 Portland Tourism Improvement District Periodic Sunset Review.**

(Amended by Ordinance No. 187828, effective July 15, 2016.) During 2021 and each 10th year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Portland Tourism Improvement District assessment should be terminated. Prior to the first such hearing in 2021 and each 10th year thereafter, the Division shall mail notice of the hearing to the then current Portland Tourism Improvement District hotels under this Chapter.

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**6.05.140 Severability.**

If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases shall not be affected but shall remain in full force and effect.



**CHAPTER 6.06 - DISTRICT PROPERTY  
MANAGEMENT LICENSE**

(Chapter replaced by Ordinance No. 175729,  
effective July 27, 2001.)

**Sections:**

6.06.010	License Required.
6.06.020	Definitions.
6.06.030	Authority of Manager to Adopt Rules, Procedures and Forms.
6.06.040	License.
6.06.050	Exemptions from License Requirements.
6.06.060	License Transfer.
6.06.080	License Term.
6.06.090	Preparation and Notice of Fee.
6.06.095	Preparation and Notice of Fee Adjustment.
6.06.100	Appeals.
6.06.110	Registration for License.
6.06.120	Interest on Delayed Application.
6.06.140	Fee Payment in Two Installments.
6.06.145	Fee Payment in One Installment.
6.06.150	Penalty and Interest on Failure to Pay Fee.
6.06.160	Civil Penalties.
6.06.180	Severability.
6.06.190	Clean & Safe District.
6.06.200	Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.
6.06.210	Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.
6.06.211	Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.
6.06.212	Clean & Safe District Exempt Property.
6.06.213	Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.
6.06.214	Clean & Safe District Square Footage of Improvements.
6.06.215	Pledging of Clean & Safe District License Fee Revenues.
6.06.216	Lighting and District Amenities Revenues and Program.
6.06.220	Clean & Safe District Periodic Sunset Review.
6.06.230	Clean & Safe District Early Termination.
6.06.240	Request Annual CPI Increase to be Different than Calculated.
6.06.250	Lloyd District.
6.06.260	Lloyd District Fee Rates for Engaging in Property Management Activities.
6.06.270	Revisions to License Fee Year Schedule.
6.06.280	Lloyd District Periodic Sunset Review.

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- 6.06.290      Lloyd District Early Termination.  
6.06.300      Request That Annual Lloyd District Escalator Be Lowered.

#### **6.06.010      License Required.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) Any person engaged in property management activities within a District will pay a license fee for such activities covering each license year, or if registration is made after the beginning of a license year, then for the balance of the license year. The term “license,” as used in this Chapter, will not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of property management in a District, and the revenues collected will be used to provide, through a qualified contractor, cleaning, security, crime prevention, business development, transportation, public policy, housing, and marketing and communications services, or any such services, that benefit properties in the District. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City will not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

#### **6.06.020      Definitions.**

(Amended by Ordinance Nos. 182925, 185495 and 187339, effective October 16, 2015.) Unless the context requires otherwise, the terms used in this Chapter will be defined as follows:

- A. “Assessed Value of Improvements” means, for property tax years beginning on or before July 1, 1996, the assessed value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year and, for property tax years beginning on or after July 1, 1997, the real market value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year; or, as to property assessed by the Oregon Department of Revenue, the real market value of the property where “real market value” means the minimum amount in cash which could be reasonably expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm’s length transaction during that assessment year.
- B. “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C. “Business property” means real property that is not residential property and is not exempt property. If real property in the District in part is residential or exempt property and in part is neither residential nor exempt property, then “business property” is that portion of the real property that is neither residential nor exempt property, including a proportionate share of the land. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property;

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- D.** “CPI-W” means the Consumer Price Index for Urban Wage Earners and Clerical Workers for Portland-Salem, OR-WA, not seasonally adjusted, as published semi-annually by the United States Bureau of Labor Statistics;
- E.** “CPI-W adjustment factor” for a license year means the fraction in which the numerator is the CPI-W HALF1 immediately preceding the commencement of that license fee year and the denominator is the CPI-W for HALF1 for 2011;
- F.** “District” means an enhanced services district as described in this Chapter;
- G.** “Elevator capacity” means the pounds of elevator capacity for elevators type PXH, PXVE, and PXE as recorded in the records of the Building Codes Division of the Oregon Department of Consumer and Business Services;
- H.** “Engaged in property management activities” means:
- 1.** Being financially responsible for a water service provided to a building or, if there is no building on property, to land within the District, in the event there is a single water service serving the property;
  - 2.** Being financially responsible for operation of a business or a residential use that exclusively occupies a building or, if there is no building on property, land within the District, in the event there is no water service serving the property;
  - 3.** Being financially primarily responsible for the indicia of management of property within the District, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
    - a.** Being responsible for a water service provided to common areas of a building;
    - b.** Being responsible for waste disposal service provided to a building, including common areas, or, if there is no building, to land;
    - c.** Being responsible for providing fire insurance for a building;
    - d.** Being responsible for repair and maintenance of a building;
    - e.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a building, including common areas; and

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- f. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a building, such as alarm systems and sprinklers.
  4. Notwithstanding Subsections 1. through 3. of this Subsection, being an owner of property whose activities in relationship to the property consist only of activities that the owner is mandated by law to carry out will not constitute being “engaged in property management activities.”
- I. “Exempt property” means:
1. Mass shelters, as defined in Chapter 33.910 of this Code;
  2. Property owned or being purchased by religious organizations including:
    - a. Houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, “exempt property” does not include any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this subsection; and
    - b. Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the license year; and
  3. Any other property in a particular District established by this Chapter that this Chapter identifies as exempt property for that District.
- J. “Licensee” means a person licensed to engage in property management activities within the District under this Chapter;
- K. “Manager” means the Director of the Revenue Division or his or her designee;
- L. “Notice” means a written document mailed by the Division by first class mail to the last known address of a licensee as provided to the Division in the latest application on file at the Division; or, if mailed to a person who is not a licensee, then to the last known address of the person as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the latest general business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;

- M.** “Person” means a natural person, sole proprietorship, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity capable of engaging in property management activities within the District;
- N.** “Qualified contractor” means a non-profit corporation or other non-profit entity established by property owners or licensees in the District for the purpose of providing services that benefit the District;
- O.** “Residential Property” means real property that is exclusively in residential use and is not exempt property. If part of real property is in residential use and part is not in residential use or is exempt property, then “residential property” is that portion of the real property that is exclusively in residential use and is not exempt property, and a proportionate share of land. Property is considered to be in residential use if the use is within a “Residential Use Category” as defined by Chapter 33.920 of this Code. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property; and
- P.** “Square feet” and “square footage,” except as otherwise expressly stated in this Chapter, means square footage as recorded in the records of the Multnomah County Office of Assessment and Taxation or, if not so recorded, as measured using the same method as used by the Multnomah County Office of Assessment and Taxation.

**6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
  - 1.** Prior to the adoption of any rule by the Manager pursuant to this Section, a public hearing will be conducted. The Manager will give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice will include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
  - 2.** During the public hearing, the Manager will hear statements or receive written comment concerning the proposed rules. The Manager will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review may be conducted, but no additional public notice will be required if an announcement is made at the hearing of

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a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules will be effective upon adoption by the Manager. All rules adopted by the Manager will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.

3. Notwithstanding Subsections 6.06.030 B.1.-2., the Manager 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, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

#### **6.06.040 License.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) No person will engage in property management activity within the District unless such person first will have paid a license fee installment as described in Subsection 6.06.140.

#### **6.06.050 Exemptions from License Requirements.**

Persons who the city is prohibited from licensing or 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 are exempt from the license requirements imposed by this Chapter, to the extent of any such prohibition.

#### **6.06.060 License Transfer.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. Except as provided in this Section, no license will be transferable from one person to another.
- B. The Bureau may allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted property management activities requiring a license under this Chapter. Any transfer will be reported to the Bureau in writing or on a form provided by the Bureau and will be effective when the Bureau approves the transfer as complete. The licensee will be responsible for any license fee installments which become payable prior to the Bureau's approval; and the transferee will be responsible for any license fee installments which become payable after the Bureau's approval.

#### **6.06.070 Contents of License.**

(Repealed by Ordinance No. 185495, effective July 11, 2012.)

#### **6.06.080 License Term.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** Each license issued under this Chapter will be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter will expire on the day prior to the beginning of the new license year. In no case will a license be valid in excess of 12 months.

**6.06.090 Preparation and Notice of Fee.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) On or before August 1 of each year, the Bureau will make a preliminary determination of each person engaged in property management activity within the District and subject to the license fee requirement and of the amount of license fee payable by the person for the next license year. On or before August 1, the Bureau will mail to each person preliminarily determined to be engaged in property management activity within the District and subject to the license fee requirement a notice which contains the following information:

- A.** That the Bureau has determined the person is engaged in property management activity within the District that is subject to the license fee requirement;
- B.** The amount of the license fee the Bureau has determined to be payable by the person for the next license year, including the data and formula used in determining the amount;
- C.** The activities which constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.1.-3.;
- D.** The activities which do not constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.4.;
- E.** The exemption provisions of Section 6.06.050 and the definition of exempt property as set out in Section 6.06.020 I. and any other provision of this Chapter applicable to the District;
- F.** That any appeal from the determinations of the Bureau as to the person's engagement in property management activity within the District, as to the person's being subject to the license fee requirement, or as to the amount of the license fee payable by the person for the next license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed. Appeal information from Section 6.06.100 will be included with the notice.

**6.06.095 Preparation and Notice of Fee Adjustment.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) In cases in which the sections of this Chapter establishing a license fee formula for the District provide for a license fee adjustment, the Bureau, following City issuance of authorization to occupy improvements or any portion of improvements, will make a preliminary determination of the license fee adjustment for the balance of the license year. The Bureau will mail to the licensee a notice which contains the following information:

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- A.** That the Bureau has determined that the licensee is subject to a fee adjustment;
- B.** The amount of the adjusted license fee the Bureau has determined to be payable by the licensee for the balance of the license year, including the data and formula used in determining the adjusted amount;
- C.** That any appeal from the determinations of the Bureau as to the person's being subject to a license fee adjustment, or as to the adjusted amount payable for the balance of the license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed.

Failure to receive notice as provided in this Section will not relieve a person from the obligation to pay an adjusted license fee payable under this Chapter.

#### **6.06.100 Appeals.**

(Amended by Ordinance Nos. 176955 and 185495, effective July 11, 2012.)

- A.** Persons to whom the Bureau mails a notice under Section 6.06.090 will be presumed to be engaged in property management activity within the district, to be subject to the license fee requirement, and to be liable for the amount indicated in the notice as the license fee payable by the person for the next license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- B.** Persons to whom the Bureau mails a notice under Section 6.06.095 will be presumed to be subject to a license fee adjustment, and to be liable for the adjusted amount indicated in the notice as payable for the balance of the license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- C.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.090 on the following grounds:
  - 1.** The person is not engaged in property management activity within the District as defined in Subsection 6.06.020 H.1.-4.;
  - 2.** The person is not subject to the license fee requirement because the person is exempt under Section 6.06.050;
  - 3.** The amount of license fee determined by the Bureau to be payable by the person for the next license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- D.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.095 on the following grounds:



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1. The licensee is not subject to a fee adjustment;
  2. The amount of the adjusted license fee determined by the Bureau to be payable by the person for the balance of the license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- E.** The Bureau, in its discretion, may grant an appeal without audit or may audit an appeal to determine whether the appeal should be granted. The audit may include review of such evidence as the Bureau deems appropriate. If the person appeals on the ground that the data used in determining the license fee payable are incorrect, the Bureau will not be bound by the data contained in the record sources identified in the sections of this Chapter establishing the license fee formula for the District and may consider other evidence as to data, except that the Bureau will be bound by the assessed value data as recorded in the Multnomah County assessment roll, by the square footage data as recorded in the records in the Multnomah County Office of Assessment and Taxation, by the City Bureau of Development Services written documentation of authorization to occupy improvements or portions of improvements, by the City Bureau of Development Services building permit application records of the cost of physical changes, and by the City Bureau of Development Services building permit application records of the additional square feet of improvements, when those record sources are designated for use by a section of this Chapter establishing the license fee formula for the District. In the event the Bureau determines that an appeal should or should not be granted, in whole or in part, then the Bureau will give the appealing person written notice of the determination and the reasons, by mail or personal delivery. The Bureau's determination is final.

**6.06.110 Registration for License.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** All persons required to obtain a license under this Chapter may register with the Bureau either in writing or on specific forms if provided by the Bureau. Registrations will be filed, together with the specified license fee installment if known or due at the time of registration:
1. Before the property manager engages in property management activities in the District; or
  2. Prior to commencement of the new license year.
- B.** The Bureau may, for good cause, allow further time for filing registrations, except that no extension may be granted for more than 30 days.

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- C.** The registration may contain a written declaration, verified by the property manager, that the statements made therein are true.
- D.** The Bureau will prepare information containing appropriate data and fee calculations and make them available at its office, on request. Failure to receive or secure a form, file a registration or to receive notice as provided in Section 6.06.090, will not relieve a person from the obligation to pay a license fee and register for a license under this Chapter.

#### **6.06.120 Interest on Delayed Application.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) When the time for filing a license registration is extended at the request of the applicant, interest at the rate specified in Subsection 6.06.150 B. will be added and paid on the license fee installment or portion thereof not paid within the time originally allowed.

#### **6.06.140 Fee Payment in Two Installments.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) Except as otherwise provided by Section 6.06.145, District license fees will be payable as follows:

- A.** Except as provided in Subsection F. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in two equal installments, with the first installment due on October 1 of the license year and the second installment due on April 1 of the license year.
- B.** On or before February 15 of each license year, the Bureau will mail notice to each licensee stating the amount of the second installment payable on April 1 of the license year.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060. If the licensee has not engaged in property management activities within the District until after the beginning of the license year and a transfer has been approved, then the fee payment required will be the next installment due, provided that the property management activities within the District began no later than the billing notice of the next installment.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee shall be payable in relation to any real property which, for that license year, has been paid by another licensee.
- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:

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1. The amount of any adjustment increase allocable to the portion of the license year between October 1 and March 31 will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
2. The amount of any adjustment increase allocable to the portion of the license year between April 1 and September 30 will be due on April 1 of the license year or 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, whichever is later, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
3. The amount of any adjustment decrease allocable to the portion of the license year between October 1 and March 31, provided that the amount previously determined to be due as of that October 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.; and
4. The amount of any adjustment decrease allocable to the portion of the license year between April 1 and September 30, provided that the amount previously determined to be due as of that April 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

**6.06.145 Fee Payment in One Installment.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) If a qualified contractor for a District has filed a written request approved by resolution of the City Council that the District license fee be payable in one installment, District license fees for future license fee years will be payable as follows, until such time as the City Council by resolution determines that the District license fee will be payable in two installments in accord with Section 6.06.140:

- A. Except as provided in Subsection E. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in one installment due on October 1 of the license year.
- B. Each registration for a license, will be accompanied by payment of the license fee for the license year if known.

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- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee will be payable in relation to any real property which, for that license year, has been included in computing the license fee payable by another licensee.
- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
  - 1.** The amount of any adjustment increase for a license year will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
  - 2.** The amount of any adjustment decrease for a license year, provided that the amount previously determined to be due has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

#### **6.06.150 Penalty and Interest on Failure to Pay Fee.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** If a person:
  - 1.** Fails to file a correct registration at the time required by or under this Chapter; or
  - 2.** Fails to pay a fee installment at the time it becomes due, unless it is shown that the failure is due to reasonable cause and not due to neglect, then there will be added to the amount of a fee installment a penalty of:
    - a.** 5 percent of the amount of the unpaid fee installment, but not less than \$20, if the failure is for not more than 1 month; and
    - b.** Additional penalties of 5 percent of the unpaid fee installment for each additional month or fraction thereof during which the failure continues, up to a maximum of four (4) additional months.
- B.** Interest will be collected on any unpaid fee installment at the rate of 10 percent simple interest per annum, computed on the balance still due at the end of each

month following the date the fee installment became due. For purposes of this subsection, “unpaid fee installment” will not include penalties or interest.

- C.** If a person fails to file a registration on the prescribed date, as determined with regard to any extension for filing, the Bureau may determine the fee and fee installment payable. If the Bureau determines the fee and fee installment payable, the Bureau will determine appropriate penalties and interest and will send notice to the person of the determination.
- D.** The Bureau may apply payments to penalty and interest assessments before applying payments to fee installments due.

**6.06.160 Civil Penalties.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may impose a civil penalty of up to \$500 for each of the following violations of this Chapter:
  - 1.** Failure to file any registration within 90 days of the Bureau’s original written notice to file;
  - 2.** Failure to pay any fee installment within 90 days of the Bureau’s original written notice for payment.
- B.** The Manager may only impose a civil penalty under this section if the Bureau gives notice of the potential for assessment of civil penalties for failure to comply in the original written preliminary determination notice issued under Sections 6.06.090 and 6.06.095.
- C.** The determination of a violation and imposition of a civil penalty under this Section will be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

**6.06.180 Severability.**

(Amended by Ordinance No. 185495, effective July 11, 2012) If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases will not be affected but will remain in full force and effect.

**6.06.190 Clean & Safe District.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Clean & Safe District is that area within the boundaries formed by NW and SW Front Avenue on the east; SW Harrison between SW Front and SW 4th; SW 4<sup>th</sup> between SW Harrison and SW Market; SW Market between SW 4th and SW

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9th; SW 9th between SW Market and SW Salmon; SW Salmon between SW 9th and SW 11th; SW 11th between SW Salmon and W Burnside; W Burnside between 11th and 9th; NW 9th between W Burnside and NW Hoyt; NW Hoyt between NW 9th and NW Broadway; and the Broadway Bridge on the north; but excluding the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

- B.** Notwithstanding the exclusion set out in Subsection A. of this Section, beginning with the license year commencing October 1, 2004, the Clean & Safe District also will include the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

### **6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.**

(Amended by Ordinance Nos. 175840, 176776, 176955, 179000 and 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of business property in the Clean & Safe District in a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
- 1.** \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
  - 2.** Plus \$5.52 per 290 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
  - 3.** Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
  - 4.** Plus 2.5 percent of the sum of Subsections A.1. through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 50 District business properties used primarily for business activities with the highest value of improvements; and
  - 5.** Less 2.5 percent of the sum of Subsections A.1 through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 51st to the 150th District business properties used primarily for business activities with the highest value of improvements;

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6. Plus 15 percent of the amounts determined under subsections A.1. through 5.;
7. Plus \$.01401 (1.401 cents) per square foot of improvements and, for surface parking lots, per square foot of land square footage, as of the July 1 immediately preceding commencement of the license fee year;
8. Plus 20.03 percent of the amounts determined under Subsections A.1. through 7. which is the inflation that occurred during license years 2001 through 2011.
9. Plus the total of the amounts determined under Subsections A.1. through 7. multiplied by the CPI-W factor, for license fee years commencing on or after October 1, 2012.

**B.** “Value of improvements” under this Section will be measured as follows:

1. For business property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For business property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For business property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
  - a. For license fee years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Review records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between

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the 1996-97 assessment year and such occupancy authorization date;  
or

- b.** For license fee years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;
  - 4.** For business property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, “value of improvements” is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
  - 5.** For business property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, “value of improvements” is \$73 per square foot of improvements.
- C.** Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a business property building, structure, or addition for the property tax assessment year beginning on that July 1, then:
- 1.** For purposes of initially determining the license fee for such license year, the value of improvements, improvements square footage, and elevator capacity attributable to the business property building, structure, or addition will be deemed to be zero; and



2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy the building, structure, or addition as to which the property tax assessment was cancelled, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be the date the Bureau of Development Services issues a written authorization to occupy all new improvements on the business property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new improvements on the property, whichever occurs first.

**6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.**

(Amended by Ordinance Nos. 175840, 176955 and 185495, effective July 11, 2012.)

- A. The fee established by this Chapter for management of residential property in the Clean & Safe District for a license year, other than affordable residential rental property as defined in Section 6.06.211, will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
  1. \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
  2. Plus \$5.52 per 725 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
  3. Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
  4. Plus 15 percent of the amounts determined under Subsections A.1. through 3.;
  5. Plus 20.03 percent of the amounts determined under Subsections A.1. through 4. which is the inflation that occurred during license years 2001 through 2011.

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- 6.** Plus the total of the amounts determined under Subsections A.1. through 4. multiplied by the CPI-W adjustment factor, for license fee years commencing on or after October 1, 2012.

**B.** “Value of improvements” under this Section will be measured as follows:

- 1.** For residential property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
- 2.** For residential property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
- 3.** For residential property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
  - a.** For license years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or
  - b.** For license years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an

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additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

4. For residential property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
  5. For residential property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$68 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a residential property building, structure, or addition subject to this Section, for the property tax assessment year beginning on that July 1, then:
1. For purposes of initially determining the license fee for such license year, the value of improvements, improvement square footage, and elevator capacity attributable to the building, structure, or addition will be deemed to be zero; and
  2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy new residential improvements on the property, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is

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twelve. For purposes of this Subsection, the date of such authorization will be date the Bureau of Development Services issues a written authorization to occupy all new residential improvements on the property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new residential improvements on the property, whichever occurs first.

#### **6.06.211 Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.**

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of affordable residential rental property in the Clean & Safe District for a license year will be the sum of the following amounts, computed separately in relation to each such residential property within the District as to which the licensee is engaged in property management activities:

  - 1.** If the licensee is a not-for-profit corporation or a government entity, \$20 multiplied by the number of affordable residential dwelling units managed by the licensee; and
  - 2.** If the licensee is other than a not-for-profit corporation, \$44 multiplied by the number of affordable residential dwelling units managed by the licensee.
- B.** For purposes of this Section, “affordable residential rental property” means single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on the July 1 immediately preceding commencement of the license year, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of that July 1. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.
- C.** For purposes of this Section, “dwelling units” means dwelling units as defined in Chapter 33.910 of this Code.

**6.06.212      Clean & Safe District Exempt Property.**

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) The Clean & Safe District property management license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Subsection 6.06.020 I. and also means exempt residential property. “Exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service.

**6.06.213      Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) In computing Clean & Safe District property management license fees under Sections 6.06.200, 6.06.210, and 6.06.211, in relation to property within the District as to which the licensee is engaged in property management activities, where the property is a combination of any two or more of business property that is subject to Section 6.06.200, residential property that is subject to Section 6.06.210, residential property that is subject to Section 6.06.211, exempt property that is subject to Section 6.06.212, or property managed by a person generally exempt under Section 6.06.050 but where the exemption does not apply in relation to part of the property the person manages, the fee in relation to property management activities will be the sum of the following:

- A.** For management of the part of the property that is business property subject to Section 6.06.200, the fee computed under Section 6.06.200 computed as though the entire property were such business property, multiplied by a fraction, the numerator of which is the square footage of business property improvements on the property subject to Section 6.06.200 and the denominator of which is the square footage of all improvements on the property;
- B.** For management of the part of the property that is residential property subject to Section 6.06.210, the fee computed under Section 6.06.210 computed as though the entire property were such residential property, multiplied by a fraction, the numerator of which is the square footage of residential property improvements on the property subject to Section 6.06.210, and the denominator of which is the square footage of all improvements on the property; and
- C.** For management of the part of the property that is residential property subject to Section 6.06.211, the fee computed under Section 6.06.211.
- D.** If there are common area improvements in a property subject to this Section, then in computing square footage of business property improvements subject to Subsection A. of this Section and of residential property improvements subject to Subsection B. of this Section, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square

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footage of business property improvements subject to Subsection A. of this Section or the square footage of residential property improvements subject to Subsection B. of this Section, whichever is appropriate, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.

#### **6.06.214 Clean & Safe District Square Footage of Improvements.**

(Added by Ordinance No. 176262; Amended by Ordinance No. 185495, effective July 11, 2012.) For purposes of Sections 6.06.200, 6.06.210 and 6.06.213 only, the terms "square footage of improvements" and "improvements square footage" will not include:

- A.** Surface area of surface parking lots;
- B.** Landscaped area;
- C.** Unenclosed sidewalk, plaza, and courtyard area;
- D.** Below grade parking area (but, for parking structures that have above grade parking, will include both any at grade parking area within the parking structure and all above grade parking area within the parking structure); and
- E.** Other below grade area unless improved for occupancy by employees or tenants.

#### **6.06.215 Pledging of Clean & Safe District License Fee Revenues.**

(Amended by Ordinance Nos. 176776 and 185495, effective July 11, 2012.)

- A.** In addition to the uses of District revenues set out in Section 6.06.010, the City, if so requested in writing by a qualified contractor and approved by the City Council, may pledge Clean & Safe District license fee revenues as security for City debt incurred to finance the design, acquisition, construction, and installation of improvements within the District and may pledge Clean & Safe District license fee revenues to a qualified contractor or its designee in order that the contractor or designee may have revenues sufficiently ensured to enable the contractor or designee to incur debt to finance the design, acquisition, construction, installation, operation and maintenance of improvements within the District. Any such pledge of Clean & Safe District license fee revenues will be subject to any limitations set out in Oregon law or in the City Charter. In addition, no City pledge or combination of pledges under this Section for City payment of actual debt service or to enable the qualified contractor or its designee to make payments of actual debt service, but not including pledges to provide excess coverage for City payment of actual debt service or to enable the qualified contractor or its designee to provide excess coverage for payments of actual debt service, at any time will exceed one-third of the Clean & Safe District license fee revenues.

- B.** In making a request under Subsection A. of this Section, the qualified contractor will submit to the City a description of the improvements to be funded in whole or in part with the proceeds of the debt financing. The request also will include a description of any previously provided Clean & Safe District services proposed to be reduced or not provided due to the pledge of the District license fee revenues.
- C.** Notwithstanding Section 6.06.010, if the City pledges District license fee revenues for City debt incurred in accord with this Section, the City will retain the pledged portion of the District license fee revenues, to be used for repayment of the debt.

**6.06.216 Lighting and District Amenities Revenues and Program.**

(Added by Ordinance No. 176776; amended by Ordinance Nos. 179000, 185495 and 186288, effective November 15, 2013.)

- A.** As used in this Chapter, “lighting revenues” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8.
- B.** As used in this Chapter, “lighting program” means the design, acquisition, construction, installation, operation, and maintenance of all components, including but not limited to electrical connections and decorative lighting fixtures, necessary for a seasonal and decorative lighting system within portions of the District.
- C.** As used in this Chapter, “district amenities revenue” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8. in excess of amounts necessary to fund the lighting program in Subsection B. in a given year.
- D.** As used in this Chapter, “district amenities program” means the design, acquisition, construction, installation, operation, and maintenance of all components of amenities that improve the safety, function, and appearance of downtown sidewalks including but not limited to:
  - 1.** Trash receptacles, including solar trash compactors;
  - 2.** Co-located publication boxes.
- E.** Notwithstanding Section 6.06.010, lighting revenues and district amenities revenues will be used only:
  - 1.** For the lighting program and district amenities program as set forth above, including but not limited to the pledging of such revenue as provided under Section 6.06.215;
  - 2.** For a proportionate share of the Bureau’s costs of administration of the license fee directed by the City Council to be recovered from license fee

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revenues, based on the ratio of lighting revenue and district amenities revenues to total District revenues; or

3. If a qualified contractor determines that lighting revenue and district amenities revenues in a license year will exceed or have exceeded the costs and expenses of the lighting program and the district amenities program in that license year and that the excess revenues will not be needed to fund a prudent reserve or for the costs and expenses of the lighting program and district amenities program in future license years, then for distribution by the qualified contractor to the payers of the lighting revenues and district amenities revenues of that portion of the excess determined by the qualified contractor not to be so needed, in proportion to the amount paid by each payer in the license year that produced the excess.

#### **6.06.220 Clean & Safe District Periodic Sunset Review.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) During 2011 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Clean & Safe District property management license fee should be terminated. Prior to the first such hearing in 2011 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Clean & Safe District licensees under this Chapter.

#### **6.06.230 Clean & Safe District Early Termination.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) If the City Council, on or before March 30 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Clean & Safe District property management license fee during that year, then the license fee for the Clean & Safe District will be terminated as of September 30 of that license fee year except that the fee will continue, at a rate reduced equally proportionally as to each licensee, to the extent necessary to meet any City pledge obligations incurred as authorized by Section 6.06.215.

#### **6.06.240 Request Annual CPI Increase to be Different than Calculated.**

(Added by Ordinance No. 185495; amended by Ordinance No. 187339, effective October 16, 2015.)

- A. The contractor's Board of Directors may recommend that the annual CPI adjustment be set to an amount other than the CPI calculation, but not less than zero for a license year.
  1. The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Division no later than June 10th. The resolution must contain the following information:



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- a. The reason why the board is requesting the annual CPI adjustment to be set at a rate that is different than calculated;
    - b. What the CPI adjustment amount for the license year should be; and
    - c. The impact on the upcoming budget that will result if a different CPI adjustment is made, specifically as it relates to contract employee wages and contract service levels.
    - d. The impact to District services.
  2. The Revenue Division will review the information from the contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower CPI adjustment. The Revenue Division will make a recommendation to City Council if a different CPI adjustment is warranted for the upcoming license year.
  3. City Council must approve a different CPI adjustment prior to August 1st;
  4. An approved different CPI adjustment will apply to the license year that begins on October 1st.
- B.** Once one or more different CPI adjustments have been approved by City Council, the Revenue Division has authority to adjust the CPI component in the fee rate formulas in Subsections 6.06.200 A.9., and 6.06.210 A.6. The Revenue Division will document via written policy all changes to the CPI calculation as a result of City Council approval and this policy will supersede the calculation defined in Subsection 6.06.020 E.

**6.06.250 Lloyd District.**

(Amended by Ordinance No. 186356, effective November 27, 2013.) The Lloyd District is that area within the boundaries formed by the Willamette River, from the Broadway Bridge to the point just south of the Oregon Convention Center at which NE Lloyd Boulevard reaches the River; NE Lloyd Boulevard, from the Willamette River to NE 16th Avenue; NE 16th Avenue curving into NE 15th Avenue, from NE Lloyd Boulevard to NE Halsey Street; NE Halsey Street, from NE 15th Avenue to NE Grand Avenue; NE Grand Avenue, from NE Halsey Street to NE Broadway; and NE Broadway, from NE Grand Avenue to the Willamette River.

**6.06.260 Lloyd Business District Fee Rates for Engaging in Property Management Activities.**

(Amended by Ordinance Nos. 176262, 176955, 182925, 185495 and 186356, effective November 27, 2013.)

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- A.** Except as set out in Subsection B. of this Section, the fee established by this Chapter for management of business and residential property in the Lloyd District for a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
- 1.** \$.40 (cents) per \$1,000 of assessed value of improvements for the 2010-2011 property tax assessment year;
  - 2.** Plus \$2.25 per 290 square feet of improvements as of July 1, 2010;
  - 3.** Plus \$.015 (cents) per square foot of land as of July 1, 2010.
  - 4.** Plus the total of the amounts determined under Subsections A.1. through A.3. multiplied by a 2.3 percent annual escalator for license years commencing on or after February 1, 2015.
- B.** In relation to business and residential property other than exempt residential property where physical changes to the property on or after July 1, 2010 have resulted in an increase or decrease in square footage of improvements, as compared to the square footage as of July 1, 2010, the fee established by this Chapter, for management of such property in the Lloyd District in a license year, will be as provided in this Subsection:
- 1.** During the period between the date the City Bureau of Development Services issues an authorization, documentable by written documentation, to occupy the improvements, or during the period between 180 days after the date the Bureau of Development Services issues such an authorization to occupy any portion of the improvements that was not occupied while the physical changes were being made, and the date of beginning of the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee otherwise payable during the period will be adjusted to the following amount, prorated based on the number of days of the period in the applicable license year:
    - a.** The amount determined under Subsection A.1., plus \$.40 (cents) per \$1,000 of the cost of the physical changes, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes;
    - b.** Plus the amount determined under Subsection A.2., plus \$2.25 per 290 additional square feet of improvements, resulting from the physical changes, as determined from the City Bureau of

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Development Services records of building permits issued authorizing or in association with the physical changes;

- c. Plus the amount determined under Subsection A.3.
  2. Beginning with the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee will be:
    - a. \$.40 (cents) per \$1,000 of assessed value of improvements for the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
    - b. Plus \$2.25 per 290 square feet of improvements, as of July 1 of the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
    - c. Plus the amount set out in Subsection A.3.;
    - d. Plus the total of the amounts determined under Subsections B.2.a. through B.2.c. multiplied by a 2.3 percent annual escalator for the license years commencing on or after February 1, 2015.
- C. In computing the fee as provided in Subsection A. or B.:
1. In relation to real property within the Lloyd District as to which a licensee is engaged in property management activities, where the property in part is exempt residential property or religious organization property or,
  2. In relation to persons generally exempt from the license requirements of this Chapter under Section 6.06.050 but where the exemption does not apply to property management activities in relation to part of the property they manage, the fee in relation to property management activities as to such real property will be the fee computed as though management of the entire property were subject to the fee multiplied by a fraction, the numerator of which is the square footage of the area in which the licensee is engaged in property management activities subject to the fee (including land or improvements, as applicable) and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable).

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- 3.** In relation to property within the District as to which there is more than one property manager for a given property, the fee for each property manager will be calculated as follows:
  - a.** Each property manager's fee will first be computed as though the property manager was subject to the fee for the entire property. That amount will then be multiplied by a fraction, the numerator of which is the square footage of the area for which the property manager is engaged in property management activities subject to the fee (including land or improvements, as applicable), and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable); and
  - b.** If there are common area improvements in a property subject to Subsection a. above, then in computing square footage of each property manager's improvements, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square footage of the property improvements subject to this fee for each district manager, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.
- D.** Notwithstanding the amount of the fee computed under Subsections A., B., and C., of this Section, in no case will the fee payable by a licensee, in relation to all real property within the Lloyd District as to which the licensee is engaged in property management activities, exceed \$35,000 for non-residential zoned property and \$8,500 for non-exempt residential zoned property.
- E.** The Lloyd District license requirements will not apply to exempt property. For purposes of this Section, "exempt property" means exempt property as defined in Section 6.06.020 I. and also means exempt residential property. For purposes of this Section, "exempt residential property" means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service; single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on July 1, 1997, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of July 1 of each year. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code, as in effect on January 1, 1997; or the units are subsidized

through United States Department of Housing and Community Development Section 8 subsidies, as in effect on January 1, 1997, or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.

**F.** For purposes of this Section only, the terms "square feet of improvements" and "square footage of improvements" will not include:

1. Surface and structured parking lot area;
2. Landscaped area;
3. Unenclosed sidewalk, plaza, and courtyard area; and
4. Below grade area unless improved for occupancy by employees or tenants.

**6.06.270 Revisions to License Fee Year Schedule.**

(Amended by Ordinance Nos. 178073, 185495, 186356 and 187339, effective October 16, 2015.) Notwithstanding that Sections 6.06.010 through 6.06.180 are based on a license fee year of October 1 through September 30, the license fee year for the Lloyd District will be February 1 through January 31, with the first license fee year to commence February 1, 2001. Therefore, the due dates set out in Sections 6.06.010 through 6.06.180, for purposes of the Lloyd District, will be February 15 and September 15 except that the August 1 date set out in Section 6.06.090 will be January 5. Any other dates are also changed to provide at least 30 days notice before a due date and may be clarified by the Revenue Division in a written policy.

**6.06.280 Lloyd District Periodic Sunset Review.**

(Replaced by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) During 2013 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Lloyd District property management license fee should be terminated. Prior to the first such hearing in 2013 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Lloyd District licensees under this Chapter.

**6.06.290 Lloyd District Early Termination.**

(Added by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) If the City Council, on or before July 31 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Lloyd District property management license fee during that year, then the license fee for the Lloyd District will be terminated as of January 31 of that license fee year.

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#### **6.06.300 Request That Annual Lloyd District Escalator Be Lowered.**

(Added by Ordinance No. 186356; amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** The Lloyd District contractor's Board of Directors may recommend that the annual 2.3 percent escalator adjustment be set to an amount lower than 2.3 percent for a particular license year.
  - 1.** The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Division no later than October 10th. The resolution must contain the following information:
    - a.** The reason why the board is requesting the annual escalator adjustment be set at a rate that is lower than 2.3 percent;
    - b.** What the Board recommends as the appropriate escalator amount for the license year;
    - c.** The impact on the upcoming budget that will result if a lower escalator adjustment is made, specifically as it relates to contract employee wages and contract service levels; and
    - d.** The impact to District services.
  - 2.** The Revenue Division will review the information from the Lloyd District contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower escalator adjustment. The Revenue Division will make a recommendation to City Council if a lower escalator adjustment is warranted for the upcoming license year.
  - 3.** City Council must approve a lower escalator adjustment prior to December 1st.
  - 4.** An approved lower escalator adjustment will apply to the next license year that begins on February 1st.
- B.** City Council's approval to decrease the annual escalator for any given year has no effect on future years, and the District contractor's Board must follow the process outlined in Subsection A.1. of this Section for each year it wishes to recommend a rate lower than the prescribed 2.3 percent escalator.

**CHAPTER 6.07 - TAX ON RECREATIONAL  
MARIJUANA SALES**

(Chapter added by Ordinance No. 186857; amended  
by Resolution No. 37217 (approved at November 8,  
2016 election); effective November 8, 2016.)

**Sections:**

6.07.010	Purpose.
6.07.020	Definitions.
6.07.030	Levy of Tax.
6.07.035	Exemption of Medical Marijuana Cardholders from Marijuana Tax.
6.07.040	Deductions.
6.07.050	Seller Responsible for Payment of Tax.
6.07.060	Penalties and Interest.
6.07.070	Failure to Report and Remit Tax – Determination of Tax by Director.
6.07.080	Appeal.
6.07.090	Credits/Refunds.
6.07.100	Actions to Collect.
6.07.110	Violation Infractions.
6.07.120	Confidentiality.
6.07.130	Audit of Books, Records or Persons.
6.07.140	Forms and Regulations.
6.07.145	Net Revenues Distribution.
6.07.150	Invalidity.
6.07.155	Effective Date.

**6.07.010 Purpose.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) For the purposes of PCC 6.07, every person who sells recreational marijuana, or recreational marijuana-infused products, to consumers within the City is exercising a taxable privilege. The purpose of PCC 6.07 is to impose a tax upon recreational marijuana and recreational marijuana-infused product sales to consumers within the City.

**6.07.020 Definitions.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) When not clearly otherwise indicated by the context, the following words and phrases as used in PCC 6.07 have the following meanings:

- A. “Director”** means the director of the Revenue Division of the Bureau of Revenue and Financial Services or his/her designee, and includes any Person or entity with whom the City contracts to administer and enforce the Marijuana Tax program or a portion thereof.

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- B. “Consumer”** means a person who purchases, acquires, owns, holds or uses marijuana other than for the purpose of resale.
- C. “Marijuana”** means the plant of the Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” includes cannabinoid products, cannabinoid concentrates and cannabinoid extracts as those terms are defined in ORS 475B.015. Marijuana does not include industrial hemp, as defined in ORS 571.300.
- D. “Oregon Medical Marijuana Program”** means the office within the Oregon Health Authority that administers the provisions of ORS 475B.400 to 475B.525, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E. “Person”** means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F. “Retail sales price”** means the price paid for marijuana, excluding tax, to a Seller by or on behalf of a Consumer of marijuana.
- G. “Retail Sale”** means any transfer, exchange, gift or barter of marijuana by a seller to a consumer.
- H. “Seller”** means any person who is required to be licensed or has been licensed under ORS 475B.110 to sell marijuana to a consumer within the City of Portland.
- I. “Tax”** means either the tax payable by the Seller or the aggregate amount of taxes due from a Seller during the period for which the Seller is required to report collections under PCC 6.07.
- J. “Taxpayer”** means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of PCC 6.07.

#### **6.07.030 Levy of Tax.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A.** Every Seller exercising the taxable privilege of retail sales of marijuana within the City of Portland is subject to and must pay a tax for exercising that privilege.
- B.** The amount of tax levied is as follows: Three percent of the retail sales price paid to the Seller in a retail sale of marijuana to any Consumer.



**6.07.035 Exemption of Medical Marijuana Cardholders from Marijuana Tax.**

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A.** As used in this Section, “designated primary caregiver,” “registry identification card” and “registry identification cardholder” have the meanings given those terms in ORS 475B.410.
- B.** Notwithstanding Section 6.07.030:
  - 1.** A tax is not imposed upon the retail sale of marijuana in the City of Portland by a Seller to a registry identification cardholder or to a designated primary caregiver who is purchasing marijuana for a registry identification cardholder; and
  - 2.** A Seller may not collect the tax imposed under Section 6.07.030 from a Consumer if, at the time at which the retail sale of the marijuana occurs, the Consumer provides proof to the Seller that the Consumer:
    - a.** Holds a valid registry identification card under ORS 475B.415; or
    - b.** Holds a valid identification card under ORS 475B.415 (5)(b) and is purchasing the marijuana for a registry identification cardholder.

**6.07.040 Deductions.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) The following deductions are allowed against sales received by the Seller providing marijuana:

- A.** Refunds of sales actually returned to any Consumer;
- B.** Any adjustments in sales that amount to a refund to a Consumer, providing such adjustment pertains to the actual sale of marijuana and does not include any adjustments for other services furnished by a Seller.

**6.07.050 Seller Responsible for Payment of Tax.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A.** Every Seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the Revenue Division or designee, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. The Seller may request, or the Director may establish, shorter reporting periods for any Seller if the Seller or Director deems it necessary in order to ensure collection of the tax. The Director may require further information in the return relevant to the

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payment of the tax. A return is not considered filed until it is actually received by the director.

- B.** The Seller must remit to the Director the full amount of the tax collected for each month by the last day of the subsequent month. Payments must be remitted with forms provided by the Revenue Division or designee, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the Taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C.** The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.
- D.** If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to PCC 6.07 on the City's behalf until the Seller makes payment to the Director. A separate trust bank account is not required in order to comply with this provision, unless the Director determines one necessary to ensure collection of the tax.
- E.** Every Seller must keep and preserve in an accounting format established by the Director records of all sales made by the Seller and such other books or accounts as the Director may require. Every Seller must keep and preserve for a period of three years after the tax was due or paid, whichever is later, all such books, invoices and other records. The Director has the right to inspect all such records at all reasonable times.

#### **6.07.060 Penalties and Interest.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election) and Ordinance No. 188215; effective March 3, 2017.)

- A.** Any Seller who fails to remit any portion of any tax imposed by PCC 6.07 within the time required must pay a penalty of 5 percent of the unpaid tax, in addition to the amount of the tax.

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- B.** If any Seller fails to file any return for a period in excess of one month after the return due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of the tax. Thereafter the Director or designee may send a notice and demand to the person to file a report or return within 30 days of the mailing of the notice. If after the notice and demand no report or return is filed within the 30 days, the Director or designee may determine the tax according to the best of its information and belief, assess the tax with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the department and give written notice of the determination and assessment to the person required to make the filing.
- C.** In addition to the penalties stated in PCC 6.07.060 A. and PCC 6.07.060 B., if tax returns are not filed by the due date for three consecutive years, a penalty of 100 percent of the unpaid tax will be assessed for each year.
- D.** If the Director determines that the nonpayment of any remittance due under PCC 6.07 is due to fraud, a penalty of 25 percent of the entire amount of the tax will be added thereto in addition to the penalties stated in PCC 6.07.060 A., PCC 6.07.060 B. and PCC 6.07.060 C.
- E.** In addition to the penalties imposed, any Seller who fails to remit any tax imposed by PCC 6.07 must pay interest at the annual rate of 5 percent on the amount of unpaid tax from the date on which the remittance first became delinquent until paid. The interest rate will remain at 5 percent unless this rate is adjusted under the administrative authority of the Director or designee to reflect then current national market conditions for interest rates.
- F.** All sums collected, including penalty and interest, will be distributed to the City's Recreational Marijuana Tax Fund.
- G.** Penalties for certain late tax payments may be waived or reduced pursuant to policies and processes adopted by the Director.

**6.07.070 Failure to Report and Remit Tax – Determination of Tax by Director.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A.** If any Seller fails to make any report of the tax required by PCC 6.07 within the time provided in PCC 6.07, the Director may proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Director procures such facts and information upon which to base the assessment of any tax imposed by PCC 6.07 and payable by any Seller, the Director may determine and assess against such Seller the tax, interest and penalties provided for by PCC 6.07.
- B.** If the Director makes a determination as outlined in PCC 6.07.070 A., the Director must give notice to the Seller of the amount assessed. The notice must be personally

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served on the Seller or deposited in the United States mail, postage prepaid, addressed to the Seller at the last known place of address.

- C. The Seller may appeal the determination as provided in PCC 6.07.080. If no appeal is timely filed, the Director's determination is final and the amount assessed is immediately due and payable.

#### **6.07.080 Appeal.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A. Any Seller aggrieved by any decision of the Director with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the Director or designee.
- B. The Seller must follow the administrative appeal process that is set forth by the Director or designee.

#### **6.07.090 Credits/Refunds.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A. The Director may credit to the Seller any tax, interest or penalty amount under any of the following circumstances:
  - 1. The Seller has overpaid the correct amount of tax, interest or penalty; or
  - 2. The Seller has paid more than once for the correct amount owed; or
  - 3. The City has erroneously collected or received any tax, interest or penalties.
- B. If the Director determines the claim is valid, the claimant may take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City.
- C. In cases where a there is no future filing to claim the credit or other circumstances where a credit amount should be refunded, the claimant may petition the director to have the credit amount refunded to the claimant.

#### **6.07.100 Actions to Collect.**

Any tax required to be paid by any Seller under the provisions of PCC 6.07 is a debt owed by the Seller to the city. Any tax collected by a Seller that has not been paid to the City is a debt owed by the Seller to the City. Any person owing money to the City under the provisions of PCC 6.07 is liable to an action brought in the name of the City of Portland for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS

697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees.

**6.07.110 Violation Infractions.**

- A.** All violations of PCC 6.07 are also subject to civil penalties of up to \$2,000 per occurrence. It is a violation of PCC 6.07 for any Seller or other person to:
  - 1.** Fail or refuse to comply as required herein;
  - 2.** Fail or refuse to furnish any return required to be made;
  - 3.** Fail or refuse to permit inspection of records;
  - 4.** Fail or refuse to furnish a supplemental return or other data required by the director;
  - 5.** Render a false or fraudulent return or claim; or
  - 6.** Fail, refuse or neglect to remit the tax to the City by the due date.
- B.** The remedies provided by PCC 6.07 are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- C.** The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

**6.07.120 Confidentiality.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of PCC 6.07. Nothing in PCC 6.07.120 prohibits any of the following:

- A.** The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B.** The disclosure of general statistics in a form which would not reveal an individual Seller's financial information; or
- C.** Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amounts due the city under PCC 6.07; or

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- D.** The disclosure of information to a collection agency in order to collect any delinquent tax amount; or
- E.** The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).
- F.** The Revenue Division may also disclose and give access to information described in PCC 6.07.120 to:
  - 1.** The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Revenue Division deems disclosure or access necessary for the performance of the duties of advising or representing the Revenue 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 Revenue 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 Revenue Division and any other department, bureau, agency or subdivision of the City or state relating to the administration of PCC 6.07, or
    - c.** Aid in determining whether a Revenue Division account is in compliance with all city, state and federal laws or policies.

#### **6.07.130 Audit of Books, Records or Persons.**

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of Seller's state and federal income tax return, bearing upon the matter of the Seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the court to require that the Taxpayer or a representative of the Taxpayer attend a hearing or produce any such books, accounts and records for examination.

**6.07.140 Forms and Regulations.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election) and Ordinance No. 188215; effective March 3, 2017.)

- A. The Director is authorized to enter into contracts or agreements relating to the administration of PCC 6.07, including intergovernmental agreements with the State of Oregon as provided in ORS 305.620, and to prescribe forms and promulgate rules, policies and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:
  - 1. A form of report on sales and purchases to be supplied to all Sellers;
  - 2. The records that Sellers providing, mixing, serving, or handling marijuana and marijuana-infused products must keep concerning the tax imposed by PCC 6.07.
- B. Notwithstanding any other provisions in this Chapter, the State of Oregon, if appointed as the designee, may apply the provisions of ORS 475B.700 to ORS 475B.755 in the administration of the Portland tax.

**6.07.145 Net Revenues Distribution.**

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) Net revenues remaining after collection, refunds, credits, and costs related to administration of the tax will be distributed by the City as follows:

- A. In the course of developing the City's budget, the Bureau of Revenue and Financial Services shall report the projected balance in the Recreational Marijuana Tax Fund at the beginning of the next fiscal year.
- B. Allocation of revenue from the Recreational Marijuana Tax Fund shall occur annually as part of the public budget adoption process followed by Council, with funding allocations made annually by City Council.
- C. These funds shall be allocated in the Adopted Budget for the following purposes:
  - 1. Drug and alcohol education and treatment programs, including but not limited to services that facilitate or increase access to drug and alcohol education and treatment, and programs that support rehabilitation and employment readiness.
  - 2. Public safety, including police, fire, and transportation safety purposes that protect community members from unsafe drivers. Examples include but are not limited to police DUII training and enforcement, support for firefighter paramedics, street infrastructure projects that improve safety, and other initiatives to reduce impacts of drug/alcohol abuse.

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3. Support for neighborhood small businesses, especially women-owned and minority-owned businesses, including but not limited to business incubator programs, management training, and job training opportunities; and providing economic opportunity and education to communities disproportionately-impacted by cannabis prohibition.

#### **6.07.150 Invalidity.**

If any section, clause, phrase, sentence or part of this Chapter shall for any reason be adjudged unconstitutional, invalid or unenforceable, it shall only void that part, clause, phrase or section so declared and the remainder shall remain in full force and effect.

#### **6.07.155 Effective Date.**

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) This Chapter will be in full force and effect upon approval by the voters in the November 8, 2016 election. The tax levied in PCC 6.07.030 shall be imposed beginning on and after January 1, 2017. The Director is authorized to collect amounts receivable under this Chapter for taxes, interest and penalties.



**CHAPTER 6.08 – CONSTRUCTION EXCISE  
TAX**

(Chapter added by Ordinance No. 187855, effective  
August 1, 2016.)

**Sections:**

6.08.010	Purpose.
6.08.020	Definitions.
6.08.030	Administration and Enforcement Authority.
6.08.040	Administrative Authority Rulemaking.
6.08.050	Imposition of Tax.
6.08.060	Exemptions.
6.08.070	Failure to Pay.
6.08.080	Statement of Entire Value of Improvement Required.
6.08.090	Interest and Penalties for Failure to Comply.
6.08.100	Enforcement by Civil Action.
6.08.110	Refunds.
6.08.120	Appeals.
6.08.130	Dedication of Revenue.

**6.08.010 Purpose.**

This Chapter establishes a Construction Excise Tax on commercial and residential improvements to provide funding for affordable housing in the City of Portland. Chapter 6.08 of the City Code shall be known as the Construction Excise Tax.

**6.08.020 Definitions.**

(Amended by Ordinance No. 187975, effective September 7, 2016.) As used in this Chapter, unless the context requires otherwise:

- A. “Commercial”** means any structure designed or intended to be used, or actually used, for occupancy for other than residential purposes.
- B. “Construct” or “Construction”** means erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law.
- C. “Improvement”** means any improvements to real property resulting in a new structure, additional square footage added to an existing structure, or the addition of living space to an existing structure.
- D. “Mass Shelters”** means a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or

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non-profit agency to provide shelter. For mass shelters, “affordable” means that shelter is provided on a daily basis without a fee. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.

- E. “Median family income”** means median family income by household size for the Portland Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development as adjusted for inflation and published periodically.
- F. “Net Revenue”** means revenues remaining after the administrative fees described in Section 6.08.130 are deducted from the total Construction Excise tax collected.
- G. “Residential”** means structure designed or intended to be used, or actually used, for occupancy for residential purposes including any residential structure, dwelling, or dwelling unit.
- H. “Value of Improvement”** means the total value of the improvement as determined by the construction permit or building permit for the Improvement. The Bureau will calculate the total value by determining the value per square foot based on building type using the International Code Council Building Valuation Data Tables and multiplying that value by the area of the new structure or additional square footage from the exterior surface of the outside wall.

#### **6.08.030 Administration and Enforcement Authority.**

- A.** The Bureau of Development Services is responsible for the administration of this Chapter as described in Sections 6.08.050 and 6.08.060. In exercising the responsibilities of this section, the Bureau of Development Services may act through designated representatives.
- B.** Except as provided in Subsection 6.08.030 A., the Portland Housing Bureau is responsible for administration and enforcement of this Chapter. In exercising the responsibilities of this Section, the Portland Housing Bureau may act through designated representatives.

#### **6.08.040 Administrative Authority Rulemaking.**

- A.** The Director of the Portland Housing Bureau may adopt procedures, forms and written policies for administering the Construction Excise Tax. Authority granted to the Director of the Portland Housing Bureau under this Chapter 6.08 may be delegated, in writing, to employees or agents of the Portland Housing Bureau. The Director of the Portland Housing Bureau may adopt rules related to matters within the scope this Chapter 6.08, conforming to the intent and purpose of this Chapter

6.08. Adoption of rules by the Director shall follow the procedures set forth in this Section.

**B. Permanent rules.**

1. Prior to the adoption of a permanent rule, the Director will:
  - a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before the hearing.
  - b. At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
  - c. The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.
  - d. If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
2. Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.

**C. Interim rules.**

1. The Director may adopt interim rules without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
2. Interim rules may be effective for a period of no longer than 180 days.
3. Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement.

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Such notice must also identify the location at which copies of the full set of the interim rules may be obtained.

- D.** All final and interim rules must be filed in the offices of the Portland Housing Bureau's Director. All final and interim rules will be made available to the public at the Development Services Center, and posted on the City's website.

#### **6.08.050 Imposition of Tax.**

- A.** Each person who applies to construct a commercial improvement in the City of Portland shall pay a commercial construction excise tax in the amount of 1 percent of the value of the improvement.
- B.** Each person who applies to construct a residential improvement in the City of Portland shall pay a residential construction excise tax in the amount of 1 percent of the value of the improvement.
- C.** The construction excise tax shall be due and payable prior to the issuance of any building permit by the Bureau of Development Services.

#### **6.08.060 Exemptions.**

(Amended by Ordinance No. 187975, effective September 7, 2016.)

- A.** No tax imposed under this Chapter shall be imposed upon the following improvements:
  - 1.** Improvements when the value of improvement is less than or equal to \$100,000;
  - 2.** Residential housing units guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income, for a period of at least 60 years following the date of construction of the residential housing;
  - 3.** Owner occupied residential properties qualifying under the property tax exemption program under Portland City Code Chapter 3.102.
  - 4.** Private school Improvements;
  - 5.** Public Improvements as defined in ORS 279A.010;
  - 6.** Public or private hospital Improvements;
  - 7.** Improvements to religious facilities primarily used for worship or education associated with worship;

8. Agricultural buildings, as defined in ORS 455.315 (2)(a);
  9. Facilities operated by a not-for-profit corporation and that are:
    - a. Long term care facilities, as defined in ORS 442.015;
    - b. Residential care facilities, as defined in ORS 443.400;
    - c. Continuing care retirement communities, as defined in ORS 101.020; or
  10. Mass Shelters.
- B.** Until June 30, 2018, no tax shall be imposed under this Chapter 6.08 on accessory dwelling units as defined by PCC 33.910.
- C.** The Portland Housing Bureau may require any person seeking an exemption to demonstrate that the person is eligible for an exemption and to establish all necessary facts to support the exemption.

**6.08.070 Failure to Pay.**

The Bureau of Development Services may not issue a building permit to any person who has failed to pay the tax required by Section 6.08.050.

**6.08.080 Statement of Entire Value of Improvement Required.**

It is a violation of this Chapter 6.08 for any person to fail to state or to misstate the full value of the improvement.

**6.08.090 Interest and Penalties for Failure to Comply.**

(Amended by Ordinance No. 187975, effective September 7, 2016.)

- A.** Interest. If the Director of the Portland Housing Bureau determines that a person has failed to pay to the City all or any part of the construction excise tax due under this Chapter 6.08, 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 the underpayment. Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.
- B.** Penalties. In addition to assessing interest, the Director of the Portland Housing Bureau may assess a penalty of five percent of the otherwise applicable tax liability upon:
1. Any person that initially qualifies for an exemption under Subsections 6.08.060 A.2., 6.08.060 A.3. and 6.08.060 A.10. and the housing units subsequently fail to qualify for the exemption;

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2. Any person who intentionally fails to state the full value of an improvement.
- C. Penalties and interest merged with tax. Any accrued interest and imposed penalties under the provisions of this Section shall be merged with and become a part of the construction excise tax required to be paid under this Chapter 6.08. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new interest amounts.

#### **6.08.100 Enforcement by Civil Action.**

The construction excise tax, and any assessed interest and penalties, due and owing under this Chapter 6.08 constitutes a debt owing to the City by the person liable for the tax as set forth in Section 6.08.050.

#### **6.08.110 Refunds.**

- A. The Portland Housing Bureau shall issue a refund to any person who has paid a construction excise tax the amount of the tax actually paid:
  1. If the person establishes that the tax was paid for improvements that were otherwise eligible for an exemption under Section 6.08.060.
  2. If the person establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the Bureau of Development Services;
  3. Upon a determination by either the Director of the Portland Housing Bureau or the Code Hearings Officer that the amount of any construction excise tax, penalty, or interest has been erroneously collected or paid to the City under this Chapter 6.08.
- B. The Portland Housing Bureau shall either refund all amounts due under this section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Claims for refunds shall be made upon forms provided by the Portland Housing Bureau. The request for the refund must be submitted within three years from the date of payment of the construction excise tax.
- C. Denial of an application for refund may be appealed as provided for in Section 6.08.120.

#### **6.08.120 Appeals.**

- A. Administrative Review. Any written determination issued by either the Bureau of Development Services or the Portland Housing Bureau applying the provisions of this Chapter 6.08, believed to be in error may be reviewed by the Director of the

Portland Bureau of Housing if requested in writing by the recipient. The request for administrative review must be received within 10 days of the determination, and must include all documentation supporting the request. The Director's determination in the administrative review shall be served by regular mail.

- B.** Appeals. Any written determination from either the Bureau of Development Services or the Portland Housing Bureau applying the provisions of this Chapter 6.08 regarding liability for payment of construction excise taxes, the valuation of may appeal such determination of the Director to the Code Hearings Officer of the City as provided in Chapter 22.10 of this Code.
- C.** The filing of any notice of appeal shall not stay the effectiveness of the written determination unless the Code Hearings Officer so directs.

**6.08.130 Dedication of Revenue.**

- A.** The Bureau of Development Services may retain up to 4 percent of the taxes collected for payment towards the Bureau's administrative expenses related to collection and distribution of the tax.
- B.** For the tax imposed on residential improvements, the net revenues will be distributed as follows:
  - 1.** Fifteen percent of net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.
  - 2.** Fifty percent of net revenue will be transferred to the Portland Housing Bureau Inclusionary Housing Fund to fund finance-based incentives for programs that require affordable housing.
  - 3.** Thirty-five percent of net revenue will be transferred to the Housing Bureau Inclusionary Housing Fund to support the production and preservation of affordable housing units at and below 60 percent median family income.
- C.** For the tax imposed on commercial improvements, 100 percent of net revenue will be distributed to the Housing Bureau Inclusionary Housing Fund to support the production and preservation of affordable housing units at and below 60 percent median family income.





**CHAPTER 14A.50 - CONDUCT PROHIBITED  
ON PUBLIC PROPERTY**

**Sections:**

- 14A.50.010 Alcohol on Public Property and Public Rights of Way.
- 14A.50.020 Camping Prohibited on Public Property and Public Rights of Way.
- 14A.50.030 Sidewalk Use.
- 14A.50.035 Pedestrians.
- 14A.50.040 Conducting Business on City Property or Public Rights of Way.
- 14A.50.050 Erecting Permanent or Temporary Structures on Public Property or Public Rights of Way.
- 14A.50.060 Resale of Tickets to Events at Municipal Facilities at Premium Price Prohibited
- 14A.50.070 Misuse of Public Property.
- 14A.50.110 Misuse of a Public Restroom.
- 14A.50.120 Misuse of Public Drinking Fountain.
- 14A.50.130 Misuse of Reservoirs.

**14A.50.010 Alcohol on Public Property and Public Rights of Way.**

(Amended by Ordinance No. 184596, effective June 17, 2011.)

- A.** It is unlawful for any person to drink alcoholic liquor upon any street, sidewalk, or other public right of way.
- B.** It is unlawful for any person to have in his possession while upon any street, sidewalk, or other public right-of-way any bottle, can, or other receptacle containing any alcoholic liquor which has been opened or a seal broken or the contents of which have been partially removed.
- C.** This Section does not apply to prohibit the consumption of alcoholic liquor in sidewalk cafes which have been issued permits under Chapter 17.25 of this Code.
- D.** This Section does not prohibit the use of alcohol in the street area where a Community Event Street Closure–Alcohol Allowed permit has been issued by the Bureau of Transportation under PCC Chapter 17.44 provided the Permittee is in compliance with all applicable Oregon Liquor Control Commission requirements.

**14A.50.020 Camping Prohibited on Public Property and Public Rights of Way.**

- A.** As used in this Section:
  - 1.** "To camp" means to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.

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2. "Campsite" means any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
- B. It is unlawful for any person to camp in or upon any public property or public right of way, unless otherwise specifically authorized by this Code or by declaration by the Mayor in emergency circumstances.
- C. The violation of this Section is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment for a period not to exceed 30 days or both.

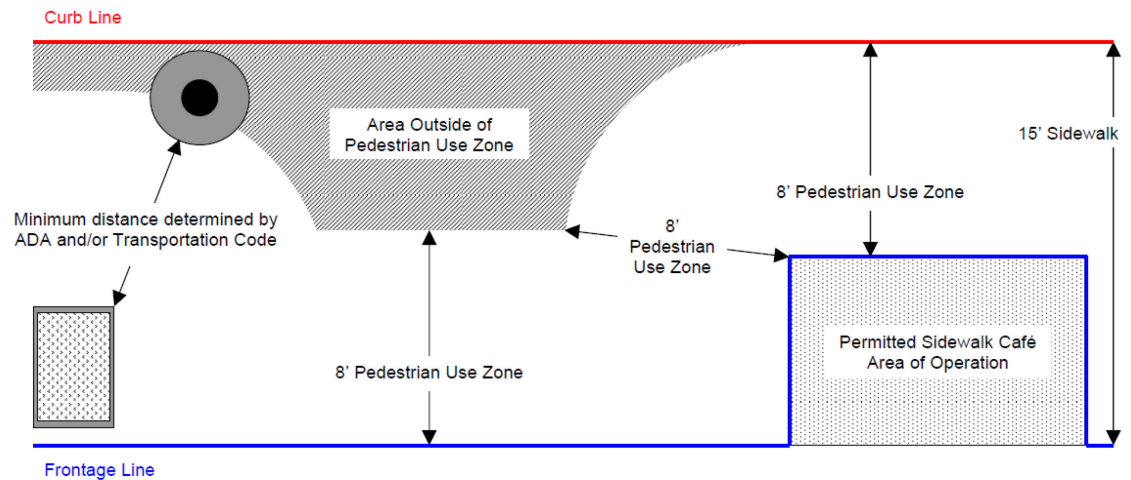
**14A.50.030 Sidewalk Use.**

(Replaced by Ordinance No. 183754; amended by Ordinance No. 188556, effective August 16, 2017.)

**A. Definitions:**

1. Pedestrian: A person who is on foot or assisted by a mobility device and able to move immediately to accommodate other sidewalk users.
2. Frontage line: On sidewalks bounded by a street, the frontage line is the edge of the public sidewalk opposite the curb where the area dedicated to sidewalk use by the City meets either private property or public property that is not dedicated to sidewalk use. On sidewalks not bounded by a street and lying between public property and private property, the frontage line is the edge of the public sidewalk bounded by private property. On sidewalks not bounded by a street and bordered on both sides by public property or bordered on both sides by private property, the frontage line is the west or north lateral edge of the sidewalk.
3. Pedestrian Use Zone: The surface of a public sidewalk extending from the frontage line of the sidewalk and any fixture or use authorized or allowed by City permit or regulation that is centered on the frontage half of the sidewalk. Except as otherwise established and marked by the Director of the Bureau of Transportation, the pedestrian use zone extends eight feet on sidewalks more than ten feet wide and six feet on sidewalks ten feet wide or less. At street corners, the pedestrian use zone encompasses the entire area bounded by the extended frontage lines and the streets.

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4. Mobility device: A wheelchair, crutch, cane, walker or device that functions similarly to allow an injured or disabled person increased mobility for sidewalk travel.
- B. Improper Use Of Sidewalk In A High Pedestrian Traffic Area – Use Of Pedestrian Use Zone By A Person Who Is Not A Pedestrian:**
1. Between 7:00 a.m. and 9:00 p.m., only pedestrians may use the pedestrian use zone in the high pedestrian traffic areas described in Subsection F.
  2. The prohibition in Subsection B.1. does not apply to:
    - a. Persons who use a conveyance to move freight or merchandise.
    - b. Persons crossing the sidewalk pedestrian zone in a conveyance directly to or from an entrance.
  3. It is an affirmative defense to a prosecution under this subsection that the behavior occurred within one foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith the person was not in the pedestrian use zone.
- C. Improper Use Of Sidewalk In A High Pedestrian Traffic Area - Placing Objects In Pedestrian Use Zone:** Between 7:00 a.m. and 9:00 p.m., in the high pedestrian traffic areas described in Subsection F., unless authorized or allowed by ordinance, permit or a regulation issued by the Director of the Bureau of Transportation, no person may deposit, install, place, fix or leave any object or item in, on or above a pedestrian use zone except:

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1. Personal baggage or luggage that is within arm's reach of the pedestrian possessor;
  2. Merchandise in course of receipt or delivery that presents a continuous vertical rise of at least 36 inches to the cane of vision-impaired pedestrians, unless that merchandise is permitted to remain upon the sidewalk for a period longer than 2 hours. The vehicle in which merchandise is delivered is subject to all parking regulations as described in Title 16.
  3. It is an affirmative defense to a prosecution under this subsection that the behavior occurred within one foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith the object or item was not in the pedestrian use zone.
- D. Improper Use Of Sidewalk In A High Pedestrian Traffic Area – Mismanaging A Dog:** Between 7:00 a.m. and 9:00 p.m., on all parts of sidewalks in the high pedestrian traffic areas described in Subsection F.:
1. All dogs must be in hand or, if leashed, the dog's neck must be within two feet of the handler;
  2. A dog may be present in a pedestrian use zone in the high pedestrian traffic areas described in Subsection F. only if under the control of a pedestrian;
  3. A person who brings a dog onto a public sidewalk or who possesses or controls the dog is responsible for compliance with this Subsection. This Subsection does not apply to police animals.
  4. It is an affirmative defense to a prosecution under Subsection D.2. that the dog was within one foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith the dog was not in the pedestrian use zone.
- E. Improper Use Of Sidewalk – Failing To Allow Use By A Disabled Person:** On all sidewalks at all times, at the reasonable request of a person using a mobility device or relying for guidance on a cane, helper or guide animal, all persons must immediately yield use of the sidewalk to allow a reasonable opportunity for passage.
- F. High Pedestrian Traffic Areas:**
1. The Downtown Area, defined as the public sidewalks in the area bounded by the west bank of the Willamette River, I-5 from the west bank of the Willamette River to its junction with I-405, I-405, the north edge of the

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north sidewalk of Northwest Irving Street and a line extended from the northeast corner of the north sidewalk of Northwest Irving Street to the west bank of the Willamette River;

2. The Rose Quarter / Lloyd Area, defined as the public sidewalks in the area bounded by North Interstate Avenue, the north edge of the north sidewalk of Broadway Street, Northeast 16th Avenue and Northeast Lloyd Boulevard.

**G. Exceptions**

1. The prohibitions in this Section do not apply to a person:
  - a. Unable to comply due to suffering a medical emergency;
  - b. Unable to comply due to physical or mental incapacitation;
  - c. Acting as authorized or allowed by ordinance, permit or a regulation issued by the City Traffic engineer;
  - d. Performing a City-approved public safety, maintenance or construction function;
  - e. Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit;
2. The prohibitions in Subsection B. do not apply to a person:
  - a. Sitting on a chair or bench located in a pedestrian use zone supplied or permitted by a public agency;
  - b. Waiting in line for goods or services unless the person refuses to comply with a lawful order of a peace officer to form the line in a way that moderates impact on passage along the sidewalk;
  - c. Performing street music while complying with the Street Musician Partnership Agreement;
3. The prohibitions on this Section do not apply to pedestrian plazas as defined under Chapter 17.43.

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- H.** No person shall be cited under this Section unless the person engages in conduct prohibited by this Section after having been notified in writing by an Oregon peace officer that the conduct violates this Section.
- I.** The prohibitions in this Section do not apply when they are waived by permit.
- J.** Nothing in any of the exceptions listed in Subsection G. shall be construed to permit any conduct which is prohibited by PCC 14A.50.035 - Pedestrians.
- K.** Nothing in this Section shall be construed to permit conduct which is prohibited by a lawful order restricting the time, place or manner of speech.
- L.** An object or deposit that is on or above a sidewalk in violation of this Section is hereby declared to be a public nuisance. The Director of the Bureau of Transportation or a police officer may summarily abate any such nuisance, or it may be abated as set forth in Chapter 29.20.
- M.** Violation of this Section subjects a person to a maximum penalty of a \$250 fine only.
- N.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for violations pursuant to ORS 137.126 to ORS 137.129.
- O.** This Section shall not apply to any activity otherwise made lawful.

**14A.50.035 Pedestrians.**

- A.** No person with the intent to interfere with free passage shall block or attempt to block or interfere with any person(s) along the public sidewalks by any means, including but not limited to standing on that part of the sidewalk used for pedestrian travel or by placing any object or vehicle in such area.
- B.** No person with the intent to interfere with the free ingress to or egress from shall block or attempt to interfere with or block pedestrian or vehicular entrances to public or private property abutting the public sidewalk.
- C.** Violation of this Section subjects a person to a maximum penalty of a \$250 fine only.
- D.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for misdemeanors pursuant to ORS 137.126 to ORS 137.129.
- E.** This Section shall not apply to any activity otherwise made lawful.

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**14A.50.040 Conducting Business on City Property or Public Rights of Way.**

It shall be unlawful for any person to sell or attempt to sell any merchandise or services in or upon any sidewalk, street, alley, lane, public right of way, or under any bridgeway or viaduct:

- A.** Within the Central City Plan District;
- B.** With 250 feet of any:
  - 1.** Public library grounds;
  - 2.** Public park grounds without a permit from the Bureau of Parks and Recreation;
  - 3.** Grounds or stadium while athletic games are being played;
  - 4.** Public or private school grounds during the hours of regular school classes or sessions;
  - 5.** Vendor already parked or stopped, or any commercial establishment, while open, if the other vendor or establishment offers similar merchandise; unless specifically authorized by ordinance, permit, or other valid City approval. Possession of a valid City business license does not constitute “other valid City approval” within the meaning of this Section.

**14A.50.050 Erecting Permanent or Temporary Structures on Public Property or Public Rights of Way.**

- A.** It shall be unlawful to erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material(s) in or upon non-park public property or public right-of-way without a permit or other authorization from the City.
- B.** In addition to other remedies provided by law, such an obstruction is hereby declared to be a public nuisance. The City Engineer, City Traffic Engineer, or Chief of Police may summarily abate any such obstruction, or the obstruction may be abated as prescribed in Chapter 29.60 of this Code.
- C.** The provisions of this Section do not apply to merchandise in the course of lawful receipt or delivery, unless that merchandise remains upon the public right of way for a period longer than 2 hours, whereupon the provisions of this Section apply.
- D.** The provisions of this Section do not apply to depositing material in public right-of-way for less than 2 hours, unless the material is deposited with the intent to

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interfere with free passage or to block or attempt to block or interfere with any persons(s) using the right-of-way.

**14A.50.060 Resale of Tickets to Events at Municipal Facilities at a Premium Price Prohibited.**

Tickets to all events at municipally-owned facilities, including the Memorial Coliseum, PGE Park, and the public plaza at the Rose Quarter, and tickets to all events at the Rose Garden Arena other than season tickets, shall have printed thereon the retail price thereof. It shall be unlawful for any person to sell or offer for sale any ticket for an event at any municipally-owned facility, or for any event at the Rose Garden Arena, at a price greater than the retail price printed thereon or at a price greater than the original retail price. Notwithstanding the above, this Section shall not be construed to prohibit service fees or charges imposed or collected by ticket outlets where service fees or charges are specifically authorized by the management of the facilities.

**14A.50.070 Advertising on Streets.**

- A.** It is unlawful for any person to scatter notices or advertisements on any street right-of-way or to post a notice or advertisement anywhere on a street right-of-way or upon the exterior of a public building.
- B.** It is unlawful for any person whose name appears upon, or who is responsible for posting, any notice or advertisement posted in violation of this Section to permit the notice or advertisement to remain posted after having received a request to remove it.
- C.** Any notice or advertisement found in violation of this Section may be removed by a peace officer.

**14A.50.110 Misuse of a Public Restroom.**

- A.** This Section applies to permanent and temporary structures erected or placed for use as a public restroom.
- B.** It is unlawful to stand, climb, sit upon, or lay down on any fixture or floor located inside of or at the entrance of any restroom located in a public building or on public property, unless that fixture or floor is intended to be used for standing, climbing, sitting or lying upon.
- C.** It is unlawful for two or more persons to occupy any restroom that is specifically designed for use by only one person and that is located in a public building or on public property, unless one of those persons is assisting a handicapped person or persons, a child or children under 12 years of age, or an elderly person, or persons in need of assistance.



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- D.** It is unlawful to interfere with any attendant in the discharge of his or her duties within any restroom located in a public building or on public property.
- E.** It is unlawful for any male person to enter a restroom marked “Women.” This Section does not apply to a male child with his mother or female guardian, or an authorized person in the discharge of his regular duties.
- F.** It is unlawful for any female person to enter a restroom marked “Men.” This Section does not apply to a female child with her father or male guardian, or an authorized person in the discharge of her regular duties.
- G.** It is unlawful for any person to engage in disorderly or disruptive conduct inside of or at the entrance to any restroom located in a public building or on public property.
- H.** The above requirements do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

**14A.50.120 Misuse of a Public Drinking Fountain.**

- A.** It shall be unlawful to deposit material of any kind into a drinking fountain located on public property.
- B.** It shall be unlawful to obstruct the flow of water or tamper in any way with a drinking fountain located on public property or right of way, unless permission to do so is granted by the appropriate City bureau, official, or other authorized person.

**14A.50.130 Misuse of Reservoirs.**

It is unlawful for any person to throw, dump, or deposit any material or substance in a reservoir maintained by the Bureau of Water Works.

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**CHAPTER 14A.55 - PARADE EVENT  
MARKING**

(Chapter added by Ordinance No. 181684, effective  
April 18, 2008.)

**Sections:**

- 14A.55.010 Access to Public Property for Parade Event.
- 14A.55.020 Enforcement and Notice of Violation.
- 14A.55.030 Penalties.
- 14A.55.040 Administrative Review.
- 14A.55.050 Appeals to the Code Hearings Officer.
- 14A.55.060 Further Appeals.
- 14A.55.070 Additional Regulations.

**14A.55.010 Access to Public Property for Parade Event.**

- A.** It is unlawful to paint, tape, or otherwise mark public property or place objects in the right-of-way for the purpose of reserving space for a parade event.
- B.** City of Portland may remove unauthorized materials left on public property or the right-of-way.
- C.** Camping overnight, to reserve a space in the public right-of-way along side the parade route, may be allowed as set forth in administrative rule. Overnight camping under this section is a limited exception to Portland City Code 14A.50.020 and 14A.50.030.

**14A.55.020 Enforcement and Notice of Violation.**

- A.** The Director of the Bureau of Development Services, or designee, upon determining that a violation of this code or administrative rule has occurred, may issue a notice of violation by direct delivery of said notice to the violator.
- B.** The violator shall, upon receipt of a notice of violation, correct the violation and pay to the City a civil penalty as set forth in Portland City Code 14A.55.030.

**14A.55.030 Penalties.**

Violations of this Chapter may be punishable by fines as follows:

- A.** A \$100 fine for the first violation;
- B.** A \$500 fine for each subsequent violation.

**CHAPTER 14B.130 - MARIJUANA  
REGULATORY LICENSE PROCEDURE AND  
REQUIREMENTS**

(Chapter added by Ordinance No. 187359, effective  
September 30, 2015.)

**Sections:**

- 14B.130.010 Purpose.
- 14B.130.020 Definitions.
- 14B.130.030 License Required.
- 14B.130.040 Minimum Standards.
- 14B.130.050 Application Procedure.
- 14B.130.060 Notice.
- 14B.130.070 Issuance and Renewal of the License.
- 14B.130.080 Requirements.
- 14B.130.090 Inspection of Property and Records.
- 14B.130.100 Penalties.
- 14B.130.110 Revocation or Suspension of License.
- 14B.130.120 Review by the Director and Appeals to the Code Hearings Officer.
- 14B.130.130 Severability.

**14B.130.010 Purpose.**

The purpose of this Chapter is to protect and preserve the public health, safety, and general welfare of Portland communities by setting requirements for the licensing and siting of businesses that produce, process, sell or transfer marijuana and marijuana items. The standards and procedures exercise the City's authority in accordance with applicable Oregon statutes and administrative rules. This Chapter is adopted pursuant to authority under Oregon statutes, as well as in exercise of the City Charter home rule authority, to regulate business operations in producing, processing, selling or transferring marijuana and marijuana items within the City. Nothing in this Chapter is intended to promote or condone the sale, transfer, distribution, possession or use of marijuana in violation of applicable laws.

**14B.130.020 Definitions.**

(Amended by Ordinance Nos. 187557, 188178, 188329 and 188602, effective September 20, 2017.) As used in this Chapter, unless the context requires otherwise, the following definitions apply:

- A.** "Applicant" means any individual that is directly involved in the management and operation of, or has at least 10 percent ownership interest in, the marijuana business or medical dispensary in the City.
- B.** "Cannabinoid concentrates" means a substance obtained by separating cannabinoids from marijuana by;

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1. A mechanical extraction process;
  2. A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;
  3. A chemical extraction process using the solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or
  4. Any other process identified by the Oregon Liquor Control Commission or the Oregon Health Authority, by rule.
- C. “Cannabinoid edibles” means food or potable liquids into which a cannabinoid concentrate, extract, or dried marijuana leaves or flowers have been incorporated.
- D. “Cannabinoid extracts” means a substance obtained by separating cannabinoids from marijuana by;
1. A chemical extraction process using hydrocarbon-based solvent, such as butane, hexane, or propane;
  2. A chemical extraction process using the solvent carbon dioxide, if the process uses high heat or pressure, or;
  3. Any other process identified by the Oregon Liquor Control Commission or the Oregon Health Authority, by rule.
- E. “Cannabinoid Product” means an edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contain cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include;
1. Usable marijuana by itself;
  2. A concentrate by itself;
  3. A cannabinoid extract by itself;
  4. Industrial Hemp, as defined in ORS 571.300.
- F. “Chief of Police” means the Chief of the Bureau of Police, or the Chief’s designee.
- G. “Consumer” means a person who purchases, acquires, owns, holds, or uses marijuana seeds, immature marijuana plants, marijuana or marijuana items other than for the purpose of resale.

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- H.** "Director" means the Director of the Office of Neighborhood Involvement, or the Director's designee.
- I.** "Financial consideration" or "For consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.
- J.** "Licensee" means a person who holds a license issued under PCC Chapter 14B.130.
- K.** "Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.
- L.** "Licensed premises" means all public and private enclosed areas at the location that are used for the business operated at the location, including offices, kitchens, rest rooms and storerooms; all areas outside a building that the City has specifically licensed for the production, processing, wholesale sale, retail sale or transfer of marijuana and marijuana items.
- M.** "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include industrial hemp, as defined in ORS 571.300.
- N.** "Marijuana Business" means any business located within the City that is licensed or has submitted or is required to submit an application to be licensed by the Oregon Liquor Control Commission as any of the following;
- 1.** "Marijuana micro-producer tier I" means a person who produces marijuana in the City with an indoor canopy size of up to 625 square feet in the City.
  - 2.** "Marijuana micro-producer tier II" means a person who produces marijuana in the City with an indoor canopy size 626 to 1250 square feet in the City.
  - 3.** "Marijuana micro-wholesaler" means a person that only purchases or receives seeds, immature plants or usable marijuana from a producer with a micro tier I or tier II canopy for resale to a person other than a consumer in the City.
  - 4.** "Marijuana processor" means a person who processes marijuana items in this City.
    - a.** A marijuana processor may only process and sell cannabinoid products, concentrates, or extracts if the processor has received an endorsement from the Director for that type of processing activity. Endorsements types are:

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- (1) Cannabinoid edible processor;
  - (2) Cannabinoid topical processor;
  - (3) Cannabinoid concentrate processor; and
  - (4) Cannabinoid extract processor.
- b. An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time after being licensed by the Director.
- c. In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Director that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.
5. “Marijuana producer” means a person who produces marijuana in the City.
6. “Marijuana retailer” means a person who sells or makes available for purchase marijuana or marijuana items in the City.
7. “Marijuana retail courier” means a marijuana retailer who sells or makes available for purchase marijuana or marijuana items only by delivery to residences located within the City.
8. “Marijuana wholesaler” means a person who purchases marijuana or marijuana items in this State for resale to a person other than a consumer.
- O. “Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
- P. “Marijuana Laboratory” means any person who is conducting tests of marijuana under Oregon law.
- Q. “Marijuana Regulatory License” means a license issued by the City to produce, process, sell or transfer marijuana and marijuana items.
- R. “Medical Dispensary” means a business located within the City that is registered with the Oregon Health Authority under ORS 475.314 and authorized to transfer usable marijuana, marijuana items and immature marijuana plants, or a site for which an applicant has submitted an application for registration under ORS 475.314.

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- S. “Primary Contact” means the person designated in the application who has authority to conduct business with the City on behalf of the applicant or licensee.
- T. “Processor” means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.
- U. “Produces” means the planting, cultivation, or growing of marijuana.
- V. “Sale” or “Sales” means any transfer, exchange or barter, in any manner or by any means, for consideration, and includes all sales made by any person including gifts for the purposes of advertising by marijuana businesses.
- W. “Research Certificate Holder” means any person authorized under Oregon law to receive marijuana items for the purpose of medical or public health and safety research.

**14B.130.030 License Required.**

- A. No person shall establish, conduct, maintain or operate a medical dispensary or marijuana business in the City without a valid marijuana regulatory license issued by the Office of Neighborhood Involvement.
- B. Any person that advertises or otherwise holds themselves to be producing, processing or offering marijuana or marijuana items for sale or financial consideration within the City will be presumed to be a medical dispensary or marijuana business subject to the terms of Chapter 14B.130.
- C. No medical dispensary or marijuana business may lawfully exist in the City absent the issuance of a state license and full regulatory oversight of the marijuana establishment by the State as well as the City. Compliance with the requirements of this Chapter does not provide a defense to criminal prosecution under otherwise applicable law.

**14B.130.040 Minimum Standards.**

(Amended by Ordinance Nos. 187391, 187557, 188178 and 188602, effective September 20, 2017.)

- A. A marijuana regulatory license may only be issued for a specific, fixed location which shall be considered the licensed premises. The licensed premises must be within a building or structure subject to a building or zoning permit. Licensee must obtain the applicable permits and remain in compliance with fire, building and zoning codes.
- B. If the location is a medical dispensary, the location may be no closer than 1,000 feet of another medical dispensary. The distance between the dispensaries shall be computed by direct measurement of the nearest portion of the building in which

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one medical dispensary is located to the nearest portion of the building in which the other medical dispensary is located.

- C.** Except for marijuana retail couriers, if the location is a marijuana retailer, the location may be no closer than 1,000 feet of another marijuana retailer. The distance between the retailers shall be computed by direct measurement of the nearest portion of the building in which one marijuana retailer is located to the nearest portion of the building in which the other marijuana retailer is located.
- D.** Distance Restrictions for Dispensaries and Retailers.

  - 1.** Except for marijuana retail couriers, a marijuana regulatory license will not be granted for a medical dispensary or a marijuana retailer that is within 1,000 feet of another medical dispensary or another marijuana retailer. The distance between the dispensaries and retailers shall be computed by direct measurement of the nearest portion of the building in which one medical dispensary or marijuana retailer is located to the nearest portion of the building in which the other medical dispensary or marijuana retailer is located.
  - 2.** The distance requirement in Subsection 14B.130.040 D.1. shall not apply for applications for medical dispensary licenses received by the Director between November 1, 2015 and January 29, 2016, that meet the following criteria:

    - a.** The medical dispensary has been:

      - (1)** Registered, operating and in good standing with the Oregon Health Authority since on or before July 1, 2015 and had a valid City of Portland Business License on or before July 1, 2015.
      - (2)** Registered and in good standing with the Oregon Health Authority since on or before September 30, 2015, if the Director finds that the applicant demonstrates that they incurred significant financial obligations prior to that date, such as entering a lease, hiring employees, or obtaining fixtures and equipment, and had a valid City of Portland Business License on or before September 30, 2015.
    - b.** The medical dispensary has no outstanding compliance issues pending with the Oregon Health Authority.
    - c.** The application for the medical dispensary has not submitted for or obtained a marijuana regulatory license for a marijuana retailer



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within 1,000 feet of the location to be licensed under this exception;  
and

- d.** The applicant meets all other requirements of this Chapter.
- 3.** The requirements of Subsection D.1. shall not apply to current, valid renewal applications for medical dispensary licenses issued under Subsection D.2.
- 4.** The distance requirement in Subsection 14B.130.040 D.1., shall not apply for applications for marijuana retail licenses received by the Director that meet the following criteria:
  - a.** The application is from an existing medical dispensary licensee operating under a current, valid medical dispensary located within the City of Portland;
  - b.** The marijuana retail license application is for the same address at which the medical dispensary is currently operating;
  - c.** The medical dispensary has no outstanding compliance issues pending with the Oregon Health Authority;
  - d.** Upon issuance of a marijuana retail license from the State an applicant, under conditional approval for a marijuana retailer license, may operate without a Marijuana Regulatory License for a period of no longer than 5 business days to allow for the transition from the medical market to the recreational market;
  - e.** The applicant meets all other requirements of this Chapter.
- E.** No medical dispensary, marijuana retailer or marijuana retail courier may locate its licensed premises for business operations within 1,000 feet of:
  - 1.** Any public elementary or secondary school for which attendance is compulsory under ORS 339.020 (2013); or
  - 2.** A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1) (a) (2013).
  - 3.** The distance from a school to a medical dispensary or a marijuana business retailer shall be computed by direct measurement from the nearest property line of the land used for the school to the nearest portion of the building in which the medical dispensary or marijuana retail business is located.

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4. If a school described in Subsection 14B.130.040 D. that has not previously been attended by children is established within 1,000 feet of a medical dispensary, marijuana retailer or marijuana retail courier for which a license has been issued under Chapter 14B.130, the medical dispensary, marijuana retailer or marijuana retail courier located at that premises may remain at that location unless:
  - a. The Office of Neighborhood Involvement revokes the license of the marijuana business under Section 14B.130.110; or
  - b. A new application is required.
- F. No medical dispensary, marijuana business, marijuana laboratory, or research certificate holder may be located in residential zones RF through RH or where otherwise not allowed per City Code.
- G. A marijuana retail courier may not operate their licensed premises as being generally open to the public for business. All sales must be conducted off-site by delivery to consumers in accordance with the standards established in OAR 845-025-2880, as in effect on December 1, 2016.
- H. A person or business operating a medical dispensary, marijuana business, marijuana laboratory, or research certificate holder must comply with all state and local regulations that apply.

**14B.130.050 Application Procedure.**

(Amended by Ordinance Nos. 188178 and 188602, effective September 20, 2017.)

- A. Applications for marijuana regulatory licenses will be processed in the order they are received by the Director. The application shall not be considered received until all the required information and documentation has been submitted and the application fee has been paid. An applicant for a marijuana regulatory license shall complete an application that includes the following information:
  1. All completed forms fully executed and signed, including:
    - a. Personal history forms, as developed by the Office of Neighborhood Involvement, for any person who will be directly involved in the management or operation of the proposed medical dispensary or marijuana business for review of the application under Subsection 14B.130.070 C.
    - b. An information form, as developed by the Office of Neighborhood Involvement that includes a description of the planned business

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operations and a security plan describing how the applicant intends to comply with the requirements of Section 14B.130.080.

- c. If the application is for a medical dispensary or marijuana retailer, a Marijuana Control Plan to address security protocols, potential nuisance activities and other public safety concerns.
2. A Business License Certificate of Compliance as provided in Section 7.02.300, and;
3. Documentation of having an existing security system and proof of application submittal for an alarm permit from the Portland Police Bureau, and electrical permit from the Bureau of Development Services as needed for the premise.
4. Documentation of having an existing air filtration system or proof of application submittal for applicable permits to ensure odor impacts upon neighboring properties are minimized.
5. Proof of ownership or legal possession of the premises to be licensed for the term of the proposed license. If the licensed premises will be leased, the application shall include, a true and complete copy of the executed lease showing the property owner has authorized the use as a medical dispensary or marijuana business.
6. Marijuana producers and processors must provide documentation showing that all applicable City permits have been issued or obtained. Upon renewal, marijuana producers and processors must provide documentation showing that all applicable City permits have been obtained and received final inspection approval.
7. A non-refundable application fee as stated in the fee schedule adopted by City Council. Fees will be updated annually or on an as needed basis and will be sufficient to cover the cost of administering this Chapter. The approved fee schedule will be available through the Office of Neighborhood Involvement.
8. The Director may, at the Director's discretion, require additional documentation associated with the application as may be relevant to the requirements of this Chapter. To the extent any materials have been included with the applicant's state license application and forwarded to the City by the state licensing authority, the Director may rely upon the information forwarded from the state without requiring submittal of the same materials in conjunction with the marijuana regulatory license application.

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9. The licensee shall notify the Office of Neighborhood Involvement of any changes in the information required in Subsections 14B.130.050 A.1.a.-c. within 10 business days of the change. If ownership of the licensed entity changes by 51 percent or more, a new application is required.
- B. Applications for renewal of marijuana regulatory licenses must demonstrate compliance with Subsections 14B.130.050 A.1.-7. on a form provided by the Office of Neighborhood Involvement and pay an annual fee as stated in the fee schedule adopted by City Council.

**14B.130.060 Notice.**

- A. The Director shall provide notice of an application before a final decision is made to the Bureau of Police, Portland Fire & Rescue, Bureau of Revenue and Financial Services, and Bureau of Development Services.
- B. For medical dispensaries and marijuana business retailers, the Director shall provide notice of an application before a final decision is made to:
  1. Property owners and property occupants within 300 feet of the proposed licensed premises except for renewal applications and locations previously licensed for the proposed use with change in ownership;
  2. The District Coalition Office and Neighborhood Association in which the marijuana regulatory Licensee is located, or proposed to be located.
  3. Area residents by posting a public notice where the marijuana regulatory licensee is located, or proposed to be located.

**14B.130.070 Issuance and Renewal of the License.**

(Amended by Ordinance Nos. 188178, 188329 and 188602, effective September 20, 2017.)

- A. Upon filing of an application and payment of the required application fee, the Director shall ensure that the location proposed to be licensed or registered meets the minimum standards as defined in Section 14B.130.040. If the proposed location meets the minimum standards the Director shall proceed with processing the application. If the location does not meet the minimum standards the Director shall deny the application.
- B. If the proposed location meets the minimum standards as defined in Section 14B.130.040, the Director in consultation with the Chief of Police, shall conduct an investigation of the application and all principals listed according to the requirements in Subsection 14B.130.050 A. If no cause exists for denial, the Director shall issue the license after the following has been received;
  1. Proof that a state license or registration has been issued.

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2. The license fee as stated in the fee schedule adopted by City Council. Fees will be updated annually or on an as needed basis and will be sufficient to cover the cost of administering this Chapter. The approved fee schedule will be available through the Office of Neighborhood Involvement.
  3. Marijuana producers and processors of cannabinoid extracts must provide documentation showing that all applicable City permits, which may include applicable commercial building permits, electrical permits, and mechanical permits, have been obtained and received final inspection approval. Except for applications for license renewals, the documentation may include a temporary Certificate of Occupancy.
- C. Except as provided for in Subsection 14B.130.070 D., the Director shall deny an initial or renewal application for a marijuana regulatory license if any of the following apply.
1. The applicant, or any person engaged in the direct management and operation of the medical dispensary or marijuana business, or anyone with 10 percent or more interest in the business has previously owned or operated a business regulated by Chapter 14B.130; and
    - a. The license has been revoked for cause that would be grounds for revocation pursuant to Chapter 14B.130.
    - b. The Director has determined that the business has contributed to crime or livability incidents in the area where the medical dispensary or marijuana business is located.
  2. Any statement in the application is false or any required information is withheld;
  3. If the application is for a medical dispensary, the location is not registered with the state under ORS 475.314;
  4. If the application is for a marijuana business, the location is not licensed with the Oregon Liquor Control Commission;
  5. The Director finds by preponderance of the evidence that the applicant or any person directly engaged in the management and operation of the medical dispensary or marijuana business has violated local or State law including a permitting or licensing requirement.
- D. Notwithstanding Subsection 14B.130.070 B., the Director may grant a license after consulting with the Chief of Police despite the presence of one or more factors as

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outlined in Subsection 14B.130.070 C., if the applicant establishes to the Director's satisfaction that,

1. The behavior evidenced by such factor is not likely to reoccur;
  2. The behavior evidenced by such factor is remote in time; or
  3. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to this Chapter.
- E.** Marijuana regulatory licenses are valid for a term of 1 year and a renewal schedule will be established by rule. The license is non-transferable and valid only for a single fixed location.
1. When the business location is to be changed, the licensee shall provide the address of the new location in writing to the Director to review for compliance with the requirements of this Chapter at least 60 days prior to the change.
  2. A person with multiple dispensaries or business locations must apply for and obtain a license for each separate location.
- F.** Upon denial of an application for a marijuana regulatory license, the Director shall give the applicant written notice of the denial in accordance with the minimum requirements of Chapter 3.130 of Portland City Code.
1. Service of the notice shall be by mail to the address of the primary contact for the application on file with the Director. In addition, the Director may also send notices to other addresses known for the applicant or person including electronic delivery.
  2. Mailing of the notice will be prima facie evidence of receipt of the notice.
- G.** The denial will be effective the date the notice is sent.
- H.** Denial of a marijuana regulatory license may be appealed by filing written notice of an appeal within 10 business days of the date of denial in accordance with Section 14B.130.120.

**14B.130.080 Requirements.**

(Amended by Ordinance Nos. 187391, 187611 and 188178, effective December 21, 2016.)

- A.** A marijuana regulatory licensee must comply with the following regulations:
1. Licensee must display the marijuana regulatory license at the business location in a manner readily visible to patrons.

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2. Licensee may not allow consumption of marijuana or marijuana items on the premises licensed under Chapter 14B.130, except as specifically authorized by Oregon law for employees of medical marijuana dispensaries who are valid, current registry identification cardholders.
  3. Licensee must install and maintain in proper working order at the licensed premises a security system including alarms, safes, and surveillance cameras.
    - a. Licensee must maintain camera surveillance data backup.
    - b. Licensee must retain camera surveillance data for a minimum of 30 days.
- B.** Any person with a marijuana regulatory license for a medical dispensary or marijuana retailer must comply with the following regulations:
1. Licensee must designate personnel at the entrance intended for consumers to require all persons entering the premises to produce an approved form of identification according to ORS 614.24.1.a-e in order to ensure that no one under the age of 21 is allowed on the premises, except as provided for under ORS 475.314.
  2. Licensee must maintain hours of operation no earlier than 7 a.m. and no later than 10 p.m.
  3. Licensee must not make marijuana or marijuana items available for sale from a vendor cart, temporary structure, or satellite location, or through exterior openings of the licensed premises, such as drive-thru facilities or walk up windows.
- C.** Any person with a marijuana regulatory license for a marijuana retailer must comply with the following regulations:
1. Licensee may provide delivery of marijuana and marijuana items to a residence in Portland in accordance with OAR 845-025-2880, as in effect on December 1, 2016 and subject to compliance with the requirements of this Chapter.
  2. Licensee may sell marijuana items for medical purposes in accordance with OAR 845-025-2900, effective December 1, 2016.
- D.** Any person with a processor marijuana regulatory license must comply with the following requirements:

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1. Licensee must not allow the licensed location to be open to the general public.
  2. Licensee must adhere to applicable state and local regulations for food production, ensuring that marijuana items made for consumption by eating or drinking are processed in a licensed facility.
- E. Any person with a marijuana micro-producer tier I, marijuana micro-producer tier II, producer, marijuana micro-wholesaler or marijuana wholesaler marijuana regulatory license must comply with the following requirements:
1. Licensee must not allow the licensed location to be open to the general public.

**14B.130.090 Inspection of Property and Records.**

(Amended by Ordinance Nos. 188178 and 188602, effective September 20, 2017.)

- A. Upon presentation of proper credentials, an Applicant or Licensee shall allow any representative of the Bureau of Police or the Office of Neighborhood Involvement to enter the business location to ensure compliance with the provisions of Chapter 14B.130. The inspection will be for the limited purpose of inspecting the property and related records as provided in this Chapter and the administrative rules. Except by mutual agreement with the Applicant or Licensee or by court order, any inspection under this Section may occur only during the business' normal business hours.
1. The Director shall first present proper credentials and demand entry to the property. If entry is refused, the Director may attempt to secure entry by any legal means.
  2. If the Director has first obtained an inspection warrant to secure entry onto the property, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Director to the property.
- B. It shall be unlawful for any owner or occupant to refuse to permit entry by the Director to inspect the property under this Chapter after an inspection warrant has been obtained.
- C. Grounds for Issuance of inspection warrants.
1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the property to be inspected or investigated and the purpose for which the inspection or investigation is to be made including



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the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

2. Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is probable cause to believe that a condition of nonconformity with this Chapter exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity this Chapter.

**D.** Procedure for Issuance of inspection warrants.

1. Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8 a.m. and 6 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police Assistance. In issuing an inspection warrant on unoccupied property, including inspection warrants pursuant to Section 14B.130.090, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to ensure the safety of the Director or representative of the bureau in completing the inspection.

**E.** Execution of inspection warrants.

1. Occupied Property. Except as provided in Subsection 2. of this Section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant

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and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

2. Unoccupied Property. In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in Subsection 1. of this Section, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.
3. Return. An inspection warrant must be executed within 10 business days of its issue and returned to the judge by whom it was issued within 10 business days from its date of execution. After the expiration of the time prescribed by this Subsection, the warrant unless executed is void.

**14B.130.100 Penalties.**

(Amended by Ordinance Nos. 187557 and 188178, effective December 21, 2016.)

- A. The Director may assess civil penalties in an amount up to \$5,000 for any violation of this Chapter.
- B. Procedure.
  1. Having made a determination that a violation of this Chapter has occurred, the Director shall give written notice of a decision to assess civil penalties. The Director's written notice shall be in accordance with the minimum requirements of Chapter 3.130 of the Portland City Code.
  2. Service of the notice shall be by mail to the address of the primary contact for the Licensee on file with the Director. In the case of a person operating without a Marijuana Regulatory License, service of the notice shall be by mail to such address as the Director has on file for that person, or is otherwise available to the Director. In addition, the Director may also send notices to other addresses known for the person including electronic delivery.
  3. Mailing of the notice will be prima facie evidence of receipt of the notice.
  4. The civil penalty will be due 10 business days from the date of the notice unless appealed in accordance with Section 14B.130.120.
- C. In determining the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Director shall consider:
  1. The extent and nature of the person's involvement in the violation;

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2. The economic or financial benefit accruing or likely to accrue as a result of the violations;
3. Whether the violations were repeated or continuous, or isolated and temporary;
4. The magnitude and seriousness of the violation;
5. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
6. Any other factors the Director may deem to be relevant.

**14B.130.110 Revocation or Suspension of License.**

(Amended by Ordinance No. 188178, effective December 21, 2016.)

- A. The Director may, after consulting with the Chief of Police, revoke or suspend any license issued pursuant to this Chapter.
  1. For any cause that would be grounds for denial of a license; or,
  2. Upon finding that any violation of the provisions of this Chapter, State, or local law has been committed and the citation is connected with the operation of the licensed business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location.
  3. If payment of civil penalties has not been received within 10 business days by the Office of Neighborhood Involvement.
- B. The Director, upon revocation or suspension of any license issued pursuant to this Chapter, shall give the Licensee written notice of the revocation or suspension in accordance with the minimum requirements of Chapter 3.130 of Portland City Code.
  1. Service of the notice shall be by mail to the address of the primary contact for the Licensee on file with the Director. In addition, the Director may also send notices to other addresses known for the applicant or person including electronic delivery.
  2. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.
- C. Revocation will be effective and final 10 business days after the date of notice unless the revocation is appealed in accordance with Section 14B.130.120.

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- D.** Suspension will be effective immediately upon the date of the notice, for the period of time set in the notice not to exceed 30 days.

**14B.130.120 Review by the Director and Appeals to the Code Hearings Officer.**

(Amended by Ordinance No. 188178, effective December 21, 2016.)

- A.** Any determination issued pursuant to Sections 14B.130.070, 14B.130.100 or 14B.130.110 believed to be made in error may be reviewed by the Director if requested by the recipient. The request must be submitted in writing within 10 business days of the determination, and must include all evidence that supports the request. Service of notice of the determination shall be by mail to the address for the primary contact for the application on file with the Director. The Director's determination shall be served by regular mail. Mailing of the notice of determination will be prima facie evidence of receipt of the notice. In addition, the Director may also send notice of the determination to other addresses known for the applicant or person including electronic delivery.
- B.** The Director's determination may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code.
- C.** The filing of a notice of appeal of revocation or suspension of a license, or of a civil penalty imposed by the Director under this Chapter, will stay the effective date of the action until the Code Hearings Officer issues an opinion.

**14B.130.130 Severability.**

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, void, illegal or unconstitutional, either on its face or as applied, such decision shall not affect the applicability, constitutionality, legality or validity of any remaining portions of this chapter. The Council hereby declares its intention to have adopted this chapter, and each section, subsection, sentence, clause, and phrase of this chapter, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid, void, illegal or unconstitutional, and that the same would have been adopted by the Council had such invalid, void, illegal or unconstitutional sections, subsections, sentences, clauses, or phrases, if any, not been included in this Chapter.

**CHAPTER 14C.10 - POLICE DUTIES TO  
INVENTORY PROPERTY**

**Sections:**

- 14C.10.010 Purpose.
- 14C.10.020 Definitions.
- 14C.10.030 Inventories of Impounded Vehicles.
- 14C.10.040 Inventories of Persons in Police Custody.

**14C.10.010 Purpose.**

This Chapter is meant to apply exclusively to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search or seize possessions for other purposes.

**14C.10.020 Definitions.**

For the purpose of this Chapter, the following definitions shall apply:

- A.** “Valuables” means:
  - 1.** Cash money of an aggregate amount of \$50 or more; or
  - 2.** Individual items of personal property with a value of \$500 or more.
- B.** “Open container” means a container which is unsecured or incompletely secured in such a fashion that the container’s contents are exposed to view.
- C.** “Closed container” means a container whose contents are not exposed to view.
- D.** “Police custody” means either:
  - 1.** The imposition of restraint as a result of an ‘arrest’ as that term is defined at ORS 133.005(1);
  - 2.** The imposition of actual or constructive restraint by a police officer pursuant to a court order;
  - 3.** The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 430, or Chapter 419B; or
  - 4.** The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement or detaining of persons pursuant to Oregon Revised Statute or this Code.

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- E.** “Police officer” means any police officer employed or acting at the direction of or in collaboration with the Portland Bureau of Police and any officer of the Port of Portland Police Department.

#### **14C.10.030 Inventories of Impounded Vehicles.**

- A.** The contents of all vehicles impounded by a police officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:
  - 1.** If there is reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or
  - 2.** If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.
- B.** The purpose for the inventory of an impounded vehicle will be to:
  - 1.** Promptly identify property to establish accountability and avoid spurious claims to property;
  - 2.** Assist in the prevention of theft of property;
  - 3.** Locate toxic, flammable or explosive substances; or
  - 4.** Reduce the danger to persons and property.
- C.** Inventories of impounded vehicles will be conducted according to the following procedure:
  - 1.** An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;
  - 2.** In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
    - a.** Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car- top containers; and

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- b.** Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- 3.** Unless otherwise provided in this Chapter, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.
- 4.** Upon completion of the inventory, the police officer will complete a report as directed by the Chief of such officer's department.
- 5.** Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Chief of the police officer's department.

**14C.10.040 Inventories of Persons In Police Custody.**

- A.** A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:
  - 1.** Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or
  - 2.** Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.
- B.** The purpose of the inventory of a person in police custody will be to:
  - 1.** Promptly identify property to establish accountability and avoid spurious claims to property; or
  - 2.** Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or
  - 3.** Assist in the prevention of theft of property; or
  - 4.** Locate toxic, flammable or explosive substances; or
  - 5.** Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or

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6. Reduce the danger to persons and property.
- C. Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:
1. An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.
  2. To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
  3. A closed container in the possession of such person will have its contents inventoried only when:
    - a. The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;
    - b. Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or
    - c. The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.
- D. Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of such officer's department.
- E. All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:
1. A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;



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2. The property will be dealt with in such manner as directed by the Chief of such officer's department.
- F.** All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in Subsection 14.10.040 E. above, will be released to the facility or agency accepting custody of the person so that they may:
1. Hold the property for safekeeping on behalf of the person in custody, and
  2. Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

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**CHAPTER 14C.20 - POLICE BUREAU**  
**PROPERTY/EVIDENCE DIVISION DUTIES**

**Sections:**

- 14C.20.010 Maintenance of Property/Evidence Division.
- 14C.20.020 Receipts for Property.
- 14C.20.030 Records.
- 14C.20.040 Evidence Property.
- 14C.20.050 Reserved.
- 14C.20.060 Found Property.

**14C.20.010 Maintenance of Property/Evidence Division.**

The Bureau of Police shall maintain a property/evidence division which shall keep the following:

- A. Property of all persons arrested by Portland Police and incarcerated in a Multnomah County Jail, except any personal items kept at the jailer's discretion for the prisoners;
- B. Evidence seized by officers or other persons in the process of making an arrest;
- C. Contraband, illegal items, or miscellaneous property which comes into possession of members of the Bureau of Police.

**14C.20.020 Receipts for Property.**

Officers and other authorized persons shall issue a receipt for all seized property, a duplicate copy of which shall be retained by the property/evidence division custodian. The receipt and any copy therefrom shall bear the signature of the person depositing the property and contain a description of the property.

**14C.20.030 Records.**

The property/evidence division custodian shall keep an accurate record of all property received by the property/evidence division and shall keep current records showing the disposition of all property.

**14C.20.040 Evidence Property.**

(Amended by Ordinance No. 186355, effective November 27, 2013.)

- A. All property received by the property/evidence division as evidence shall be held subject to use as evidence in the appropriate court(s). Currency received by the division may be held as cash or deposited into a trust fund. Upon final disposition of the case(s) for which such property was seized as evidence, the Bureau of Police shall make a reasonable attempt to return all lawful property still held by the property/evidence division to its legal owner or rightful possessor. The property/evidence division may return currency in the form of cash.

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- B.** The Bureau of Police shall make a reasonable attempt to give notice to the legal owner or rightful possessor that the property will be released to him or her. The notice shall state that the legal owner or rightful possessor has 60 days within which to claim the property at the Bureau of Police. All property received from the property/evidence division requires the signature of the legal owner or rightful possessor.
- C.** Upon attempted notice, if property is not claimed within 60 days, the property may be disposed of by the Bureau of Police in the manner provided by law. Payment on disputed claims shall be authorized either by an appropriate court order approved by the City Attorney or by ordinance.

**14C.20.060 Found Property.**

All found property in the custody of the Bureau of Police will be held, and a reasonable attempt will be made to return the property to the owner. If the owner of found property held by the Bureau of Police cannot be determined, or no owner comes forward to claim the property, the property may be disposed after 30 days from the date the property was taken into custody by the Bureau of Police in the manner provided by law.

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#### **CHAPTER 14C.30 - GENERAL PROCEDURES AND AUTHORITY OF THE BUREAU OF POLICE**

##### **Sections:**

- 14C.30.010 Authority to Restrict Access to Certain Areas.
- 14C.30.020 Other Police Officers Authorized to Arrest, Cite, or Take Other Enforcement Action for Violations of City Code Provisions.
- 14C.30.030 Authority to Direct Traffic on Public Rights of Way.
- 14C.30.040 Seizure and Disposition of Weapons.
- 14C.30.050 Seizure of Dangerous and Deadly Weapons for Safekeeping.
- 14C.30.060 Caretaking of Property.
- 14C.30.070 Authority of Tri-Met to Prohibit Misuse of Transit Shelters and Loading Platforms on City Property.
- 14C.30.080 Appeal of Designation as a Gang Affiliate.

##### **14C.30.010 Authority to Restrict Access to Certain Areas.**

- A.** Whenever a threat to the public health or safety is created by any emergency, a Portland police officer may restrict or deny access to any persons to the area where such threat exists, for the duration of such threat, when the officer reasonably believes the presence of such persons would constitute a danger to themselves or others or would substantially interfere with the performance of the police or other emergency services. For purposes of this Section, an emergency includes, but is not limited to an escaped prisoner, a natural disaster, a fire, an explosion, an accident, a riot, the presence of an armed person, a hostage incident or a bomb threat.
- B.** Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of criminal acts, a police officer may restrict or deny access to any area.
- C.** As used in this Section, "restrict or deny access" means that a police officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.
- D.** It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Subsections (A) or (B) above, unless such person has specific statutory authority, or the permission of the on-scene ranking police officer, to be within such area.
- E.** In accordance with the authority granted by this Section, and in consideration of the law enforcement and emergency services needs involved, provision shall be

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made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

**14C.30.020 Other Police Officers Authorized to Arrest, Cite, or Take Other Enforcement Action for Violations of City Code Provisions.**

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.)  
Police officers, as defined in this Title, are authorized to arrest, issue a citation, or take other enforcement action for violations of the following City Code provisions:

- A. All provisions of Title 11, Tree Regulations;
- B. All provisions of Title 14, Public Order and Police;
- C. All provisions of Title 16, Vehicles and Traffic;
- D. All provisions of Title 18, Noise Control; and
- E. All provisions of Title 20, Parks and Recreation.

**14C.30.030 Authority to Direct Traffic on Public Rights of Way.**

Officers and reserve officers of the Portland Police Bureau are authorized to direct pedestrian and vehicular traffic on any public right of way.

**14C.30.040 Seizure and Disposition of Weapons.**

- A. The Bureau of Police may seize and take possession of any dangerous or deadly weapon that is possessed unlawfully, or used unlawfully, or used for an unlawful purpose. The weapon shall be held subject to disposal as provided in this Section.
- B. If it is determined that the weapon was not possessed, carried, or used unlawfully, the weapon shall be released to the lawful owner if he or she files a timely written claim with the Bureau.
  - 1. A claim is timely if it is filed:
    - a. Within 60 days after the weapon was seized, if it was not held for use as evidence, or
    - b. Within 60 days after it was released by directive of the Chief of Police or court order, if it was held for use as evidence.
  - 2. If there is a question as to ownership or right to possession, the weapon shall be released as ordered by the court.

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- C.** If the name and address of a person entitled to claim possession of a weapon under Subsection B. is known to the Bureau of Police, the Bureau shall give that person notice as provided in Portland City Code 14C.20.
- D.** If the weapon is not claimed under the provisions of Subsection B. or was possessed, carried or used unlawfully by the owner, it is a nuisance. Subject to a court order to the contrary, the weapon shall be disposed of as provided in Subsection E. to G.
- E.** Subject to approval of the, Property/Evidence Division, if the weapon is a firearm suitable for use by the Bureau of Police, it shall be added to the inventory of the Bureau.
- F.** Subject to Subsection C. if the weapon is a shotgun or rifle, it shall be delivered to the Property/Evidence Division, which shall dispose of it in the same manner as surplus property. However, disposal shall be only to persons who have prequalified with the Property/Evidence Division as being licensed to sell firearms at retail.
- G.** Any weapon described in Subsection D. that is not disposed of as ordered by the court, or as provided in Subsection E. or F., shall be destroyed by the Property/Evidence Division.

#### **14C.30.050 Seizure of Dangerous and Deadly Weapons for Safekeeping.**

If a police officer reasonably believes that a dangerous or deadly weapon may be used to cause serious harm to any person, the police officer may temporarily seize the weapon for safekeeping. If an officer seizes a weapon under this Section, he or she shall promptly turn the weapon into the Bureau of Police Property/Evidence Division.

#### **14C.30.060 Caretaking of Property.**

At the discretion of a police officer, property may be received for safekeeping or the prevention of crime.

#### **14C.30.070 Authority of Tri-Met to Prohibit Misuse of Transit Shelters and Loading Platforms on City Property.**

- A.** Tri-Met may make and enforce such ordinances and regulations as it deems necessary regarding misuse of transit shelters and transit loading platforms for the purpose of exclusion and criminal trespass.
- B.** For the purposes of this Section, the following definitions apply:
  - 1.** Transit Shelter: the area within the drip line of any transit shelter within the limits of the City of Portland, except the Pioneer Square North and South stations.

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2. Transit loading platform: the area that extends the entire length of the tactile bricks where Tri-Met operated trains and trolleys load and unload within the limits of the City of Portland. This area extends from the tracks to one foot past the rear of the Tri-Met ticket vending machines, or to the farthest drip line of the transit shelter, whichever is farthest from the tactile bricks.

**14C.30.080 Appeal of Designation as a Gang Affiliate.**

- A. Any person who is to be designated as a gang affiliate by the Police Bureau following the administrative hearing provided for in the Portland Police Bureau Manual of Policy and Procedure or who has unsuccessfully challenged a gang affiliate designation at such a hearing, has a right of appeal to the Code Hearings Officer.
- B. The appeal authorized by this Section shall be conducted in accordance with the procedures and under the conditions set forth in Chapter 22.10 of this Code.





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## **Chapter 16.30**

## **TOWING & DISPOSITION OF VEHICLES**

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successive maximum period of parking as designated by official signs, markings or meters. A separate citation may be issued for each successive violation.

2. To a vehicle parked or stopped at an Upper Northwest Long-Term Parking Meter space, and the cited vehicle remains parked or stopped at the same space, a separate violation occurs upon the expiration of a parking receipt for the vehicle at that space as designated by official signs, markings or meters. A separate citation may be issued for each successive violation.

#### **16.35.200 Central Eastside Industrial Area Permit Parking Regulations.**

Sections 16.35.200 through 16.35.220 contains regulations addressing parking within the Central Eastside Industrial Area Permit Parking.

#### **16.35.210 Central Eastside Industrial Area Permit Parking.**

The Central Eastside Industrial Area (CEID) includes the area with boundary lines depicted on the CEID Plan Map, which shall be maintained in the files of the City Traffic Engineer as the official map for the Area. The Central Eastside Industrial Area is contiguous with Zone G and Zone N, and overlays Zone G and Zone N permit parking regulations with right-of-way parking regulations established in this Chapter. Within the Central Eastside Industrial Area (CEID), the City Traffic Engineer may control parking by signage. Zone G and N Parking permits apply within a portion of the Central Eastside Industrial Area (CEID).

#### **16.35.220 Central Eastside Industrial Area (CEID) Violations and Enforcement.**

Violations established in this Section will be cited as Central Eastside Industrial Area (CEID) violations:

- A. Within the Central Eastside Industrial Area (CEID) Parking Permit Area during permit designated hours, it is unlawful for a non-permitted vehicle to:
  1. Exceed the maximum visitor time limit allowed within the Parking Permit Area; or,
  2. Return to the same Parking Permit Area block face for a period of 3 hours after parking for any time period.

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### **CHAPTER 16.40 - PRIVATE FOR-HIRE TRANSPORTATION REGULATIONS**

(Chapter replaced by Ordinance No. 188483,  
effective July 21, 2017.)

#### **Sections:**

- 16.40.010 PFHT Program Purpose and Provisions.
- 16.40.020 Chapter Applies to All Companies, Drivers, and Vehicles.
- 16.40.030 Definitions.
- 16.40.100 Taxi Services Permits Required.
- 16.40.110 Taxi Company Permit Application Standards for Approval and/or Denial and Certification Requirements.
- 16.40.120 Taxi Services Permit Fees and Civil Penalty Fines.
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- 16.40.800 Horse-Drawn Carriage Company Permits Required – Application Process and Requirements.
- 16.40.810 Horse-Drawn Carriage Driver Permits Required – Application Process and Requirements.
- 16.40.820 Horse-Drawn Carriage Permit and Plate Required — Application Process and Requirements.
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- 16.40.840 Horse-Drawn Carriage Temperature, Time, and Place Restrictions.
- 16.40.850 Operation of Horse-Drawn Carriages: Requirements and Prohibitions.
- 16.40.860 Care of Carriage Horses.
- 16.40.870 Horse-Drawn Carriage Regulations.
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- 16.40.960 PFHT Advisory Committee.
- 16.40.970 Director and Committee Authority and Process.
- 16.40.980 Currently Permitted Companies, Vehicles, and Drivers Grandfathered — Renewal Process.
- 16.40.995 Severability.

#### **16.40.010 PFHT Program Purpose and Provisions.**

To ensure the safety and reliability of Private for-Hire Transportation (PFHT) services as a matter of public concern, the City of Portland has the authority, delegated by ORS 221.495, to license, control, and regulate privately owned vehicles for hire operating within the City of Portland. The purpose of Chapter 16.40 is to provide for the safe, fair, and efficient operation of PFHT services.

The provisions contained herein should be applied and enforced in such a manner as to require the “for-hire” transportation to:

- A.** Promote innovation in the PFHT industry to meet evolving consumer demand; and
- B.** Allow fair competition, so long as public safety and the public interests are served.

#### **16.40.020 Chapter Applies to All Companies, Drivers, and Vehicles.**

- A.** It is not a defense to any regulatory action, including penalties and fines, to assert that the City cannot act because a PFHT service operator does not possess a valid City-issued permit, certification, decal, or taxiplat.
- B.** The requirements of Chapter 16.40, along with any penalties that may be assessed for violations of Chapter 16.40, apply to all PFHT service operators, whether or not legally and validly permitted.

**16.40.030 Definitions.**

- A.** “Approved Blue Seal Shop” means an automotive repair and service shop recognized officially by the National Institute of Automotive Service Excellence (ASE) as being an ASE Blue Seal Automotive Shop.
- B.** “Approved Mechanic” means a mechanic who meets all the following criteria:

  - 1.** Does not own, lease, or drive a vehicle for-hire;
  - 2.** Has no financial interest in any PFHT company operating within the state of Oregon or Washington;
  - 3.** Has received and maintains a current, valid ASE Master Technician Certification or ASE A-Series certification between relevant areas of ASE A4-A8; and
  - 4.** Is not employed by any PFHT company.
- C.** “Branded Vehicle” (a.k.a. “Reconstructed Vehicle”) means any vehicle that has been declared a total loss and has a branded or reconstructed notation on the vehicle title.
- D.** “Bureau” means the Portland Bureau of Transportation (PBOT) of the City of Portland.
- E.** “Carriage” means any vehicle or conveyance that is drawn, pulled, or propelled by a horse or other animal(s).
- F.** “Certificate of Safety” means a document completed by an approved mechanic certifying that a vehicle meets all requirements set forth in this Chapter and/or administrative rules.
- G.** “Certification List” means a list of drivers and vehicles submitted by a PFHT company for approval as permitted if certified by the Director as meeting all requirements set forth in this Chapter and/or administrative rules.
- H.** “Committee” means the PFHT Advisory Committee.
- I.** “Company Permit” means the permit issued to a PFHT company under the terms of this Chapter and/or administrative rules.
- J.** “Compensation” means any form of payment or gratuity by a customer or customer’s agent to a permitted PFHT or company for the use of the driver’s or company’s for-hire transportation services. PFHT providers that accept only

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gratuities, tips, etc., are considered to be providing “for-hire” transportation services.

- K.** “Conduct Business” means operating a for-hire vehicle or company, receiving money or other compensation from the use of a for-hire vehicle, causing or allowing another person to do the same, or advertising for services that originate in the City of Portland.
- L.** “Customer” means a person who purchases PFHT service from a PFHT service provider that is permitted or should be permitted by the City. The customer may or may not also be a passenger.
- M.** “Day” means a business day and not a calendar day unless specifically stated otherwise.
- N.** “Decal” means the numbered identification sticker issued by the City and affixed to a Limited Passenger Transportation (LPT) vehicle.
- O.** “Director” means the Director of PBOT or the Director’s designee.
- P.** “Downtown Core” means the area formerly known as the “Fareless Square” or “Free Rail Zone” as defined by TriMet as follows: The area to the west of the Willamette River shall be bounded on the North by NW Irving, except that at the intersection of NW Irving and NW Station Way it shall be bounded on the North by NW Station Way to NW Broadway and then by NW Broadway south to NW Irving and continuing west on NW Irving to the Stadium (I-405) Freeway, on the West and South by the Stadium (I-405) Freeway and on the East by the Willamette River. The area to the east of the Willamette River shall be bounded on the West by North Interstate Avenue, on the North by NE Multnomah to 125 feet east of 13th Avenue, on the East by 13th Avenue and on the South by NE Holladay.
- Q.** “Driver Permit” means the document or certification issued by the Director affirming the driver is approved and certified as a PFHT driver under the terms of this Chapter.
- R.** “Driver” means a PFHT driver, including taxi drivers, NEMT drivers, TNC drivers, shuttle drivers, executive town car drivers, LPT drivers, pedicab drivers, Quadricycle drivers, and horse-drawn carriage drivers.
- S.** “Dynamic Pricing” means the pricing as impacted by market demand, which can be an upward or downward deviation from the fare rates established by the PFHT companies and reported to the Director.
- T.** “Executive Town Car Company” means any entity operating Executive Town Car Vehicles other than as a driver and regardless of whether the vehicles so operated



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are owned by the company, leased, or owned by individual members of the company.

- U.** “Executive Town Car Company Driver” means any person operating an Executive Town Car Vehicle as a driver for any Executive Town Car Company.
- V.** “Executive Town Car Company Vehicle” must conform to the Administrative Rule for Executive Sedan.
- W.** “Executive Town Car Company Services” means private for-hire transportation offered or provided for compensation to passengers by an Executive Town Car Driver and Executive Town Car Driver Vehicle on behalf of or by an affiliated Executive Town Car Driver Company.
- X.** “Horse-Drawn Carriage” is a vehicle or conveyance operating for hire that is drawn, pulled, propelled, or powered, in whole or in part, by a horse, mule, or other animal(s).
- Y.** “Horse-Drawn Carriage Driver Permit” means the permit issued to a horse-drawn carriage driver under the terms of this Chapter.
- Z.** “Limousine” means a vehicle whose chassis and wheelbase have been altered by a Qualified Vehicle Modifier (QVM) program participant (or its equivalent) beyond the length of the manufacturer’s original specifications, whether at the time of manufacture or after, and which is commonly recognized by the limousine industry as a “limousine.”
- AA.** “Limousine, Party Bus, Charter Bus, Tour Bus, or custom Multi-passenger vehicle (LPT) Company” means any entity operating LPT Vehicles other than as a driver and regardless of whether the vehicles so operated are owned by the company, leased, or owned by individual members of the company.
- BB.** “LPT Driver” means any person operating a party bus, charter bus, tour bus, or custom multi-passenger vehicle as a permitted driver for any LPT Company.
- CC.** “LPT Services” means PFHT or provided for compensation to passengers by an LPT Driver and LPT Vehicle on behalf of or by a certified and affiliated LPT Company.
- DD.** “Non-Emergency Medical Transportation (NEMT) Company” means any entity that offers and/or provides PFHT services used for agency-sponsored, contracted transportation as defined in OAR 410-136-3000.
- EE.** “Non-Emergency Medical Transportation (NEMT) Driver” means any person operating a vehicle for compensation to offer and/or provide NEMT services.

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- FF.** “Non-Emergency Medical Transportation (NEMT) Services” means any PFHT services used for agency-sponsored, contracted transportation as defined in OAR 410-136-3000.
- GG.** “Non-Emergency Medical Transportation (NEMT) Vehicle” means any vehicle driven to offer and/or provide NEMT services.
- HH.** “Operate” means driving a for-hire vehicle, using a for-hire vehicle to conduct a business, receiving money from the use of a for-hire vehicle, or causing or allowing another person to do the same.
- II.** “Party Bus” means a van or luxury bus modified to carry 10 or more people and less than 26,000 pounds in GVWR primarily for recreation and/or sightseeing purposes.
- JJ.** “Passenger” means a person traveling in a PFHT vehicle that is not the operator of that vehicle.
- KK.** “Pedicab and Quadricycle”
- 1.** A pedicab means a tricycle that:
    - a.** Transports or is capable of transporting passengers on seats attached to the tricycle;
    - b.** Is powered by a human; and
    - c.** Is used for private for-hire service.
  - 2.** A Quadricycle means a four-wheel peddle powered unit that:
    - a.** Transports or is capable of transporting four or more passengers on seats attached to the Quadricycle;
    - b.** Is powered by human power or an electric motor assist; and
    - c.** Is used as a PFHT service.
- LL.** “Pedicab and Quadricycle Driver Permit” means the permit issued to a pedicab or Quadricycle driver under the terms of this Chapter.
- MM.** “Permittee” means a person or business entity that has been issued a driver certification or company permit under the terms of this Chapter.
- NN.** “Permitted” means that a PFHT company, driver, or vehicle carries or displays a valid City-issued permit, decal, taxiplate, or certification.

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- OO.** “Person” means any individual, partnership, joint venture, association, club, trust, estate, corporation, or other form of business organization recognized by Oregon Law.
- PP.** “Plate” means the numbered identification plate issued by the City and affixed to a taxi vehicle, horse-drawn carriage, pedicab or Quadricycle.
- QQ.** “Prearranged” means that the customer, passenger, or passenger’s agent has personally asked the driver and/or a permitted for-hire vehicle or a permitted PFHT company for transportation services, regardless of the communication format used. The Director may establish the amount of time between asking and receiving transportation services to allow a presumption that the services were “prearranged.”
- RR.** “Private for-Hire Transportation (PFHT)” means providing vehicular, horse-drawn carriage pedicab or Quadricycle transportation for compensation of any kind within Portland City limits. However, it does not include transportation provided by a public or governmental entity, including transportation that is regulated entirely by the State of Oregon or the federal government.
- SS.** “Private for-Hire Vehicle” means a motorized or non-motorized vehicle used to transport persons for-hire or other consideration and is not exclusively regulated by the State. This includes limousines, taxis, TNC vehicles, executive sedans, shuttles, NEMTs, pedicabs, Quadricycles, and horse-drawn carriages but does not include school buses, charter buses, or ambulances.
- TT.** “Revocation” means that a permit, certification, taxiplate or decal is no longer valid and cannot be renewed without approval by the Director.
- UU.** “Shuttle Transportation” means:
- 1.** Fixed Route (Airporter) Service. A service that begins or/ends at the Portland International Airport and provides scheduled service to approved locations, except when transporting large groups (e.g., convention groups) or when operating hotel or parking courtesy shuttles, hereinafter defined as “Airporter Shuttle.”
    - a.** Standard Airporter Shuttle. Vehicle with a minimum capacity of 5 adult passengers and a maximum capacity of 14 passengers, and with the capacity to accommodate equivalent baggage.
    - b.** Large Airporter Shuttle. Vehicle with a minimum capacity of 15 adult passengers (no maximum capacity), and with the capacity to accommodate equivalent baggage.
  - 2.** On Demand/Reservation Service. A service provided by a van with a minimum capacity of 5 adult passengers and a maximum capacity of 14

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passengers, and with the capacity to accommodate equivalent baggage. Consists of door-to-door and reserved service to any part of the City where primary destination is to and from the Portland International Airport, train station, or bus station.

- VV.** “Suspension” means that a permit, taxiplate, certification, or decal is temporarily invalid and that the holder of that permit, taxiplate, certification, or decal may not engage in any PFHT activity under the authority granted to that suspended permit, taxiplate, certification, or decal. A suspension may also apply to a PFHT driver.
- WW.** “Tour Bus Vehicle” means any van or bus modified to carry 10 or more people and less than 26,000 pounds in GVWR primarily for recreation and/or sightseeing purposes and driven by a tour bus driver to offer and/or provide tour bus services.
- XX.** “Taxi Company” means any entity operating taxi vehicles other than as a driver and regardless of whether the vehicles so operated are owned by the company, leased, or owned by individual members of the company.
- YY.** “Taxi Driver” means any person operating a taxi vehicle as a driver for any taxi company.
- ZZ.** “Taxi Vehicle” means any vehicle driven by a taxi driver to offer and/or provide taxi services.
- AAA.** “Taxi Services” means PFHT offered or provided for compensation to passengers by a taxi driver and taxi vehicle on behalf of or by an affiliated taxi company.
- BBB.** “Taximeter” means a mechanical or electronic device that calculates and displays a fare based on an initial fee, distance traveled, waiting time, or any combination thereof.
- CCC.** “Taxiplate” means the numbered metal identification plate issued by the City and permanently affixed to the rear of a taxicab.
- DDD.** “Transportation Network Company” (TNC) means any entity or organization, whether a corporation, partnership, or sole proprietor, that connects passengers with affiliated TNC drivers and TNC vehicles through an Internet-based digital or software platform/application operated by the TNC.
- EEE.** “Transportation Network Company (TNC) Driver” means any individual operating a PFHT vehicle who connects with passengers through an Internet-based digital or software platform/application operated by an affiliated TNC.
- FFF.** “Transportation Network Company (TNC) Services” means any PFHT offered or provided to passengers for compensation by a TNC driver and TNC vehicle on behalf of or by an affiliated TNC.

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**GGG.** “Transportation Network Company (TNC) Vehicle” means any vehicle driven by a TNC driver to offer and/or provide TNC services.

**HHH.** “Week” means the 7-day period from Monday through Sunday.

**III.** “Wheelchair-Accessible Vehicle (WAV)” means that a PFHT vehicle is equipped with a hydraulic or electric lift or ramps designed for the purpose of transporting wheelchair users or others using mobility devices, or which contains any other physical device or alteration designed to permit access to and enable the transportation of physically disabled persons that use mobility devices.

**16.40.100 Taxi Services Permits Required.**

The operation of a Taxi Company is a privilege and not a right. For taxi services to be provided in the City of Portland, the Taxi Company shall be required to obtain a permit. The City of Portland shall certify that all affiliated Taxi Company Vehicles and Taxi Company Drivers have met all certification and operating requirements.

**A.** Taxi Company Permit Requirements. No person or entity shall conduct business as a Taxi Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this Subsection shall be a Class A violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

**B.** Taxi Driver Certification Requirements. No person or entity shall conduct business as a Taxi Driver in the City of Portland without certification by the Director prior to being authorized to provide taxi services on behalf of an affiliated Taxi Company. Drivers not meeting all required conditions will not be certified as a Taxi Driver and will not be allowed to operate as a Taxi Driver. Failure to comply with this Subsection shall be a Class B violation subject to the penalties provided in Sections 16.40.930 and 16.40.950.

**C.** Taxi Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as a Taxi Vehicle in the City of Portland without certification by the Director prior to being certified to provide Taxi services by an affiliated Taxi Company. Vehicles not meeting all required conditions will not be certified as Taxi Vehicle and will not be allowed to operate as a Taxi Vehicle. Failure to comply with this Subsection shall be a Class B violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.110 Taxi Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

**A.** Application. An applicant for a Taxi Company permit shall submit to the Director:

**1.** A completed application on a form supplied by the Director;

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2. Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;
  3. Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
  4. A list of all persons or entities with 10 percent or more stock ownership, if the company issues stock certificates;
  5. If the applicant Taxi Company is individually owned, the name, business address (or home address), telephone number, and date of birth of the owner;
  6. If the applicant Taxi Company is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require;
  7. The applicant Taxi Company’s zero-tolerance drug and non-discrimination policy;
  8. The applicant Taxi Company's user terms of service, if applicable;
  9. The applicant Taxi Company’s dispatch contact information, confirmation that dispatch is available 24 hours, seven days a week and, if applicable, Taxi Dispatch App general use information;
  10. Contact information of the Taxi Company’s agent of service and customer service support;
  11. A description and photo or rendering of the branding and exterior color scheme that the applicant Taxi Company proposes to use for its fleet of affiliated taxi vehicles and consistent with the Administrative Rule;
  12. Company-proposed fare rates, and;
  13. A non-refundable application fee.
  14. All fines and penalties must be paid prior to issuing or reissuing a taxi company permit.
- B.** Compliance with Secretary of State’s Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.

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- C.** Insurance. All Taxi Company permit holders shall comply with taxi insurance requirements pursuant to Section 16.40.130. All taxi companies shall file a certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.
- D.** Director Review Process. After receiving a completed Taxi Company application form and upon successful completion of all the requirements pursuant to Section 16.40.110, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- E.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may issue a Company permit.
- F.** Application Denial. The Application shall be denied for any of the following reasons:
- 1.** The Taxi Company applicant fails to submit all required information and documentation, including valid proof of insurance;
  - 2.** The Taxi Company applicant provides dispatch services to anyone other than affiliated taxi drivers meeting the requirements set forth in Chapter 16.40 without prior approval by the Director;
  - 3.** The Taxi Company applicant leases, permits, or otherwise allows other entities not affiliated with the Taxi Company and certified by the Director to operate Taxi services;
  - 4.** The Taxi Company applicant affiliates with and provides dispatch services to drivers operating vehicles without Taxi Vehicle certification by the Director.
  - 5.** The application has a material misstatement or omission, and;
  - 6.** The Taxi Company application is incomplete.
- G.** Denial Appeal. If the application is denied, the applicant Taxi Company may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- H.** Providing Taxi Services. Taxi services shall be provided only by a permitted Taxi Company.
- I.** Certification of Taxi Drivers. The Taxi Company shall provide a list of applicant drivers affiliated with the permitted Taxi Company for Director certification that the drivers meet requirements in Section 16.40.170, on a form approved by the Director, upon request as drivers are newly affiliated, or as driver certification status changes. Drivers shall be certified and permitted by the Director prior to

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providing Taxi services on behalf of the affiliated Taxi Company and Taxi Drivers not meeting all required conditions will not be certified as a permitted Taxi Driver and will not be allowed to operate as a Taxi Driver. The requirements include:

1. Criminal and driver background checks;
  2. A valid driver's license;
  3. Taxi Driver business license number (unless the driver operates the vehicle as an employee of the company); and
  4. Bureau-approved driver training within 30 calendar days of a PFHT driver's certification by the Director.
- J.** Term of Certified Taxi Driver. Certifications for Taxi Drivers provided by a Taxi Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated Taxi Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.
- K.** Taxi Driver Re-certification. The Taxi Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Taxi Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Taxi Driver certification requirements pursuant to this Chapter. Drivers not meeting all conditions will not be re-certified as a Taxi Driver and shall not be allowed to operate as a Taxi Driver.
- L.** Certification of Taxi Vehicles. The Taxi Company shall regularly provide a list of applicant vehicles affiliated with the permitted Taxi Company for Director certification that vehicles meet requirements pursuant to Sections 16.40.150 and 16.40.160 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted Taxi Company prior to providing Taxi services. Vehicles not meeting all required conditions will not be certified as a permitted Taxi Vehicle and will not be allowed to operate as a Taxi Vehicle. Such requirements include:
1. Vehicle ASE mechanic safety inspection;
  2. Vehicle registration and licensing;
  3. Vehicle properly equipped and in good condition; and
  4. Commercial automobile liability insurance.
- M.** Term of Certification of Taxi Vehicles. Certifications for Taxi Vehicles provided by the Director shall be valid for a term of 1 year from date of Director certification.



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- N.** Taxi Vehicle Re-certification. The Taxi Company shall provide a list of applicant vehicles for re-certification to the Director at least 1 month prior to the Taxi Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with Taxi Vehicle certification requirements pursuant to this Chapter for re-certification. Vehicles not meeting all the conditions will not be re-certified as a Taxi Vehicle and shall not be allowed to operate as a Taxi Vehicle.
- O.** Denial Appeal. If a Taxi Driver or Taxi Vehicle certification is denied, suspended, or revoked by the Director, the applicant driver or vehicle owner may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- P.** Right to a Permit. The Taxi Company's ability to satisfy the criteria for a Taxi Company permit does not create a right to a Taxi Company permit.
- Q.** Transferring Permits. Permits are non-transferrable. The Company must notify the City within 5 business days in the event of any changes in business ownership.
- R.** Removal of Taxi Drivers and Vehicles from Affiliated Taxi Company. Taxi companies shall notify the Director within 1 business day when an affiliated Taxi Driver has been prohibited from providing Taxi services by the Taxi Company and/or Taxi Vehicles have been removed from the fleet of the affiliated Taxi Company.
- S.** Operating at the Port of Portland. Taxi Companies, Drivers, and Vehicles are prohibited from operating at the Portland International Airport without a City of Portland permit/certification and specific permission or approval from the Port of Portland.
- T.** Failure to comply with any provision in Section 16.40.110 is a Class B violation subject to the penalties provided in Sections 16.40.930 and 16.40.950.

**16.40.120 Taxi Services Permit Fees and Civil Penalty Fines.**

- A.** Permit Fees. Taxi Companies shall pay City fees and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** Permit Issuance. No Taxi Company permit shall be issued until all surcharges, fees, and civil penalty fines have been paid.

**16.40.130 Taxi Company Insurance Requirements.**

- A.** In order to provide protection to the public, the Taxi Company shall provide levels of insurance in accordance with all requirements of Chapter 16.40.

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- B.** Providing Taxi Services. The Taxi Vehicle shall be covered by a general commercial liability and primary automobile insurance policy provided by the Taxi Company, the Taxi Driver, or a combination of both. Evidence of insurance requirements shall be received and approved by the City prior to a Taxi Company receiving a Taxi Company permit.
- C.** Additional Insured and Notification of Policy Changes. The Taxi Company shall provide certificates of insurance naming the City of Portland and its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation, and employer's liability insurance (as required by state law).
- D.** Ensuring Driver and Vehicle Insurance. Taxi Companies shall be responsible for ensuring the Taxi Driver and Taxi Vehicle have appropriate insurance coverage as required by state law.
- E.** Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.
- F.** Commercial Business Insurance. Taxi Company permit holders shall secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT Taxi permit.
- G.** Automobile Insurance. All Taxi Company permit holders shall provide the City with a copy of a valid commercial auto liability policy with the following coverage:

  - 1.** Combined single limit of not less than \$500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a PFHT vehicle.
- H.** Certification of Auto Insurance. Taxi Companies shall provide proof of current, valid insurance for Director certification that all affiliated Taxi Vehicles operating for such company and satisfying the minimum requirements.
- I.** Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term.

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- J.** Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.
- K.** Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if the insurance company later backdates it, is subject to a civil penalty.
- L.** Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better, or meet all the requirements for Alternative to Insurance described in the Administrative Rule.
- M.** Additional Policy Conditions. Policies required under Sections 16.40.130 and/or 16.40.130 must also contain, include, provide for, or comply with the following:
  - 1.** Independent Contractors/Owner-Operators. If an independent contractor/owner-operator relationship exists with a permit holder, and the independent contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverage and limits and conditions as outlined in Subsections 16.40.130 D. – H. The same certificate of liability and additional insured endorsement requirements will apply.
  - 2.** Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions, and obligations meet the same or higher requirements as found in Subsections 16.40.130 D. – H., and only if the public safety and well-being are not endangered thereby. The adequacy of proposed alternative insurance coverage shall be approved by the City Attorney's Office before such alternative insurance may become effective.
- N.** Failure to comply with any provision in Section 16.40.130 is a Class A violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.140 Taxi Company Operating Responsibilities and Prohibitions.**

- A.** Minimum Standards of Service. A permitted Taxi Company shall comply with the following minimum standards:
  - 1.** A dispatch system in operation 24 hours each day capable of providing reasonably prompt service in response to requests. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.
  - 2.** Acceptance of any request for Taxi service received from any location within the City including requests made by persons with disabilities and

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requests for wheelchair-accessible service pursuant to Section 16.40.190. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.

3. Service citywide, 24 hours a day, 7 days a week.
4. A minimum fleet of 15 Taxi Vehicles.

#### **B. Drug, Alcohol, and Discrimination Policy.**

1. Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted companies shall employ at all times a zero-tolerance policy for intoxicants.
2. Zero Tolerance for Discrimination. All permitted companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.

#### **C. User Terms of Service.** It must be stated within a disclaimer or limitation of liability in a Taxi Company's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Portland, and that any tort claim against a Taxi Company shall be governed by Oregon tort law in effect at the time of the claim.

#### **D. Fare Rate Transparency.** All Taxi fare rates shall be established by the Taxi Company, reported to the Director, and made available in a clear and transparent way to the passenger prior to the passenger accepting a ride. Fare rates for wheelchair-accessible vehicle (WAV) service shall be comparable with fare rates for non-WAV service. Changes to fare rates shall be submitted by the permitted Taxi Company and reported to the Director prior to implementation.

#### **E. Receipts.** All Taxi passengers shall be provided either a paper or digital receipt with a unique transaction ID number that corresponds with the transaction number provided with the company's data submissions described in Subsection 16.40.140 I. (below). A receipt must be provided at the termination of the ride that clearly indicates the fare paid, time of ride, name of Taxi Company, name of Taxi Driver, Taxi Company customer service support contact information, and the City of Portland's PFHT complaint phone number.

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- F.**     Limitation or Prohibition on Dynamic Pricing. The Director may limit or prohibit dynamic pricing by any Taxi Company or Taxi Driver during a State of Emergency, as declared by the Mayor, pursuant to Portland City Code Section 15.04.040. Dynamic pricing is prohibited at all times for WAV service.
- G.**     Agent of Service Requirements. Taxi Companies will maintain, during all times when the Taxi Company permit is valid, a locally based agent of service, with regular hours of business during weekdays.
- H.**     Customer Service Support Requirements. Taxi Companies will maintain, during all times when the Taxi Company permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.
- I.**     Reporting Requirements. Each Taxi Company shall regularly report the following to the Director:

  - 1.     The name of the driver, the date and time and location of any crash, and its claim status (open or closed) required to be reported to the State of Oregon;
  - 2.     The number and type of crimes against drivers to the extent known;
  - 3.     The arrest or conviction for any criminal offense of any affiliated Taxi Driver;
  - 4.     The filing of any lawsuit against or on behalf of the Taxi Company related to the operation of the company and its services in the City of Portland;
  - 5.     The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
  - 6.     Any information required to be disclosed by Chapter 16.40 that comes to the attention of the Taxi Company.
- J.**     Data Requirements.

  - 1.     Any permitted Taxi Company shall provide relevant anonymized data to the City no later than the 5 business days after the last day of the previous month. Examples of relevant data may include, but are not limited to, the following:

    - a.     Unique transaction ID number that corresponds with the passenger's receipt;
    - b.     Number, date, and time of fulfilled trips;

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- c. Trip wait time;
    - d. Number, date, and time of unfulfilled requests (rides the company was unable to fulfill);
    - e. Number, date, and time of trips declined by the driver or the company (rides declined by drivers);
    - f. Number of canceled rides (rides canceled by the customer);
  2. The data collected by the City will be, except as otherwise required by law, kept confidential by the City, used only within the City, and not disclosed to third parties, in accordance with any applicable data-sharing agreement.
  3. In the event that disclosure of such data is required by law, the City will provide taxi companies notice prior to any disclosure of such data.
  4. Upon request, the Taxi Company shall provide data identified by the Director to verify compliance with requirements pursuant to Chapter 16.40.
- K. Digital Record Requirements.** Digital records shall provide a verifiable way to identify drivers and riders for investigation purposes. A permitted Taxi Vehicle must maintain either secure, digital records with contact information from Taxi Drivers and Taxi passengers or a digital security camera system in accordance with the following requirements:
1. Digital security cameras are required in every permitted taxicab, or secure digital records with contact information from the passenger must be maintained by the Taxi Company. Taxi Companies own the cameras or secure digital records and are responsible for their maintenance and the records produced by them.
  2. Taxi Companies must perform inspection and testing of the cameras according to the recommended product specifications, requirements, and schedule.
  3. No Taxi Driver may tamper with, damage, disturb, remove, or disable a digital security camera system in a taxicab or any digital records maintained by the Taxi Company.
  4. Taxi Drivers must utilize the digital security camera and immediately notify the Taxi Company if a digital security camera system is or appears to be damaged, stolen, or inoperable. When a digital security camera is utilized, signage must be visible to passengers within the Taxi Vehicle that states the following: YOU ARE ON CAMERA. IT IS A FELONY IN OREGON TO ASSAULT A TAXICAB DRIVER.

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5. If any law enforcement officer requests access to any record necessary to assist in the investigation of any crime after following the appropriate legal process, the Taxi Company shall respond to the request within 24 hours and promptly disclose records pursuant to the investigation request.
6. No Taxi Company or Driver may allow any person to intentionally access any records produced by the digital security camera or record systems.
7. The Taxi Company shall notify the City of a known data security breach in the same manner as provided in ORS 646A.600 to ORS 646A.628.

**L. Taxi Company Records Management and Mandatory Compliance.**

1. Taxi Companies will be required to keep documentation of all certified Taxi Drivers and Taxi Vehicles. Such records shall be kept on file during the term of the Taxi Company permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, Taxi Company records shall be provided to the Director and/or law enforcement officers.
2. Taxi Companies shall submit to compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.

- M.** Failure to comply with any provision in Section 16.40.140 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.150 Taxicab Vehicle Certification Requirements.**

- A.** Taxi Vehicle Certification. The Taxi Company shall regularly provide a list of applicant vehicles affiliated with the permitted Taxi Company for Director certification that vehicles meet all requirements pursuant to Chapter 16.40 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted Taxi Company prior to being used to provide taxi service on a form approved by the Director. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as a Taxi Vehicle.
- B.** Term of Certified Taxi Vehicle. Certifications for Taxi Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification. The Taxi Company shall provide a re-certification to the Director annually prior to the certification expiration and within 1 month of the expiration date on a form approved by the Director.
- C.** Application Process. Applications for Taxi Vehicle certification shall be made directly to an affiliated Taxi Company. The Taxi Company will regularly provide to the Director a Taxi Driver and vehicle application list, pursuant to certification

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requirements, that the vehicle meets all requirements before the vehicle shall operate as a Taxi Vehicle on a form approved by the Director.

- D.** Vehicle Registration, Licensing, and Insurance. All Taxi Vehicles shall maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.
- E.** Vehicle Age Requirements. No vehicle will be allowed to operate as a Taxi Vehicle following 10 years after the vehicle manufactured date, regardless of when the vehicle was purchased or put into service as a Taxi Vehicle.
- F.** Vehicle Safety Inspections. Each Taxi Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:
  - 1.** Is more than 1-year-old, based on model year;
  - 2.** Has 10,000 miles or more on its odometer; or
  - 3.** Has the “check engine” light illuminated, regardless of model year or mileage.
- G.** Taxi Vehicle Safety Certificate Requirements. Upon successful completion of the vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the Taxi Driver applicant a safety certificate stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician shall be completed on a form approved by the Director.
- H.** Vehicle Condition. Each Taxi Vehicle shall meet the following requirements:
  - 1.** Be kept in safe condition and good;
  - 2.** Be kept clean and in good appearance;
  - 3.** Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
  - 4.** Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for Portland Metro.



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5. Failure to comply with any provision in this Subsection H. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

I. Taxi Vehicle Re-certification. The Taxi Company shall provide a list of applicant vehicles for re-certification to the Director 1 month prior to the Taxi Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with Taxi Vehicle certification requirements pursuant to Sections 16.40.150 and 16.40.160 for re-certification. Vehicles not meeting all such conditions will not be re-certified as a Taxi Vehicle and shall not be allowed to operate as a Taxi Vehicle.

J. Unless otherwise noted, failure to comply with any provision in Section 16.40.150 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.160 Taxicab Vehicle Operating Requirements and Prohibitions.**

A. No vehicle shall operate as a Taxi Vehicle unless it has been certified by the Director and is affiliated with a permitted Taxi Company and properly displays a valid City of Portland taxiplate.

B. Vehicle Registration, Insurance, and Business License. A non-digital copy of the vehicle's registration and proof of insurance shall be kept in every Taxi Vehicle, pursuant to ORS 806.011. In addition, for independent contractors, the City requires that proof of a Taxi Driver's business license, as required by Chapter 7.02, be kept in every Taxi Vehicle. Failure to comply with any provision in this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

C. Identification of Taxi Vehicles. Every Taxi Vehicle shall meet the following identification requirements to operate as a Taxi Vehicle:

1. Only vehicles with City-issued taxiplates may be equipped with a top light or taximeter, and only those vehicles may use the words "taxi," "cab," or "taxicab" anywhere on the vehicle.

2. Every Taxi Vehicle affiliated with a Taxi Company must have a design scheme with the unique symbol or logo of that affiliated Taxi Company in a manner that clearly identifies the Taxi Company, as approved by the Director and consistent with the Administrative Rule.

3. Every Taxi Vehicle must prominently display on both sides of the vehicle the following information:

a. The full name of the Taxi Company;

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- b.** The company-assigned Taxi Vehicle number;
  - c.** The telephone number of the Taxi Company where services can be requested; and
  - d.** Word “taxi,” “cab,” or “taxicab.”
- D.** Every Taxi Vehicle must be equipped with a taximeter in accurate operating condition, with a lighted face that can easily be read at all times by the passenger. Taximeters shall meet the following requirements:
  - 1.** Every taximeter must be inspected by a certified taximeter installer and certified at installation, at change in rate, and within 1 year of the last inspection. A certificate of inspection must be issued by a qualified taximeter repair service upon each inspection. A copy of the certificate of inspection must remain in the taxicab and must include the following:
    - a.** The identifying number of the taximeter;
    - b.** The make, model, and license number of the Taxi Vehicle in which the taximeter is installed;
    - c.** The name of the taxicab company;
    - d.** The date of inspection, and;
    - e.** A statement that the taximeter has been inspected and approved as operating within the acceptable limits and rates as specified by the Director and on file with the company.
  - 2.** Taxi Companies must keep on file copies of all certificates of inspection until the taximeter is recalibrated and the certificate is no longer accurate.
  - 3.** Taximeters must operate within the following limits of accuracy: Plus or minus 50 feet in 1 mile and 1 second in 1 minute of waiting time.
  - 4.** All taximeters must be approved by the National Type Evaluation Program (NTEP) as evidenced by a Certificate of Conformance issued by an authorized inspector. All taximeters must have an active NTEP Certificate of Conformance number.
  - 5.** Certificates of inspection may be examined or a taximeter re-inspected by the Director or law enforcement officers at any time during normal business hours.

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- E.** Vehicle Operating Conditions. In determining whether a Taxi Vehicle meets the vehicle condition requirements, the vehicle shall at all times be maintained in good condition, repair, which includes the following:
1. All Taxi Vehicle equipment and devices shall be properly equipped and maintained in good working order.
  2. At all times, Taxi Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals) windshield wipers; windshield washers; interior/dome lights; taximeter; top light; heating/air conditioning systems; odometer; speedometer; and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions.
  3. The Taxi Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, top light, and reflectors.
  4. Taxi Vehicles shall be free of dirt, grease, grime, glue, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body.
  5. The Taxi Vehicle shall include no missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting; and may only be equipped with studded tires during time periods provided by Oregon law.
  6. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.
- F.** Mandatory Compliance. Taxi Vehicles shall be made available for compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- G.** The taximeter, traditional or computer application-based, must be used to calculate all fees for time and distance traveled and must be programmed with all fares, including flat rates or fees previously reported to the Director, pursuant to Subsection 16.40.140 D.
- H.** Unless otherwise noted, failure to comply with any provision in Section 16.40.160 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

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#### **16.40.170 Taxi Driver Certification Requirements.**

- A.** Taxi Driver Certification. The Taxi Company shall regularly provide a list of applicant drivers affiliated with the permitted Taxi Company for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director. Drivers shall be certified and permitted by the Director and affiliated with a permitted Taxi Company prior to operating a Taxi Vehicle. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as a Taxi Driver. Taxi Companies shall regularly provide a current list of affiliated Taxi Drivers and Taxi Vehicles.
- B.** Term of Certified Taxi Driver. Certifications for Taxi Drivers provided by a Taxi Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated Taxi Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.
- C.** Application Process. Applications for Taxi Driver certification shall be made directly to an affiliated Taxi Company. The Taxi Company will regularly provide to the Director a list of Taxi Drivers, pursuant to certification requirements, that the driver meets all requirements before the driver may operate a Taxi Vehicle on a form approved by the Director.
- D.** Taxi Driver Criminal and Driving Background Checks. A local, national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated Taxi Company by a third party accredited by the National Association of Professional Background Screeners that shall include:

  - 1.** Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  - 2.** All motor vehicle records associated with the applicant driver available pursuant to records laws of each state; and
  - 3.** The National Sex Offender Public Registry.
- E.** Taxi Driver Criminal and Driving History Disqualifications. A driver will not be certified as a Taxi Driver and cannot provide Taxi services if any of the following conditions exist:

  - 1.** The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  - 2.** The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.

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3. The applicant is a match in the National Sex Offender Public Registry.
  4. During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
    - a. Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons, or
    - b. Any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
  5. Based on the conviction date during a 3-year period, the applicant had more than five traffic violations convictions as defined in ORS 801.557; more than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or more than five of any combination of serious traffic violations or motor vehicle accidents as provided above.
  6. Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  7. Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.
  8. Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
  9. The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification.
  10. The applicant is less than 21 years old.
  11. The applicant is unable to obtain car insurance for any reason.
- F.** All Taxi Driver criminal and driving histories are subject to review by the Director.
- G.** Taxi Driver Training. The affiliated company must ensure that all Taxi Drivers successfully complete Director-approved trainings within 30 days of Taxi Driver certification by the Director in each of the following subject areas:
1. Relevant City Code provisions and Administrative Rules;

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2. Vision Zero principles of traffic safety;
  3. Portland-area attractions; and
  4. Customer service.
- H.** Business License Requirements. All Taxi Drivers operating as independent contractors affiliated with a Taxi Company shall comply with all provisions of the Business License Law, Chapter 7.02, prior to operating a Taxi Vehicle. Any Taxi Driver operating as an independent contractor without a valid City of Portland business license cannot be certified as a Taxi Driver and will not be allowed to operate as a Taxi Driver until such business license is obtained.
- I.** Taxi Driver Re-certification. The Taxi Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Taxi Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Taxi Driver certification requirements pursuant to Sections 16.40.170. Drivers not meeting all such conditions will not be re-certified as a Taxi Driver and shall not be allowed to provide Taxi services.
- J.** Suspension or Revocation of Certified Taxi Drivers. If a Taxi Driver certification is suspended or revoked by the Director, the affiliated Taxi Company shall be notified and the driver shall be removed as soon as notified by the City. Taxi Drivers and Taxi Vehicles without current, valid certification by the Director shall not be allowed to operate as a Taxi Driver or Taxi Vehicle.
- K.** Failure to comply with any provisions in Section 16.40.170 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.180 Taxi Driver Conduct, Requirements and Prohibitions.**

- A.** Transferring Credentials. Transferring Taxi Driver or Taxi Vehicle credentials from one driver or vehicle to another shall be prohibited. Failure to comply with this Subsection A. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.** Taxi Drivers at all times shall carry the following while operating as a Taxi Driver and provide the following upon request of a law enforcement officer or Director:
1. A non-digital copy of Taxi Company insurance pursuant to ORS 806.011 and a copy of the vehicle registration;
  2. A non-digital copy of the driver's City of Portland business license as required by Chapter 7.02.;
  3. A valid state-issued driver's license; and

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4. A valid, original, City of Portland driver permit.
5. Failure to comply with this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**C. Driver Conduct. No Taxi Driver shall:**

1. Allow another person to use their Taxi Driver certification;
2. Drive or allow another person to drive a Taxi Vehicle without a valid driver's license, driver permit, and company certification while the vehicle is being used to provide taxi services;
3. Operate any Taxi Vehicle while consuming, or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon;
4. Operate any PFHT vehicle if impaired by any legally prescribed or over-the-counter drugs or medications;
5. Use a vehicle in the commission of any crime;
6. Use or broadcast profane or obscene language offensive to the passenger or other persons while operating a PFHT vehicle;
7. Consume any intoxicant, smoke any substance or use any device that produces a smoke-like vapor while operating a Taxi Vehicle;
8. Allow any passenger to consume an intoxicant or smoke any substance or use any device that produces a smoke-like vapor inside a Taxi Vehicle;
9. Defraud a passenger in any way;
10. Be discourteous to a passenger;
11. Refuse to issue a fully completed receipt, in digital or paper form, for a fare paid if one is requested;
12. Drive passengers to their destination by any route other than the safest and efficient route, unless requested to do so by the passenger;
13. Operate any Taxi Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1);

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14. Refuse to transport to a requested destination within the City of Portland any passenger of proper demeanor whose request for service has been accepted by the Taxi dispatch or Taxi Driver; and
  15. Provide PFHT services without a valid City of Portland permit or certification.
- D. Maximum Hours of Driving.** No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period.
- E. Street-Hails.**
1. A Taxi Driver may accept street-hails in all locations including the following locations: taxi stands, hotel zones, and loading/unloading zones.
  2. Other than for drop off, a Taxi Driver may not park a Taxi Vehicle in a hotel zone prior to 15 minutes before pick up for a dispatch or request for service. The dispatch call/request for service must be documented in accordance with Section 16.40.140 and available for review by the Director or law enforcement officer.
  3. Failure to comply with this Subsection E. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- F. Mandatory Compliance.** Taxi Drivers shall submit to compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- G. Driver Reporting.** Every Taxi Driver shall report any of the following events to the Director and to all affiliated Taxi Companies within 24 hours of its occurrence:
1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
  2. Any arrest, charge or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;
  3. Any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT by the driver; and
  4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.



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- H.** Unless otherwise noted, failure to comply with any provision in Section 16.40.180 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.190 Taxi Company Accessible Service Requirements.**

- A.** Taxi Companies shall provide reasonable accommodations to passengers with disabilities, including passengers accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices.
- B.** Requests for service from a passenger accompanied by a service animal may not be refused.
- C.** Regarding accommodations to passengers with hearing and visual impairments:
- 1.** Taxi Companies shall maintain at all times dispatch services available to customers in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.
  - 2.** Taxi Companies shall maintain customer service support services pursuant to Subsection 16.40.140 H. in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.
- D.** Regarding accommodations to passengers with mobility devices:
- 1.** Taxi Companies shall reasonably accommodate passengers with canes, walkers, or other mobility devices that can readily fit within a non-wheelchair-accessible Taxi Vehicle.
  - 2.** Taxi Companies are required to provide wheelchair-accessible vehicle service within a reasonable time by maintaining a fleet of affiliated wheelchair-accessible (WAV) Taxi Vehicles, contracting with a permitted operator of wheelchair-accessible PFHT vehicles or a combination thereof. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.
  - 3.** Fare rates for WAVs shall not exceed fare rates for comparable non-wheelchair-accessible Taxi Vehicles, and shall not be subject to dynamic pricing.
  - 4.** WAV services must comply with WAV Service Performance Guidelines established by the PFHT Advisory Committee in consultation with the Portland Commission on Disability. Service performance guidelines may include best practices pertaining to the following:
    - a.** Vehicle specifications;

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- b.** Wheelchair loading and securement;
  - c.** Customer service and communication with customers;
  - d.** Driver training; and
  - e.** Estimated wait times.
- 5.** Any permitted Taxi Company shall enter into an agreement with the City to regularly provide aggregated and anonymized data relevant to WAV service. Examples of relevant data may include, but not be limited to, the following:
  - a.** Number, date, and time of fulfilled WAV trips;
  - b.** WAV trip wait time;
  - c.** Number, date, and time of WAV trips declined by the driver or the company;
  - d.** WAV trip origin Zip code; and
  - e.** WAV trip destination Zip code.
- 6.** The Director may implement an Accessible Transportation Fee and establish an Accessible Transportation Fund for the purpose of meeting the objectives established in Administrative Rule for Accessible Service.
  - a.** The Accessible Transportation Fee rate shall be established by the PFHT Advisory Committee in consultation with the Portland Commission on Disability for the purpose of funding the Accessible Transportation Fund.
  - b.** The Accessible Transportation Fund shall be managed by the Director for the purposes of providing an incentive for PFHT WAV service in keeping with WAV service performance guidelines and mitigating the higher costs of providing WAV service compared to comparable non-WAV service. A detailed report on the status and performance of the Accessible Transportation Fund and citywide WAV service provided by all permitted PFHT operators shall be presented to the PFHT Advisory Committee annually.
- E.** Failure to comply with any provision in Section 16.40.190 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.200      Transportation Network Company Services Permits Required.**

The operation of a Transportation Network Company (TNC) is a privilege and not a right. For transportation network services to be provided in the City of Portland, the TNC shall be required to obtain a permit. The City shall certify that all affiliated TNC vehicles and TNC drivers have met all certification and operating requirements.

- A.**     TNC Permit Requirements. No person or entity shall conduct business as a TNC in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this Subsection A. is a Class A violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.**     Transportation Network Driver Certification Requirements. No person or entity shall conduct business as a Transportation Network Driver in the City of Portland without certification by the Director prior to being activated on the affiliated TNC platform. Drivers not meeting all required conditions will not be certified as a TNC Driver and will not be allowed to operate as a TNC Driver.
- C.**     Transportation Network Company Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as a Transportation Network Company Vehicle in the City of Portland without certification by the Director prior to being activated on the affiliated TNC platform. Vehicles not meeting all required conditions will not be certified as TNC vehicle and will not be allowed to operate as a TNC Vehicle.
- D.**     Unless otherwise noted, failure to comply with Section 16.40.200 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.210      TNC Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

- A.**     Application. An applicant for a TNC permit shall submit to the Director:
  - 1.**     A completed application on a form supplied by the Director;
  - 2.**     Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;
  - 3.**     Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
  - 4.**     A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates;
  - 5.**     If the applicant TNC is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner;

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- 6.** If the applicant TNC is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require;
  - 7.** The applicant TNC’s zero-tolerance drug and non-discrimination policy;
  - 8.** The applicant TNC’s user terms of service;
  - 9.** TNC app description with general use information and customer instructions for requesting a wheelchair-accessible vehicle;
  - 10.** Contact information of the TNC’s agent of service and customer service support;
  - 11.** The trade dress the applicant TNC proposes to use for each affiliated driver’s vehicle, with a photo of the trade dress submitted with the application; and
  - 12.** A non-refundable application fee.
  - 13.** All fines and penalties must be paid prior to PBOT issuing or reissuing a TNC permit.
- B.** Compliance with Secretary of State’s Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- C.** Insurance. All TNC permit holders shall comply with TNC insurance requirements pursuant to Section 16.40.230. All TNCs shall file a certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.
- D.** Director Review Process. After receiving a completed TNC company application form and upon successful completion of all the requirements pursuant to Section 16.40.210, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- E.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may be directed to issue a TNC Company permit.
- F.** Application Denial. The application shall be denied for any of the following reasons:

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1. The TNC applicant fails to submit all required information and documentation, including valid proof of insurance;
  2. The TNC applicant provides TNC app services to anyone other than TNC Drivers meeting the requirements set forth in Chapter 16.40;
  3. The TNC applicant leases, permits, or otherwise allows other entities not affiliated with the TNC and certified by the Director to operate TNC services;
  4. The TNC applicant affiliates with and provides a TNC App to drivers operating vehicles without a TNC Vehicle certification;
  5. The application has a material misstatement or omission; and
  6. The TNC application is incomplete.
- G.** Denial Appeal. If the application is denied, the applicant TNC may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- H.** Providing Transportation Network Company Services. TNC services shall be provided only by a permitted TNC.
- I.** Certification of TNC Drivers. The TNC shall provide a daily list of applicant drivers affiliated with the permitted TNC for Director certification that drivers meet requirements in Section 16.40.270, on a form approved by the Director on a daily basis. Drivers shall be certified by the Director prior to being activated on the affiliated TNC platform, and drivers not meeting all required conditions will not be certified as a permitted TNC Driver and will not be allowed to operate as a TNC Driver. Such requirements include:
1. Criminal and driver background checks;
  2. Personal automobile liability insurance for independent contractors;
  3. A valid driver's license;
  4. TNC driver business license number; and
  5. Successful completion of the City-prescribed driver training and testing prior to providing TNC Service.
- J.** Term of Certification of TNC Driver. Certifications for TNC Drivers provided by the Director shall be valid for a term of 1 year from date of Director certification.

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- K.** TNC Driver Re-certification. The TNC shall daily provide a list of applicant drivers for re-certification to the Director within 1 month prior to the TNC Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with TNC Driver certification requirements pursuant to Section 16.40.270. Drivers not meeting all such conditions will not be re-certified as a TNC Driver and shall not be allowed to operate as a TNC Driver.
- L.** Certification of TNC Vehicles. The TNC shall daily provide a list of applicant vehicles affiliated with the permitted TNC for Director certification that vehicles meet requirements in Section 16.40.250, on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a certified TNC driver prior to being activated on the affiliated TNC. Vehicles not meeting all required conditions will not be certified as a permitted TNC vehicle and will not be allowed to operate as a TNC vehicle on a TNC platform. Such requirements include:
1. Vehicle ASE safety inspection;
  2. Vehicle registration and licensing;
  3. Vehicle properly equipped and in good condition;
  4. Commercial automobile liability insurance; and
  5. Personal automobile liability insurance, as required by state law.
- M.** Term of Certification of TNC Vehicles. Certifications for TNC Vehicles provided by the Director shall be valid for a term of 1 year from date of Director certification.
- N.** TNC Vehicle Re-certification. The TNC shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the TNC Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with TNC Vehicle certification requirements pursuant to Section 16.40.250 for re-certification. Vehicles not meeting all such conditions will not be re-certified as a TNC Vehicle and shall not be allowed to operate as a TNC Vehicle.
- O.** Denial Appeal. If a TNC Driver or TNC Vehicle certification is denied, suspended, or revoked by the Director, the applicant driver may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- P.** Right to a Permit. The TNC's ability to satisfy the criteria for a TNC permit does not create a right to a TNC permit.
- Q.** Transferring Permits. Transferring permits shall be prohibited.

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- R.** Removal of TNC Drivers and TNC Vehicles from Affiliated TNC Platform. A TNC shall daily provide to the Director notification of affiliated TNC Drivers and TNC Vehicles that have been permanently deactivated from the TNC platform or prohibited from providing TNC services by the affiliated TNC.
- S.** Operating at the Port of Portland. TNCs, TNC Drivers, and TNC Vehicles are prohibited from operating at the Portland International Airport without a City of Portland permit/certification and specific permission or approval from the Port of Portland.
- T.** Failure to comply with any provision in Section 16.40.210 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.220 TNC Services Permit Fees and Civil Penalty Fines.**

- A.** Permit Fees. TNC Companies shall pay permit fees and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** Permit Issuance. No TNC Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.

**16.40.230 TNC Insurance Requirements.**

- A.** TNC Service Periods Defined. In order to provide protection to the public, the TNC shall provide levels of insurance in accordance pursuant to all requirements of Chapter 16.40. Transportation Network Company service is defined by three distinct periods:
  - 1.** Period 1: The TNC Driver has logged into the app. The app is open and the driver is waiting for a match.
  - 2.** Period 2: A passenger match has been accepted – the passenger is not yet picked up (i.e., the driver is on their way to pick up the passenger).
  - 3.** Period 3: The passenger is in the vehicle and until the passenger exits the vehicle at the destination.
- B.** Providing TNC Services. All periods of TNC service shall be covered by a general commercial liability and primary automobile insurance policy provided by the TNC, the TNC Driver, or a combination of both. Evidence of TNC insurance requirements shall be received and approved by the City prior to a TNC receiving a TNC permit.
- C.** Additional Insured and Notification of Policy Changes. The TNC shall provide certificates of insurance naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice

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to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation and employer's liability insurance (as required by state law).

- D.** Ensuring Driver and Vehicle Insurance. TNC Drivers shall be responsible for ensuring appropriate personal motor vehicle liability insurance required by state law.
- E.** Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.
- F.** Commercial Business Insurance. TNC permit holders shall secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT TNC permit.
- G.** Automobile Insurance. All TNC permit holders shall provide the City with proof of the following coverages:
  - 1.** Primary insurance coverage during Period 1 with minimum liability limits of \$50,000 per person for death and injury, \$100,000 per incident for death and injury and \$25,000 for property damage, plus any other state compulsory coverage to the extent required by law. Coverage is to be maintained by the TNC.
  - 2.** Primary insurance coverage during Periods 2 and 3 with minimum liability limits of \$1 million in combined single limit coverage for death, personal injury, and property damage per incident; and \$1 million in combined single limit under/uninsured motorist coverage for death, personal injury, and property damage per incident. Coverage is to be maintained by the TNC.
  - 3.** The required automobile liability policy shall specifically recognize the driver's provision of TNC services or other for hire transportation and shall comply with the mandatory laws of the State of Oregon and/or other applicable governing bodies.
- H.** Certification of Auto Insurance. TNCs shall provide proof of current, valid insurance for Director certification covering all affiliated TNC Drivers and Vehicles operating for such company and satisfying the minimum requirements of Periods 1, 2 and 3 in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.



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- I.** Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term.
- J.** Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.
- K.** Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
- L.** Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better, or meet all the requirements for Alternative to Insurance described in an Administrative Rule.
- M.** Additional Policy Conditions: Policies required under Section 16.40.230 must also contain, include, provide for or comply with the following:
  - 1.** A TNC shall not require or encourage a TNC Driver to secure a primary personal automobile insurance policy providing coverage for TNC activities as a condition to becoming affiliated on the TNC's digital network, nor shall a TNC provide any incentive to any TNC Driver who secures a primary personal automobile insurance policy providing coverage for TNC activities in periods as defined in Subsection 16.40.230 G.
  - 2.** A TNC shall disclose in writing to affiliated TNC Drivers that drivers are not required to purchase or maintain an insurance policy that provides coverage for TNC activities in any periods as defined in Subsection 16.40.230 G. as a condition of providing TNC Services on behalf of an affiliated TNC. Additionally, a TNC shall disclose in writing to affiliated TNC Drivers that securing such a policy will not result in any material benefit or incentive of any kind provided by the affiliated TNC to the TNC Driver. A TNC shall disclose in writing to affiliated TNC Drivers that insurance maintained by the TNC pursuant to Section 16.40.230 does not include collision coverage for affiliated TNC Drivers, unless the policy secured and maintained by the TNC expressly states otherwise.
  - 3.** A TNC shall disclose in writing to affiliated TNC Drivers the insurance coverage, including the types of coverage and limits for each coverage that the TNC provides while the affiliated TNC Driver uses an affiliated TNC Vehicle to provide TNC services. The TNC shall also advise affiliated TNC Drivers in writing that the driver's personal automobile insurance policies

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may be subject to cancellation in accordance to ORS 742.562 or might not provide coverage because the driver uses a vehicle in connection with an affiliated TNC, as specified by the terms of the policy. A TNC shall provide written disclosure to the affiliated TNC Driver that coverage required pursuant to Subsection 16.40.230 G. shall be provided by the affiliated TNC on a primary basis from the first dollar of every claim, unless a policy secured and maintained by a TNC Driver expressly states otherwise.

4. A TNC Driver is not prohibited from voluntarily securing a primary automobile insurance policy covering the TNC Vehicle and providing coverage in any period as defined in Subsection 16.40.230 G. A TNC Driver's or the TNC Vehicle owner's personal automobile insurance policy may only provide coverage during periods as defined by Section 16.40.230 to the driver, vehicle owner, or any third party, if the policy expressly provides coverage for TNC activities during periods defined by Section 16.40.230 as specified by the terms of the policy.

- N. Failure to comply with any provision in Section 16.40.230 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.240 TNC Company Operating Responsibilities and Prohibitions.**

- A. Minimum Standards of Service. A permitted TNC shall comply with the following minimum standards:

1. A TNC app in operation 24 hours each day capable of providing reasonably prompt service in response to requests. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.
2. Acceptance of any request for TNC service received from any location within the City including requests made by persons with disabilities and requests for wheelchair-accessible service pursuant to Section 16.40.290.
3. The TNC app used to connect drivers to riders shall display an accurate picture of the TNC Driver and a picture or description of the type of TNC Vehicle, as well as the license plate number of the TNC Vehicle.

- B. Drug, Alcohol and Discrimination Policy.

1. Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted companies shall employ at all times a zero tolerance policy for intoxicants.
2. Zero Tolerance for Discrimination. All permitted companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of

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a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.

- C.** User Terms of Service. It must be stated within a disclaimer or limitation of liability in a TNC's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Portland, and that any tort claim against a TNC shall be governed by Oregon tort law in effect at the time of the claim.
- D.** Fare Rate Transparency. All TNC fare rates shall be made available in a clear and transparent way to the TNC passenger on the TNC app prior to the TNC passenger accepting a ride.
- E.** Receipts. All TNC passengers shall be provided either a paper or digital receipt with a unique transaction ID number that corresponds with the transaction number provided with the company's data submissions described in Subsection 16.40.240 I. (below). A receipt must be provided at the termination of the ride that clearly indicates the fare paid, time of ride, name of TNC, name of TNC Driver, TNC customer service support contact information, and the City of Portland's PFHT complaint phone number.
- F.** Limitation or Prohibition on Dynamic Pricing. The Bureau Director may limit or prohibit dynamic pricing by any TNC or TNC Driver during a State of Emergency, as declared by the Mayor, pursuant to Portland City Code Section 15.04.040.
- G.** Agent of Service Requirements. TNCs will maintain, during all times when the TNC permit is valid, a locally based agent of service, with regular hours of business during weekdays.
- H.** Customer Service Support Requirements. TNCs will maintain, during all times when the TNC permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.
- I.** Reporting Requirements. Each TNC shall regularly report the following to the Director:

  - 1.** Any crash and its claim status that arise out of operating as a TNC (open or closed) on a form approved by the Director;
  - 2.** The number and type of crimes committed against drivers to the extent known;

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- 3.** Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution; and any restriction, suspension or revocation of the driver's motor vehicle driver's license arrest or conviction for any criminal offense of any affiliated TNC driver involving the operation of TNC service in the City of Portland;
- 4.** The filing of any lawsuit against or on behalf of the TNC related to the TNC services of the affiliated TNC, TNC Driver, or TNC Vehicle in the City of Portland;
- 5.** The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company, and;
- 6.** Any information required to be disclosed by Chapter 16.40 that comes to the attention of the TNC.

#### **J. Data Requirements.**

- 1.** TNCs shall provide relevant anonymized data to the City no later than the 5 business days after the last day of the previous month pursuant to applicable data sharing agreement. Examples of relevant data may include, but are not limited to, the following:
  - a.** Unique transaction ID number that corresponds with the passenger's receipt;
  - b.** Number, date, and time of fulfilled trips;
  - c.** Trip wait time;
  - d.** Number, date, and time of unfulfilled requests (rides the company was unable to fulfill);
  - e.** Number, date, and time of trips declined by the driver or the company (rides declined by drivers);
  - f.** Number of canceled rides (rides canceled by the customer);
  - g.** Trip origin Zip code; and
  - h.** Trip destination Zip code.
- 2.** TNCs shall submit data, pursuant to a data sharing agreement with the City and permitted companies.

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3. The data collected by the City will be, except as otherwise required by law, kept confidential by the City, used only within the City and not disclosed to third parties.
  4. In the event disclosure of such data is required by law, the City will provide TNCs notice prior to any disclosure of such data.
  5. Upon request, the TNC shall provide data identified by the Director to verify compliance with requirements pursuant to Chapter 16.40.
- K.** Digital Record Requirements. Secure, digital records with contact information from TNC Drivers and TNC passengers shall be maintained by the TNC. Such records shall provide a verifiable way to identify drivers and riders for investigatory purposes. Secure digital records must be maintained in accordance with the following requirements:
1. Secure digital records with contact information from the TNC Driver and passenger must be maintained by the TNC. TNCs own the secure digital records and are responsible for their maintenance and the records produced by them;
  2. If any law enforcement officer requests access to any record necessary to assist in the investigation of any crime after following appropriate legal process, the TNC shall respond to the request within 24 hours and promptly disclose records pursuant to the investigation request;
  3. No TNC Company or Driver may allow any unauthorized person to intentionally access any records produced by the digital record systems; and
  4. The TNC shall notify the City of a known data security breach in the same manner as provided in ORS 646A.600 to ORS 646A.628.
- L.** TNC Records Management and Mandatory Compliance.
1. TNCs will be required to keep documentation of all certified TNC Drivers and TNC Vehicles. Such records shall be kept on file during the term of the TNC permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, TNC records shall be provided to the Bureau Director and/or law enforcement officers.
  2. TNCs shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel or law enforcement officers pursuant to Chapter 16.40.
- M.** Failure to comply with any provision in Section 16.40.240 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

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#### **16.40.250 TNC Vehicle Certification Requirements.**

- A.** The TNC may not “on-board” a vehicle unless the designated trade dress includes a visible Portland business license identification number specific to each TNC Driver. No vehicle may display the words “taxi,” “taxi cab,” or “cab,” or attempt to appear as a taxi, unless that vehicle has been permitted/certified by a taxi company to the City.
- B.** TNC Vehicle Certification. The TNC shall daily provide a list of applicant vehicles affiliated with the permitted TNC for Director certification that vehicles meet all requirements pursuant to Chapter 16.40 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a certified TNC driver prior to being activated on the affiliated TNC platform. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as a TNC vehicle.
- C.** Term of Certified TNC Vehicle. Certifications for TNC Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification. TNC shall provide a re-certification to the Director, as they occur, prior to the certification expiration and within 1 month of the expiration date.
- D.** Application Process. Applications for TNC Vehicle certification shall be made directly to an affiliated TNC. The TNC shall regularly provide to the Director a TNC Driver and Vehicle application list, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle shall operate as a TNC Vehicle on a form approved by the Director.
- E.** Vehicle Registration, Licensing, and Insurance. All TNC Vehicles will maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.
- F.** Vehicle Age Requirements. No vehicle older than 10 years will be allowed to operate as a TNC Vehicle following 10 years after the vehicle manufactured date regardless of when the vehicle was purchased or put into service as a TNC Vehicle.
- G.** Vehicle Safety Inspections. Each TNC Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:
  - 1.** Is more than 1-year-old, based on model year;
  - 2.** Has 10,000 miles or more on its odometer; or

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3. Has the “check engine” light illuminated, regardless of model year or mileage.
- H.** TNC Vehicle Safety Certificate Requirements. Upon successful completion of the vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the TNC Driver applicant a “Safety Certificate” stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician shall be completed on a form approved by the Director.
- I.** Vehicle Condition. Each TNC Vehicle shall meet the following requirements:
1. Each TNC Vehicle shall:
    - a. Be kept in safe condition and condition;
    - b. Be kept clean and in good appearance;
    - c. Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
    - d. Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for the Portland Metro.
    - e. Failure to comply with any provision in this Subsection I. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- J.** TNC Vehicle Re-certification. The TNC shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the TNC Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with TNC Vehicle certification requirements pursuant to Section 16.40.250 for re-certification. Vehicles not meeting all such conditions will not be re-certified as a TNC Vehicle and shall not be allowed to operate as a TNC Vehicle.
- K.** Unless otherwise noted, failure to comply with any provision in Section 16.40.250 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- 16.40.260 TNC Vehicle Operating Requirements and Prohibitions.**
- A.** No vehicle shall operate as a TNC Vehicle unless it has been affiliated with an approved TNC Company and properly displays a trade dress approved by the Director.

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- B.** Vehicle Registration, Insurance, and Business License. A non-digital copy of the vehicle's registration and proof of insurance shall be kept in every TNC Vehicle, pursuant to ORS 806.011. In addition, for independent contractors, the City requires proof of TNC insurance and proof of a TNC driver's business license be kept in every TNC Vehicle. Failure to comply with any provision in this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Trade Dress Signage. Trade dress signage is required for each TNC Vehicle in operation at all times. The trade dress signage shall be clearly visible from the front and rear of the vehicle from a distance of 20 feet and shall be placed on the interior or exterior of the vehicle body, but not on the roof and shall not obscure any of the driver's views, vehicle lights, or the view of any mirrors, and it cannot exceed four square feet.
- D.** Vehicle Operating Conditions. In determining whether a TNC vehicle meets the vehicle condition requirements, the vehicle shall at all times be maintained in good condition, repair, and appearance which includes the following:

  - 1.** All TNC Vehicle equipment and devices shall be properly equipped and maintained in good working order;
  - 2.** At all times, TNC Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals) windshield wipers, windshield washers, interior/dome lights, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions;
  - 3.** The TNC Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, and reflectors;
  - 4.** The TNC Vehicle shall be free of dirt, grease, grime, glue, rips, stains, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body;
  - 5.** The TNC Vehicle shall not include missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting; and may only be equipped with studded tires during time periods allowed by Oregon Law; and



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- 6. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.
- E. Mandatory Compliance. The TNC Vehicle shall be made available to compliance audits and enforcement actions upon request by the Director, authorized city personnel or law enforcement officers pursuant to Chapter 16.40.
- F. Unless otherwise noted, failure to comply with any provision in Section 16.40.260 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.270 TNC Driver Certification Requirements.**

- A. Driver Certification. The TNC shall provide a list of applicant drivers affiliated with the permitted TNC for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director on a daily basis. Drivers shall be certified by the Director and affiliated with a certified TNC Vehicle prior to being activated on the affiliated TNC platform. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as a TNC Driver.
- B. Term of Certified TNC Driver. Certifications for TNC Drivers provided by a TNC to the Director shall be valid for 1 year from the date of the initial certification. TNC shall provide a re-certification to the Director within 1 month prior to the certification expiration.
- C. Application Process. Applications for TNC Driver certification shall be made directly to an affiliated TNC. The TNC will regularly provide to the Director TNC Driver and Vehicle certification lists, pursuant to certification requirements, that the driver meets all requirements prior to the driver operating the vehicle, on a form approved by the Director.
- D. TNC Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually, based on the driver's anniversary date, on behalf of the affiliated TNC by a third party accredited by the National Association of Professional Background Screeners that shall include:
  - 1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  - 2. All motor vehicle records associated with the applicant driver available pursuant to record laws of each state, and
  - 3. The National Sex Offender Public Registry.

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- E.** TNC Driver Criminal and Driving History Disqualifications. A TNC Driver will not be certified and cannot provide transportation network company services if any of the following conditions exist:
- 1.** The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  - 2.** The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  - 3.** The applicant is a match in the National Sex Offender Public Registry.
  - 4.** During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
    - a.** Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
    - b.** Any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
  - 5.** Based on the conviction date during a 3-year period, the applicant had more than five traffic violations as defined in ORS 801.557; more than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or more than five of any combination of serious traffic violations or motor vehicle accidents as provided above.
  - 6.** Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  - 7.** Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.
  - 8.** Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
  - 9.** The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification.
  - 10.** The applicant is less than 21 years old.

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- 11. The applicant is unable to obtain car insurance for any reason.
  - F. All TNC Driver criminal and driving histories are subject to review by the Director.
  - G. TNC Driver Training. The affiliated company must ensure that all TNC Drivers successfully complete Director-approved trainings within 30 days of TNC Driver certification by the Director in each of the following subject areas:
    - 1. Relevant City Code provisions and Administrative Rules;
    - 2. Vision Zero principles of traffic safety;
    - 3. Portland-area attractions; and
    - 4. Customer service.
  - H. Insurance Requirements. All TNC Drivers affiliated with a TNC shall maintain current, valid personal automobile insurance that meets State of Oregon requirements.
  - I. Business License Requirements. All TNC Drivers affiliated with a TNC shall comply with all provisions of the Business License Law, Chapter 7.02, prior to being activated on the TNC app. Any TNC Driver without a valid City of Portland business license cannot be certified as a TNC Driver and will not be allowed to operate as a TNC Driver until such business license is obtained.
  - J. TNC Driver Re-certification. The TNC shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the TNC Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with TNC Driver certification requirements pursuant to Section 16.40.270. Drivers not meeting all such conditions will not be re-certified as a TNC Driver and shall not be allowed to operate as a TNC Driver.
  - K. Suspension or Revocation of Certified TNC Drivers. If a TNC Driver or TNC Vehicle certification is suspended or revoked by the Director, the affiliated TNC shall be notified and the driver shall be removed as soon as notified by the City. TNC Drivers and TNC Vehicles without current, valid certification by the Director shall not be allowed to provide TNC services.
  - L. Failure to comply with any provision in Section 16.40.270 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- 16.40.280 TNC Driver Conduct Requirements and Prohibitions.**
- A. Transferring Credentials. Transferring TNC Driver or TNC Vehicle credentials from one driver or vehicle to another shall be prohibited. All TNC Drivers are

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required to meet all driver certification requirements within this chapter at all times while providing private for-hire service. Failure to comply with this Subsection A. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**B. TNC Drivers shall carry:**

1. A non-digital copy of TNC insurance pursuant to ORS 806.011 and a copy of the vehicle registration at all times while operating as a TNC Driver. Upon request of the Director or law enforcement officer, TNC Drivers shall present proof of a valid TNC primary automobile insurance policy and vehicle registration.
2. A non-digital copy of the driver's City of Portland business license as required by Chapter 7.02 always while operating as a TNC Driver.
3. A valid state issued driver's license while operating as a TNC Driver.
4. Failure to comply with this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**C. Driver Conduct. No TNC Driver shall:**

1. Allow another person to use their TNC Driver certification;
2. Drive or allow another person to drive a TNC Vehicle without completing the certification process through the affiliated TNC company;
3. Operate any TNC Vehicle while consuming or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon;
4. Operate any PFHT vehicle if impaired by any legally prescribed or over-the-counter drugs or medications;
5. Use a vehicle in the commission of any crime;
6. Use or broadcast profane or obscene language offensive to the passenger or other persons while operating a PFHT vehicle;
7. Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating a TNC Vehicle;
8. Allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke-like vapor, inside a TNC Vehicle;

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9. Defraud a passenger in any way;
  10. Be discourteous to a passenger;
  11. Drive passengers to their destination by any other than the safest and most efficient route, unless requested to do so by the passenger;
  12. Operate any TNC Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1);
  13. Refuse to transport to a requested destination within the City of Portland any passenger of proper demeanor whose request for service has been accepted on the TNC app, and;
  14. Provide PFHT services without a valid City of Portland permit or certification.
- D.** Maximum hours of driving. No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period.
- E.** Street-Hails, Taxi Stands, and Hotel Zones.
1. A TNC Driver shall accept rides only booked through an affiliated TNC app and shall not solicit or accept street-hails or stop in any City-approved taxi zones, and;
  2. A TNC Driver may not park a TNC Vehicle in a taxi zone or loading/unloading zone.
- F.** Mandatory Compliance. TNC Drivers shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.
- G.** Driver Reporting. Every TNC Driver shall report any of the following events to the Director and to all affiliated TNCs within 24 hours of its occurrence:
1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
  2. Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;
  3. Any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT; and

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4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.
- H. Unless otherwise noted, failure to comply with any provision in Section 16.40.280 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.290 TNC Company Accessible Service Requirements.**

TNCs shall provide reasonable accommodations to passengers with disabilities, including to passengers accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices.

- A. Accommodations to passengers accompanied by a service animal.
  1. Requests for service from a passenger accompanied by a service animal may not be refused.
- B. Accommodations to passengers with hearing and visual impairments.
  1. TNCs shall maintain at all times mobile apps or online dispatch services available to customers in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.
  2. TNCs shall maintain customer service support services pursuant to Subsection 16.40.240 H. in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.
- C. Accommodations to passengers with mobility devices.
  1. TNCs shall reasonably accommodate passengers with canes, walkers, or other mobility devices that can readily fit within a non-wheelchair-accessible TNC Vehicle.
  2. TNCs shall maintain at all times mobile apps or online dispatch services available to customers that request a wheelchair-accessible vehicle (WAV).
  3. TNC Vehicles are required to provide WAV service within a reasonable time by maintaining a fleet of affiliated wheelchair-accessible TNC vehicles, contracting with a permitted operator of wheelchair-accessible PFHT vehicles, or a combination thereof. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.
  4. Fare rates for WAVs shall not exceed fare rates for comparable non-WAV TNC Vehicles, be reported to the Director, and shall not be subject to dynamic pricing.

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5. WAV services must comply with WAV Service Performance Guidelines established by the PFHT Advisory Committee in consultation with the Portland Commission on Disability. Service performance guidelines may include best practices pertaining to the following:
  - a. Vehicle specifications;
  - b. Wheelchair loading and securement;
  - c. Customer service and communication with customers;
  - d. Driver training; and
  - e. Estimated wait times.
6. Any permitted TNC shall enter into any applicable agreement with the City to regularly provide anonymized data relevant to WAV service. Examples of relevant data may include, but not be limited to, the following:
  - a. Number, date, and time of fulfilled WAV trips;
  - b. WAV trip wait time;
  - c. Number, date, and time of WAV trips declined by the driver or the company;
  - d. WAV trip origin Zip code; and
  - e. WAV trip destination Zip code.
7. The Director may implement an Accessible Transportation Fee and establish an Accessible Transportation Fund for the purpose of meeting the objectives established in Administrative Rule for Accessible Service.
  - a. The Accessible Transportation Fee rate shall be established by the PFHT Advisory Committee in consultation with the Portland Commission on Disability for the purpose of funding the Accessible Transportation Fund.
  - b. The Accessible Transportation Fund shall be managed by the Director for the purposes of providing an incentive for PFHT WAV service in keeping with WAV Service Performance Guidelines and mitigating the higher costs of providing WAV service compared to commensurate non-WAV service. A detailed report on the status and performance of the Accessible Transportation Fund and

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citywide WAV service provided by all permitted PFHT operators shall be presented to the PFHT Advisory Committee annually.

- D.** Failure to comply with any provision in Section 16.40.290 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.300 Executive Town Car Service Permits Required.**

The operation of an Executive Town Car Company is a privilege and not a right. For Executive Town Car services to be provided in the City of Portland, the Executive Town Car Company shall be required to obtain a permit. The Bureau shall certify that all affiliated Executive Town Car Vehicles and Executive Town Car Drivers have met all certification and operating requirements.

- A.** Executive Town Car Company Permit Requirements. No person or entity shall conduct business as an Executive Town Car Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with Subsection A. is a Class A violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.** Executive Town Car Driver Certification Requirements. No person or entity shall conduct business as an Executive Town Car driver in the City of Portland without certification by the Director prior to being authorized to provide Executive Town Car services on behalf of an affiliated Executive Town Car Company. Drivers not meeting all required conditions will not be certified as an Executive Town Car Driver and will not be allowed to operate as an Executive Town Car Driver. Failure to comply with this Subsection B. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Executive Town Car Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as an Executive Town Car Vehicle in the City of Portland without certification by the Director prior to being used to provide Executive Town Car services by an affiliated Executive Town Car Company. Vehicles not meeting all required conditions will not be certified as Executive Town Car Vehicle and will not be allowed to operate as an Executive Town Car Vehicle. Failure to comply with this Subsection C. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.310 Executive Town Car Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

- A.** Application. An applicant for an Executive Town Car Company permit shall submit to the Director:
  - 1.** A completed application on a form supplied by the Director;



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2. Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;
  3. Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
  4. A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates;
  5. If the applicant Executive Town Car Company is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner;
  6. If the applicant Executive Town Car Company is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require;
  7. The applicant Executive Town Car Company’s zero-tolerance drug and non-discrimination policy;
  8. The applicant Executive Town Car Company’s user terms of service;
  9. The applicant dispatch or passenger reservation contact information;
  10. Contact information of the Executive Town Car Company’s agent of service and customer service support;
  11. The trade dress the applicant Executive Town Car Company proposes to use for each affiliated driver’s vehicle, with a photo of the trade dress submitted with the application;
  12. Fare rates shall be provided to and approved by the Director prior to implementation; and
  13. A non-refundable application fee.
- B.** All fines and penalties must be paid prior to issuing or reissuing an Executive Town Car Company permit.
- C.** Compliance with Secretary of State’s Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.

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- D.** Insurance. All Executive Town Car permit holders shall comply with Executive Town Car insurance requirements pursuant to Section 16.40.330. All Executive Town Car Companies shall file a certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.
- E.** Director Review Process. After receiving a completed Executive Town Car Company application form and upon successful completion of all the requirements pursuant to Section 16.40.310, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- F.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may issue an Executive Town Car Company permit.
- G.** Application Denial. The Application shall be denied for any of the following:

  - 1.** The Executive Town Car Company applicant fails to submit all required information and documentation, including valid proof of insurance;
  - 2.** The Executive Town Car Company applicant leases, permits, or otherwise allows other entities not affiliated with the Executive Town Car Company and certified by the Director to operate Executive Town Car services;
  - 3.** The application has a material misstatement or omission; and
  - 4.** The Executive Town Car Company application is incomplete.
- H.** Denial Appeal. If the application is denied, the applicant Executive Town Car Company may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- I.** Providing Executive Town Car Services. Executive Town Car services shall be provided only by a permitted Executive Town Car Company.
- J.** Certification of Executive Town Car Drivers. The Executive Town Car Company shall regularly provide a list of applicant drivers affiliated with the permitted Executive Town Car for Director certification that drivers meet requirements in Section 16.40.300 on a form approved by the Director. Drivers shall be certified by the Director prior to providing Executive Town Car services on behalf of the affiliated Executive Town Car Company and Executive Town Car Drivers not meeting all required conditions will not be certified as a permitted Executive Town Car Driver and will not be allowed to operate as an Executive Town Car Driver. Such requirements include:

  - 1.** Criminal and driver background checks;

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2. Valid driver's license; and
  3. Bureau-approved driver training within 30 calendar days of an Executive Town Car Driver's certification by the Director.
  4. Certification processes that are not completed within 30 calendar days are considered void and the certification process will need to be reinitiated.
- K.** Executive Town Car Driver Re-certification. The Executive Town Car Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Executive Town Car Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Executive Town Car Driver certification requirements pursuant to Section 16.40.300. Drivers not meeting all such conditions will not be re-certified as an Executive Town Car Driver and shall not be allowed to operate as an Executive Town Car Driver.
- L.** Certification of Executive Town Car Vehicles. The Executive Town Car Company shall regularly provide a list of applicant vehicles affiliated with the permitted Executive Town Car Company for Director certification that vehicles meet requirements pursuant to Section 16.40.300 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted Executive Town Car Company prior to providing Executive Town Car services. Vehicles not meeting all required conditions will not be certified as a permitted Executive Town Car Vehicle and will not be allowed to operate as an Executive Town Car Vehicle. Such requirements include:
1. Vehicle ASE safety inspection;
  2. Vehicle registration and licensing;
  3. Vehicle properly equipped and in good condition; and
  4. Executive Town Car company general and automobile liability insurance.
- M.** Term of Certification of Executive Town Car Vehicles. Certifications for Executive Town Car Vehicles provided by the Director shall be valid for a term of 1 year from date of Director certification.
- N.** Executive Town Car Vehicle Re-certification. The Executive Town Car Company shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the Executive Town Car Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with Executive Town Car Vehicle certification requirements pursuant to Section 16.40.300 for re-certification. Vehicles not meeting all such conditions will

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not be re-certified as an Executive Town Car Vehicle and shall not be allowed to operate as an Executive Town Car Vehicle.

- O.** Denial Appeal. If an Executive Town Car Driver or Executive Town Car Vehicle certification is denied, suspended, or revoked by the Director, the applicant driver may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- P.** Right to a Permit. The Executive Town Car Company's ability to satisfy the criteria for an Executive Town Car Company permit does not create a right to an Executive Town Car Company permit.
- Q.** Transferring Permits. Transferring permits shall be prohibited. The Company must notify the City in the event that all or part of the business ownership and/or assets are transferred to another party within 5 business days.
- R.** Removal of Executive Town Car Drivers and Vehicles from affiliated Executive Town Car Company. Executive Town Car Companies shall provide to the Director notification of affiliated Executive Town Car Drivers that have been prohibited from providing Executive Town Car services by the affiliated Executive Town Car Company and Executive Town Car Vehicles that have been removed from the fleet of the affiliated Executive Town Car Company as changes occur.
- S.** Operating at the Port of Portland. Executive Town Car Companies, Drivers, and Vehicles are prohibited from operating at the Portland International Airport without a City of Portland Permit/Certification and specific permission or approval from the Port of Portland.
- T.** Failure to comply with any provision in Section 16.40.310 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.320 Executive Town Car Services Permit Fees.**

- A.** Permit Fees. Executive Town Car Companies shall pay permit fees and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** Permit Issuance. No Executive Town Car Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.

#### **16.40.330 Executive Town Car Company Insurance Requirements.**

- A.** In order to provide protection to the public, the Executive Town Car Company shall provide levels of insurance in accordance pursuant to all requirements of Chapter 16.40.

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- B.** Providing Executive Town Car Services. The Executive Town Car Vehicle shall be covered by a general commercial liability and primary automobile insurance policy secured by the Executive Town Car Company, the Executive Town Car Driver, or a combination of both. Evidence of insurance requirements shall be received and approved by the City prior to an Executive Town Car Company receiving an Executive Town Car Company permit.
- C.** Additional Insured and Notification of Policy Changes. The Executive Town Car Company shall provide certificates of insurance naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation, and employer's liability insurance (as required by state law).
- D.** Ensuring Driver and Vehicle Insurance. Executive Town Car Companies shall be responsible for ensuring the Executive Town Car Driver and Executive Town Car Vehicle have appropriate insurance coverage as required by state law.
- E.** Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.
- F.** Commercial Business Insurance. Executive Town Car Company permit holders shall secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT permit.
- G.** Automobile Insurance. All Executive Town Car Company permit holders shall provide the City with a copy of a valid commercial auto liability policy with the following coverage:

  - 1.** Combined single limit of not less than \$500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a PFHT vehicle.
- H.** Certification of Auto Insurance. Executive Town Car Companies shall provide proof of current, valid insurance for Director certification that all affiliated Executive Town Car Drivers and Vehicles operating for such company and satisfying the minimum requirements in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.

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- I.** Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
- J.** Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.
- K.** Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
- L.** Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better.
- M.** Additional Policy Conditions: Policies required under Subsections 16.40.330 F. and/or 16.40.330 G. must also contain, include, provide for, or comply with the following:
  - 1.** Independent contractors/owner-operators. If an independent contractor/owner-operator relationship exists with a permit holder and the independent contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverage and limits and conditions as outlined in Subsections 16.40.330 F. - H. The same certificate of liability and additional insured endorsement requirements will apply.
  - 2.** Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions, and obligations meet the same or higher requirements as found in Subsections 16.40.330 F. – H., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage shall be approved by the City Attorney's Office before such alternative insurance may become effective.
- N.** Failure to comply with any provision in Section 16.40.330 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.340 Executive Town Car Company Operating Responsibilities and Prohibitions.**

- A.** Executive Town Car Companies shall accept all requests for Executive Town Car Service received from any location within the City.
- B.** Drug, Alcohol, and Discrimination Policy.

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1. Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted Companies shall employ at all times a zero-tolerance policy for intoxicants.
  2. Zero Tolerance for Discrimination. All permitted Companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.
- C.** User Terms of Service. It must be stated within a disclaimer or limitation of liability in an Executive Town Car Company's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Portland, and that any tort claim against an Executive Town Car Company shall be governed by Oregon tort law in effect at the time of the claim.
- D.** Fare Rate Transparency. Executive Town Car fare rates shall be established by the Executive Town Car Company, reported to the Director and made available in a clear and transparent way to the passenger prior to the passenger accepting a ride.
- E.** Receipts. All Executive Town Car passengers shall be provided either a paper or digital receipt for services at the termination of the ride that clearly indicates the fare paid, time of ride, name of Executive Town Car Company, Executive Town Car Driver, Executive Town Car Company customer service support contact information, and the City of Portland's PFHT complaint phone number.
- F.** Agent of Service Requirements. Executive Town Car Companies will maintain, during all times when the Executive Town Car Company permit is valid, a locally based agent of service, with regular hours of business during weekdays.
- G.** Customer Service Support Requirements. Executive Town Car Companies will maintain, during all times when the Executive Town Car Company permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.
- H.** Reporting Requirements. Each Executive Town Car Company shall regularly report the following to the Director:

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1. The name of the driver, the date and time and location of any crash and its claim status that arise out of operating as an Executive Town Car (open or closed) required to be reported to the State of Oregon;
  2. Report the number and type of crimes against drivers to the extent known;
  3. The arrest or conviction for any criminal offense of any affiliated Executive Town Car Driver;
  4. The filing of any lawsuit against or on behalf of the Executive Town Car Company related to the operation of the company and its services in the City of Portland;
  5. The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
  6. Any information required to be disclosed by Chapter 16.40 that comes to the attention of the Executive Town Car Company.
- I.** Data Requirements. Upon request, the Executive Town Car Company shall provide data identified by the Director to verify compliance with requirements pursuant to Chapter 16.40.
- J.** Executive Town Car Company Records Management and Mandatory Compliance.
1. Executive Town Car Companies will be required to keep documentation of all certified Executive Town Car Drivers and Executive Town Car Vehicles. Such records shall be kept on file during the term of the Executive Town Car Company permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, Executive Town Car Company records shall be provided to the Director and/or law enforcement officers.
  2. Executive Town Car Companies shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.
- K.** Failure to comply with any provision in Section 16.40.340 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- 16.40.350 Executive Town Car Vehicle Certification Requirements.**
- A.** Executive Town Car Vehicle Certification. The Executive Town Car Company shall regularly provide a list of applicant vehicles affiliated with the permitted Executive Town Car Company for Director certification that vehicles meet all requirements pursuant to Chapter 16.40 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted Executive



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Town Car Company prior to being used to provide Executive Town Car service on a form approved by the Director. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as an Executive Town Car Vehicle.

- B.** Term of Certified Executive Town Car Vehicle. Certifications for Executive Town Car Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification, or 4 months from the date a seasonal permit is issued pursuant to the Administrative Rule. The Executive Town Car Company shall provide a re-certification to the Director annually prior to the certification expiration and within 1 month of the expiration date on a form approved by the Director.
- C.** Application Process. Applications for Executive Town Car Vehicle certification shall be made directly to an affiliated Executive Town Car Company. The Executive Town Car Company will regularly provide to the Director an Executive Town Car Driver and Vehicle application list, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle shall operate as an Executive Town Car Vehicle, on a form approved by the Director.
- D.** Vehicle Registration, Licensing, and Insurance. All Executive Town Car Vehicles shall maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.
- E.** Vehicle Requirements. Executive Town Car Vehicles shall widely be recognized as luxury vehicles, and no vehicle will be allowed to operate as an Executive Town Car Vehicle following 10 years after the vehicle manufactured date, unless the vehicle meets the requirements described in Section 16.40.935, Vehicle Age Exemption, regardless of when the vehicle was purchased or put into service as an Executive Town Car Vehicle.
- F.** Vehicle Safety Inspections. Each Executive Town Car Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:

  - 1. Is more than 1-year-old, based on model year;
  - 2. Has 10,000 miles or more on its odometer; or
  - 3. Has the “check engine” light illuminated, regardless of model year or mileage.
- G.** Executive Town Car Vehicle Safety Certificate Requirements. Upon successful completion of the vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the Executive Town Car Driver applicant a

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“Safety Certificate” stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician shall be completed on a form approved by the Director.

- H.** Vehicle Condition. Each Executive Town Car Vehicle shall meet the following requirements:
1. Be kept in safe condition and condition;
  2. Be kept clean and in good appearance;
  3. Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
  4. Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for Portland Metro.
  5. Failure to comply with any provision in Subsection H. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- I.** Executive Town Car Vehicle Re-certification. The Executive Town Car Company shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the Executive Town Car Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with Executive Town Car Vehicle certification requirements pursuant to Sections 16.40.310 G. – I. and 16.40.360 for re-certification. Vehicles not meeting all such conditions will not be re-certified as an Executive Town Car Vehicle and shall not be allowed to operate as an Executive Town Car Vehicle.
- J.** Unless otherwise noted, failure to comply with any provision in Section 16.40.350 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.360 Executive Town Car Vehicle Operating Requirements and Prohibitions.**

- A.** No vehicle shall operate as an Executive Town Car Vehicle unless it has been certified by the Director and is affiliated with a permitted Executive Town Car Company and properly displays a valid City of Portland permit.
- B.** Vehicle Registration, Insurance, and Business License. A paper copy of the vehicle’s registration and proof of insurance shall be kept in every Executive Town Car Vehicle, pursuant to ORS 806.011. A copy of the business license is required for every driver operating as an independent contractor. Failure to comply with any

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provision in Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**C. Identification of Executive Town Car Vehicles.** Every Executive Town Car Vehicle shall meet the following identification requirements to operate as an Executive Town Car Vehicle:

1. Upon successful completion of the Executive Town Car Company permit application process and payment of required fees as outlined in Chapter 16.40, the Director will issue a vehicle identification decal bearing the City Seal for each certified Executive Town Car Vehicle.
2. Executive Town Car decals are valid for a period of no more than 12 months from the date of issuance, and all decals expire on the same day as the expiration of the affiliated Executive Town Car Company permit. Fees for decals that are not issued contemporaneously with an Executive Town Car Company permit will be prorated to equal the cost of the number of months remaining until the Executive Town Car Company permit expires.
3. Executive Town Car decals must be affixed to the vehicle's front and back window in a manner outlined by the Administrative Rule.
4. Executive Town Car decals that are intentionally destroyed or damaged by an Executive Town Car Company or Executive Town Car Driver prior to renewal and without the City's authorization are not subject to renewal.
5. Voided Executive Town Car Vehicle decals are not renewable in the year following their voidance. Once an Executive Town Car Vehicle decal is voided, an Executive Town Car Company may not renew that decal and instead must complete the initial application process if the Executive Town Car Company seeks a decal for that Executive Town Car Vehicle.
6. Executive Town Car Vehicle decals issued by the Director shall not be leased, sold, transferred, or assigned in any manner.
7. Executive Town Car Vehicle decals issued by the Director that are not returned to the City within 21 days upon revocation or upon a failure to renew are considered conversion of City property and considered to be an actionable offense in a court of competent jurisdiction.

**D. Vehicle Operating Conditions.** In determining whether an Executive Town Car Vehicle meets the vehicle condition requirements, the vehicle shall at all times be maintained in good condition, repair, and appearance which includes the following:

1. All Executive Town Car Vehicle equipment and devices shall be properly equipped and maintained in good working order;

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2. At all times, Executive Town Car Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals, and interior lights) windshield wipers, windshield washers, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions;
  3. The Executive Town Car Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to windows, lights, light covers, top light, and reflectors;
  4. Executive Town Car Vehicles shall be free of dirt, grease, grime, glue, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body;
  5. The Executive Town Car Vehicle shall include no missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting and may only be equipped with studded tires during time periods allowed by Oregon Law; and
  6. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.
- E.** Mandatory Compliance. Executive Town Car Vehicles shall be made available for compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- F.** Unless otherwise noted, failure to comply with any provision in Section 16.40.360 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.370 Executive Town Car Driver Certification Requirements.**

- A.** Executive Town Car Driver Certification. The Executive Town Car Company shall regularly provide a list of applicant drivers affiliated with the permitted Executive Town Car Company for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director. Drivers shall be certified/permitted by the director prior to operating an Executive Town Car Vehicle. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as an Executive Town Car Driver. Executive Town Car Companies shall provide a current list to the Director as changes occur.

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- B.** Term of Certified Executive Town Car Driver. Certifications for Executive Town Car Drivers provided by an Executive Town Car Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated Executive Town Car Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.
- C.** Application Process. Applications for Executive Town Car Driver certification shall be made directly to an affiliated Executive Town Car Company. The Executive Town Car Company will regularly provide to the Director Executive Town Car Driver and Vehicle application lists, pursuant to certification requirements, that the driver meets all requirements before the driver may operate an Executive Town Car Vehicle, on a form approved by the Director.
- D.** Executive Town Car Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated Executive Town Car Company by a third party accredited by the National Association of Professional Background Screeners that shall include:
1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  2. All motor vehicle records associated with the applicant driver available pursuant to records laws of each state; and
  3. The National Sex Offender Public Registry.
- E.** Executive Town Car Driver Criminal and Driving History Disqualifications. A driver will not be certified as an Executive Town Car Driver and cannot provide Executive Town Car services if any of the following conditions exist:
1. The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  2. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  3. The applicant is a match in the National Sex Offender Public Registry.
  4. During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
    - a. Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or

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- b.** Any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
- 5.** Based on the conviction date during a 3-year period the applicant had more than five traffic violations as defined in ORS 801.557; more than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, more than five of any combination of serious traffic violations or motor vehicle accidents as provided above.
- 6.** Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
- 7.** Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.
- 8.** Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
- 9.** The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification.
- 10.** The applicant is less than 21 years old.
- 11.** The applicant is unable to obtain car insurance for any reason.
- F.** All Executive Town Car Driver criminal and driving histories are subject to review by the Director.
- G.** Executive Town Car Driver Training. The affiliated company must ensure that all Executive Town Car Drivers successfully complete Director-approved trainings within 30 days of Executive Town Car Driver certification by the Director in each of the following subject areas:
  - 1.** Relevant City Code provisions and Administrative Rules;
  - 2.** Vision Zero principles of traffic safety;
  - 3.** Portland-area attractions; and
  - 4.** Customer service.

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- H.** Business License Requirements. All Executive Town Car Drivers operating as independent contractors affiliated with an Executive Town Car Company shall comply with all provisions of the Business License Law as required by Chapter 7.02 prior to operating an Executive Town Car Vehicle. Any Executive Town Car Driver without a valid City of Portland Business License cannot be certified as an Executive Town Car Driver and will not be allowed to operate as an Executive Town Car Driver until such Business License is obtained.
- I.** Executive Town Car Driver Re-certification. The Executive Town Car Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Executive Town Car Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Executive Town Car Driver certification requirements pursuant to Section 16.40.370. Drivers not meeting all such conditions will not be re-certified as an Executive Town Car Driver and shall not be allowed to provide Executive Town Car Services.
- J.** Suspension or Revocation of Certified Executive Town Car Drivers. If an Executive Town Car certification is suspended or revoked by the Director, the affiliated Executive Town Car Company shall be notified and the driver shall be removed as soon as notified by the City. Executive Town Car Drivers without current, valid certification by the Director shall not be allowed to operate as an Executive Town Car Driver.
- K.** Failure to comply with any provision in Section 16.40.370 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.380 Executive Town Car Driver Conduct Requirements and Prohibitions.**

- A.** Transferring Credentials. Transferring Executive Town Car Driver or Executive Town Car Vehicle credentials from one driver or vehicle to another shall be prohibited. Failure to comply with this Subsection A. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.** Executive Town Car Drivers shall carry:
  - 1.** A paper copy of Executive Town Car company insurance pursuant to ORS 806.011 and a copy of the vehicle registration always while operating as an Executive Town Car Driver. Upon request of the Director or law enforcement officer, Executive Town Car Drivers shall present proof of a valid primary automobile insurance policy and vehicle registration;
  - 2.** A City of Portland Business License, when operating as an independent contractor, as required by Chapter 7.02 at all times while operating as an Executive Town Car Driver; and

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3. A valid state issued driver's license while operation as an Executive Town Car Driver;
  4. City of Portland Driver Permit. Drivers must carry a valid, original, City of Portland driver permit at all times while operating an Executive Town Car Vehicle.
  5. Failure to comply with Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C. Driver Conduct. No Executive Town Car Driver shall:**
1. Allow another person to use their Executive Town Car Driver certification;
  2. Drive or allow another person to drive an Executive Town Car Vehicle without a valid driver's license, driver permit, and company while the vehicle is being used to provide Executive Town Car Services;
  3. Operate any Executive Town Car Vehicle while consuming or while under the influence of intoxicants or operate it in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon;
  4. Operate any PFHT vehicle if impaired by any legally prescribed or over-the-counter drugs or medications;
  5. Use a vehicle in the commission of any crime;
  6. Use or broadcast profane or obscene language offensive to the passenger or other persons while operating a PFHT vehicle;
  7. Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating an Executive Town Car Vehicle;
  8. Allow any passenger to consume an intoxicant, smoke any substance, or use any device that produces a smoke-like vapor inside an Executive Town Car Vehicle;
  9. Defraud a passenger in any way;
  10. Be discourteous to a passenger;
  11. Refuse to issue a fully completed receipt, in digital or paper form, for a fare paid if one is requested;



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12. Operate any Executive Town Car Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1);
  13. Refuse to provide Executive Town Car services to any passenger of proper demeanor whose request for service has been accepted by the Executive Town Car company dispatch or reservation service or Executive Town Car Driver from a designated hotel zone; and
  14. Provide PFHT services without a valid City of Portland permit or certification.
- D.** Maximum Hours of Driving. No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period.
- E.** Street-Hails, Taxi Stands, and Hotel Zones.
1. All requests for service shall be received and accepted through the dispatch or online and/or mobile app reservation services.
  2. An Executive Town Car Driver may not accept street-hails received within in the City of Portland, with the exception of designated hotel zones and as approved by the Port of Portland at the Portland International Airport.
  3. Other than for drop off, an Executive Town Car Driver may not park an Executive Town Car Vehicle in a hotel zone prior to 15 minutes before pick up for a dispatch or request for service. The dispatch call/request for service must be documented in accordance with Section 16.40.340 and available for review by the Director or law enforcement officer.
- F.** Mandatory Compliance. Executive Town Car Drivers shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.
- G.** Driver Reporting. Every Executive Town Car Driver shall report any of the following events to the Director and to all affiliated Executive Town Car Companies within 24 hours of its occurrence:
1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
  2. Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;

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3. Any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT by the driver; and
  4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.
- H. Unless otherwise noted, failure to comply with any provision in Section 16.40.380 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.400 Shuttle Services Permits Required.**

The operation of a Shuttle Company is a privilege and not a right. For Shuttle services to be provided in the City of Portland, the Shuttle Company shall be required to obtain a permit. The Bureau shall certify that all affiliated Shuttle Company Vehicles and Shuttle Company Drivers have met all certification and operating requirements.

- A. Shuttle Company Permit Requirements. No person or entity shall conduct business as a Shuttle Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this Subsection A. is a Class A violation subject to penalties provided in Sections 16.40.930 to 16.40.950.
- B. Shuttle Driver Certification Requirements. No person or entity shall conduct business as a Shuttle Driver in the City of Portland without certification by the Director prior to being authorized to provide Shuttle services on behalf of an affiliated Shuttle Company. Drivers not meeting all required conditions will not be certified as Shuttle Driver and will not be allowed to operate as a Shuttle Driver. Failure to comply with this Subsection B. shall be a Class B violation.
- C. Shuttle Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as a Shuttle Vehicle in the City of Portland without certification by the Director prior to being used to provide Shuttle services by an affiliated Shuttle Company. Vehicles not meeting all required conditions will not be certified as Shuttle Vehicle and will not be allowed to operate as a Shuttle Vehicle. Failure to comply with this Subsection C. shall be a Class B violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.410 Shuttle Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

- A. Application. An applicant for a Shuttle Company permit shall submit to the Director:
  1. A completed application on a form supplied by the Director;
  2. Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;

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3. Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
  4. A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates.
  5. If the applicant Shuttle Company is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner;
  6. If the applicant Shuttle Company is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require;
  7. The applicant Shuttle Company’s zero-tolerance drug and non-discrimination policy;
  8. The applicant Shuttle Company’s user terms of service;
  9. The applicant dispatch or passenger reservation contact information;
  10. Contact information of the Shuttle Company’s agent of service and customer service support;
  11. A description and photo or rendering of the unique branding that the applicant Shuttle Company proposes to use for its fleet of affiliated Shuttle Vehicles;
  12. A detailed description of the Shuttle Company’s fixed route and time schedule; and
  13. A nonrefundable application fee.
  14. All fines and penalties must be paid prior to issuing or reissuing a Shuttle Company permit.
- B.** Compliance with Secretary of State’s Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- C.** Insurance. All Shuttle permit holders shall comply with Shuttle insurance requirements pursuant to Section 16.40.430. All Shuttle Companies shall file a

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certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.

- D.** Director Review Process. After receiving a completed Shuttle Company application form and upon successful completion of all the requirements pursuant to Section 16.40.410, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- E.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may be directed to issue a Shuttle Company permit.
- F.** Application Denial. The Application shall be denied for any of the following:
  - 1.** The Shuttle Company applicant fails to submit all required information and documentation, including valid proof of insurance;
  - 2.** The Shuttle Company applicant leases, permits, or otherwise allows other entities not affiliated with the Shuttle Company and certified by the Director to operate Shuttle services;
  - 3.** The application has a material misstatement or omission; or
  - 4.** The Shuttle Company application is incomplete.
- G.** Denial Appeal. If the application is denied, the applicant Shuttle Company may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- H.** Providing Shuttle Services. Shuttle Services shall only be provided by a permitted Shuttle company.
- I.** Certification of Shuttle Drivers. The Shuttle Company shall regularly provide a list of applicant drivers affiliated with the permitted Shuttle for Director certification that drivers meet requirements in Section 16.40.470 on a form approved by the Director. Drivers shall be certified and permitted by the Director prior to providing Shuttle services on behalf of the affiliated Shuttle Company, and Shuttle Drivers not meeting all required conditions will not be certified as permitted Shuttle Drivers and will not be allowed to operate as Shuttle Drivers. Such requirements include:
  - 1.** Criminal and driver background checks;
  - 2.** Valid driver's license; and
  - 3.** Bureau-approved driver training within 30 calendar days of a Shuttle Driver's certification by the Director.

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4. Certification processes that are not completed within 30 calendar days are considered void, and the certification process will need to be reinitiated.
- J. Shuttle Driver Re-certification. The Shuttle Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Shuttle Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Shuttle Driver certification requirements pursuant to Section 16.40.470. Drivers not meeting all such conditions will not be re-certified as a Shuttle Driver and shall not be allowed to operate as a Shuttle Driver.
- K. Certification of Shuttle Vehicles. The Shuttle Company shall regularly provide a list of applicant vehicles affiliated with the permitted Shuttle Company for Director certification that vehicles meet requirements pursuant to Section 16.40.450 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted Shuttle Company prior to providing Shuttle services. Vehicles not meeting all required conditions will not be certified as a permitted Shuttle Vehicle and will not be allowed to operate as a Shuttle Vehicle. Such requirements include:
  1. Vehicle ASE safety inspection;
  2. Vehicle registration and licensing;
  3. Vehicle properly equipped and in good condition;
  4. Shuttle Company general and motor vehicle liability insurance, and;
  5. Automobile liability insurance, as required by state law.
- L. Term of Certification of Shuttle Vehicles. Certifications for Shuttle Vehicles provided by the Director shall be valid for a term of 1 year from the date of Director certification.
- M. Denial Appeal. If a Shuttle Driver or Shuttle Vehicle certification is denied, suspended, or revoked by the Director, the applicant driver may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- N. Right to a Permit. The Shuttle Company's ability to satisfy the criteria for a Shuttle Company permit does not create a right to a Shuttle Company permit.
- O. Transferring Permits. Transferring permits shall be prohibited. The Company must notify the City in the event that all or part of the business ownership and/or assets are transferred to another party within 5 business days.

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- P.** Removal of Shuttle Drivers and Vehicles from the Affiliated Shuttle Company. Shuttle Companies shall provide to the Director notification of affiliated Shuttle Drivers that have been prohibited from providing Shuttle services by the affiliated Shuttle Company and Shuttle Vehicles that have been removed from the fleet of the affiliated Shuttle Company as changes occur.
- Q.** Operating at the Port of Portland. Shuttle Companies, Drivers, and Vehicles are prohibited from operating at the Portland International Airport without a City of Portland permit/certification and specific permission or approval from the Port of Portland.
- R.** Failure to comply with any provision in Section 16.40.410 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

#### **16.40.420 Shuttle Services Permit Fees.**

- A.** Permit Fees. Shuttle Companies shall pay permit fees and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** Permit Issuance. No Shuttle Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.

#### **16.40.430 Shuttle Company Insurance Requirements.**

- A.** In order to provide protection to the public, the Shuttle Company shall provide levels of insurance in accordance pursuant to all requirements of Chapter 16.40.
- B.** Providing Shuttle Services. The Shuttle Vehicle shall be covered by a general commercial liability and primary automobile insurance policy secured by the Shuttle Company, the Shuttle Driver, or a combination of both. Evidence of insurance requirements shall be received and approved by the City prior to a Shuttle Company receiving a Shuttle Company permit.
- C.** Additional Named Insured and Notification of Policy Changes. The Shuttle Company shall provide certificates of insurance naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation and employer's liability insurance (as required by state law).
- D.** Ensuring Driver and Vehicle Insurance. Shuttle Companies shall be responsible for ensuring the Shuttle Driver and Shuttle Vehicle have appropriate insurance coverage as required by state law.

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- E.** Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.
- F.** Commercial Business Insurance. Shuttle Company permit holders shall secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT permit.
- G.** Automobile Insurance. All Shuttle Company permit holders shall provide the City with a copy of a valid Commercial Auto Liability policy with the following coverage:

  - 1.** Combined single limit of not less than \$500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a PFHT vehicle.
- H.** Certification of Auto Insurance. Shuttle Companies shall provide proof of current, valid insurance for Director certification that all affiliated Shuttle Drivers and Vehicles operating for such company and satisfying the minimum requirements in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.
- I.** Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
- J.** Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.
- K.** Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
- L.** Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better.
- M.** Additional Policy Conditions: Policies required under Sections 16.40.430 must also contain, include, provide for, or comply with the following:

  - 1.** Independent contractors/owner-operators. If an independent contractor/owner-operator relationship exists with a permit holder, and the

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independent contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverage and limits and conditions as outlined in Section 16.40.430. The same certificate of liability and additional insured endorsement requirements will apply.

2. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions, and obligations meet the same or higher requirements as found in Section 16.40.430, and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage shall be approved by the City Attorney's Office before such alternative insurance may become effective.

- N. Failure to comply with any provision in Section 16.40.430 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

#### **16.40.440 Shuttle Company Operating Responsibilities and Prohibitions.**

- A. A permitted Shuttle Company shall adhere to the fixed route and time schedule approved by the Director. Changes to the Shuttle Company's fixed route and time schedule shall be submitted and approved by the Director prior to implementation of a revised fixed route and time schedule.
- B. Shuttle Companies shall accept all requests for Shuttle Service received from any location within the City, including requests made by persons with disabilities and requests for wheelchair-accessible service pursuant to Section 16.40.490.
- C. Drug, Alcohol and Discrimination Policy.
  1. Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted Companies shall employ at all times a zero tolerance policy for intoxicants.
  2. Zero Tolerance for Discrimination. All permitted Companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.
- D. User Terms of Service. It must be stated within a disclaimer or limitation of liability in a Shuttle Company's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect in the City of



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Portland, and that any tort claim against a company shall be governed by Oregon tort law in effect at the time of the claim.

- E.** Fare Rate Transparency. Shuttle fare rates shall be established by the Shuttle Company, reported to the Director, and made available in a clear and transparent way to the passenger prior to the passenger accepting a ride.
- F.** Receipts. All Shuttle passengers shall be provided either a paper or digital receipt for services at the termination of the ride that clearly indicates the fare paid, time of ride, name of Shuttle Company, Shuttle Driver, Shuttle Company customer service support contact information, and the City of Portland's PFHT complaint phone number.
- G.** Agent of Service Requirements. Shuttle Companies will maintain, during all times when the Shuttle Company Permit is valid, a locally based agent of service, with regular hours of business during weekdays.
- H.** Customer Service Support Requirements. Shuttle Companies will maintain, during all times when the Shuttle Company permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.
- I.** Reporting Requirements. Each Shuttle Company shall regularly report the following to the Director:
  - 1.** The name of the driver, the date and time and location of any crash, and the claim status that arises out of operating as a shuttle (open or closed) required to be reported to the State of Oregon;
  - 2.** The number and type of crimes against drivers to the extent known;
  - 3.** The arrest or conviction for any criminal offense of any affiliated Shuttle Driver;
  - 4.** The filing of any lawsuit against or on behalf of the Shuttle Company related to the operation of the company and its services in the City of Portland;
  - 5.** The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
  - 6.** Any information required to be disclosed by Chapter 16.40 that comes to the attention of the Shuttle Company.
  - 7.** Upon request, the Shuttle Company shall provide data identified by the Director to verify compliance with requirements pursuant to Chapter 16.40.

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#### **J. Shuttle Company Records Management and Mandatory Compliance.**

- 1.** Shuttle Companies will be required to keep documentation of all certified Shuttle Drivers and Shuttle Vehicles. Such records shall be kept on file during the term of the Shuttle Company Permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, Shuttle Company records shall be provided to the Director and/or law enforcement officers.
- 2.** Shuttle Companies shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.

#### **K. Failure to comply with any provision in Section 16.40.440 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.**

#### **16.40.450 Shuttle Vehicle Certification Requirements.**

- A.** Shuttle Vehicle Certification. The Shuttle Company shall regularly provide a list of applicant vehicles affiliated with the permitted Shuttle Company for Director certification that vehicles meet all requirements pursuant to Chapter 16.40 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted Shuttle Company prior to being used to provide Shuttle service on a form approved by the Director. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as a Shuttle Vehicle.
- B.** Term of Certified Shuttle Vehicle. Certifications for Shuttle Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification. The Shuttle Company shall provide a re-certification to the Director annually prior to the certification expiration and within 1 month of the expiration date on a form approved by the Director.
- C.** Application Process. Applications for Shuttle Vehicle certification shall be made directly to an affiliated Shuttle Company. The Shuttle Company will regularly provide to the Director a Shuttle Driver and Vehicle application list, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle shall operate as a Shuttle Vehicle on a form approved by the Director.
- D.** Vehicle Registration, Licensing, and Insurance. All Shuttle Vehicles shall maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.

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- E.** Vehicle Requirements. No vehicle will be allowed to operate as a Shuttle Vehicle following 10 years after the vehicle manufactured date, regardless of when the vehicle was purchased or put into service as a Shuttle Vehicle.
1. “Large Airporter Shuttles” as defined in Subsection 16.40.030 UU. are eligible for the Vehicle Age Exemption and are subject to the requirements of Section 16.40.935
- F.** Vehicle Safety Inspections. Each Shuttle Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:
1. Is more than 1-year-old, based on model year;
  2. Has 10,000 miles or more on its odometer; or
  3. Has the “check engine” light illuminated, regardless of model year or mileage.
- G.** Shuttle Vehicle Safety Certificate Requirements. Upon successful completion of the vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the Shuttle Driver applicant a “Safety Certificate” stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician certified in any of the areas of ASE A4-A8 shall be completed on a form approved by the Director.
- H.** Vehicle Condition. Each Shuttle Vehicle shall meet the following requirements:
1. Be kept in safe condition;
  2. Be kept clean and in good appearance;
  3. Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
  4. Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for Portland Metro.
  5. Failure to comply with any provision in this Subsection H. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

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- I.** Shuttle Vehicle Re-certification. The Shuttle Company shall provide a list of applicant vehicles for re-certification to the Director 1 month prior to the Shuttle Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with Shuttle Vehicle certification requirements pursuant to Sections 16.40.410 and 16.40.460 for re-certification. Vehicles not meeting all such conditions will not be re-certified as a Shuttle Vehicle and shall not be allowed to operate as a Shuttle Vehicle.
- J.** Unless otherwise noted, failure to comply with any provision in Section 16.40.450 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.460 Shuttle Vehicle Operating Requirements and Prohibitions.**

- A.** No vehicle shall operate as a Shuttle Vehicle unless it has been certified by the Director and is affiliated with a permitted Shuttle Company and properly displays a valid City of Portland permit.
- B.** Vehicle Registration, Insurance, and Business License. A paper copy of the vehicle's registration and proof of insurance shall be kept in every Shuttle Vehicle, pursuant to ORS 806.011. A copy of the business license is required for every driver operation as an independent contractor.
  - 1.** Failure to comply with any provision in this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Identification of Shuttle Vehicles. Every Shuttle Vehicle shall meet the following identification requirements to operate as a Shuttle Vehicle:
  - 1.** Every Shuttle Vehicle must prominently display on both sides of the vehicle the following information:
    - a.** The full name of the Shuttle Company;
    - b.** The company-assigned Shuttle Vehicle number;
    - c.** The telephone number of that Shuttle Company where services can be requested; and
    - d.** The word "shuttle."
  - 2.** Upon successful completion of the Shuttle Vehicle permit application process and payment of required fees as outlined in Chapter 16.40, the Director will issue a vehicle identification decal bearing the City Seal for each certified Shuttle Vehicle.

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3. Shuttle decals are valid for a period of no more than 12 months from the date of issuance, and all decals expire on the same day as the expiration of the affiliated Shuttle Company permit. Fees for decals that are not issued contemporaneously with a Shuttle Company permit will be prorated to equal the cost of the number of months remaining until the Shuttle Company permit expires.
  4. Shuttle decals must be affixed to the vehicle's front and back window in a manner outlined by the Administrative Rule.
  5. Shuttle decals that are intentionally destroyed or damaged by a Shuttle Company or Shuttle Driver prior to renewal and without the City's authorization are not subject to renewal.
  6. Voided Shuttle Vehicle decals are not renewable in the year following their voidance. Once a Shuttle Vehicle decal is voided, a Shuttle Company may not renew that decal and instead must complete the initial application process if the Shuttle Company seeks a decal for that Shuttle Vehicle.
  7. Shuttle Vehicle decals issued by the Director shall not be leased, sold, transferred, or assigned in any manner.
  8. Shuttle Vehicle decals issued by the Director that are not returned to the City within 21 days upon revocation or upon a failure to renew are considered conversion of City property and an actionable offense in a court of competent jurisdiction.
- D. Vehicle Operating Conditions.** In determining whether a Shuttle Vehicle meets the vehicle condition requirements, the vehicle shall at all times be maintained in good condition, repair, and appearance which includes the following:
1. All Shuttle Vehicle equipment and devices shall be properly equipped and maintained in good working order.
  2. At all times, Shuttle Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals, and interior lights) windshield wipers, windshield washers, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions.
  3. The Shuttle Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, top light, and reflectors.

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4. Shuttle Vehicles shall be free of dirt, grease, grime, glue, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body.
  5. The Shuttle Vehicle shall not include missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting and may be equipped with studded tires only during time periods allowed by Oregon Law.
  6. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.
- E. Mandatory Compliance. Shuttle Vehicles shall be made available for compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- F. Unless otherwise noted, failure to comply with any provision in Section 16.40.460 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.470 Shuttle Driver Certification Requirements.**

- A. Shuttle Driver Certification. The Shuttle Company shall regularly provide a list of applicant drivers affiliated with the permitted Shuttle Company for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director. Drivers shall be certified/permitted by the director prior to operating a Shuttle Vehicle. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as a Shuttle Driver. Shuttle companies shall provide a current list to the Director as changes occur.
- B. Term of Certified Shuttle Driver. Certifications for Shuttle Drivers provided by a Shuttle Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated Shuttle Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.
- C. Application Process. Applications for Shuttle Driver certification shall be made directly to an affiliated Shuttle Company. The Shuttle Company will regularly provide to the Director Shuttle Driver and Vehicle application lists, pursuant to certification requirements, that the driver meets all requirements before the driver may operate as a Shuttle Driver, on a form approved by the Director.

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- D.** Shuttle Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated Shuttle Company by a third party accredited by the National Association of Professional Background Screeners that shall include:
1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  2. All motor vehicle records associated with the applicant driver available pursuant to records laws of each state; and
  3. The National Sex Offender Public Registry.
- E.** Shuttle Driver Criminal and Driving History Disqualifications. A driver will not be certified as a Shuttle Driver and cannot provide Shuttle services if any of the following conditions exist:
1. The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  2. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  3. The applicant is a match in the National Sex Offender Public Registry.
  4. During the 5 year period, based on the conviction date, the applicant has been convicted of any criminal offense involving:
    - a. Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
    - b. Any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
  5. Based on the conviction date during a 3-year period, the applicant had greater than five traffic violations as defined in ORS 801.557; greater than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or greater than five of any combination of serious traffic violations or motor vehicle accidents as provided above.

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6. Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  7. Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.
  8. Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
  9. The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification.
  10. The applicant is less than 21 years old.
  11. The applicant is unable to obtain car insurance for any reason.
- F.** All Shuttle Driver criminal and driving histories are subject to review by the Director.
- G.** Shuttle Driver Training. The affiliated company must ensure that all Shuttle Drivers successfully complete Director-approved trainings within 30 days of Shuttle Driver certification by the Director in each of the following subject areas:
1. Relevant City Code provisions and Administrative Rules;
  2. Vision Zero principles of traffic safety;
  3. Portland-area attractions; and
  4. Customer service.
- H.** Business License Requirements. All Shuttle Drivers operating as independent contractors affiliated with a Shuttle Company shall comply with all provisions of the Business License Law, Chapter 7.02 prior to operating a Shuttle Vehicle. Any Shuttle Drivers operating as independent contractors without a valid City of Portland Business License cannot be certified as a Shuttle Driver and will not be allowed to operate as a Shuttle Driver until such business license is obtained.
- I.** Shuttle Driver Re-certification. The Shuttle Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Shuttle Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Shuttle Driver certification requirements pursuant to Section 16.40.470. Drivers not meeting all



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such conditions will not be re-certified as a Shuttle Driver and shall not be allowed to provide Shuttle services.

- J.** Suspension or Revocation of Certified Shuttle Drivers. If a Shuttle certification is suspended or revoked by the Director, the affiliated Shuttle Company shall be notified, and the driver shall be removed as soon as notified by the City. Shuttle Drivers without current, valid certification by the Director shall not be allowed to operate as a Shuttle Driver.
- K.** Failure to comply with any provision in Section 16.40.470 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.480 Shuttle Driver Conduct Requirements and Prohibitions.**

- A.** Transferring Credentials. Transferring Shuttle Driver or Shuttle Vehicle credentials from one driver or vehicle to another shall be prohibited.
  - 1.** Failure to comply with this Subsection A. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.** Shuttle Drivers shall carry:
  - 1.** A paper copy of company insurance pursuant to ORS 806.011 and a copy of the vehicle registration at all times while operating as a Shuttle Driver. Upon request of the Director or law enforcement officer, Shuttle Drivers shall present proof of a valid Shuttle primary automobile insurance policy and vehicle registration.
  - 2.** A paper copy of the driver's City of Portland Business License, when operating as an independent contractor, as required by Chapter 7.02 at all times while operating as a Shuttle Driver.
  - 3.** A valid state issued driver's license while operating as a Shuttle Driver.
  - 4.** A City of Portland driver permit. Drivers must carry a valid, original City of Portland driver permit at all times while operating a shuttle vehicle.
  - 5.** Failure to comply with this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Driver Conduct. No Shuttle Driver shall:
  - 1.** Allow another person to use their Shuttle Driver certification.

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2. Drive or allow another person to drive a Shuttle Vehicle without a valid driver's license, driver permit, and company certification while the vehicle is being used to provide Shuttle services.
  3. Operate any Shuttle Vehicle while consuming, or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon.
  4. Operate any PFHT vehicle if impaired by any legally prescribed or over-the-counter drugs or medications.
  5. Use a vehicle in the commission of any crime.
  6. Use or broadcast profane or obscene language offensive to the passenger or other persons while operating a PFHT vehicle.
  7. Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating a Shuttle Vehicle.
  8. Allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke like vapor, inside a Shuttle Vehicle.
  9. Defraud a passenger in any way.
  10. Be discourteous to a passenger.
  11. Refuse to issue a fully completed receipt, in digital or paper form, for a fare paid if one is requested.
  12. Drive Shuttle Vehicles on a route or time schedule other than the route and time schedule of the Shuttle Company, as approved by the Director.
  13. Operate any Shuttle Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1).
  14. Refuse Shuttle services to any passenger of proper demeanor whose request for service has been accepted by the Shuttle Company or Shuttle Driver along the fixed route and time schedule of the Shuttle Company, as approved by the Director.
  15. Provide PFHT services without a valid City of Portland permit or certification.
- D.** Maximum hours of driving. No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period.

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**E. Street-Hails, Taxi Stands, and Hotel Zones.**

1. A Shuttle Driver may accept street-hails, including from hotel zones, received along the approved route of the Shuttle Company as approved by the Director.
2. Other than for drop off along the Shuttle Company's approved route and time schedule, a Shuttle Driver may not park a Shuttle Vehicle in a hotel zone prior to 15 minutes before pick up for a dispatch or request for service. The dispatch call/request for service must be documented in accordance with Subsection 16.40.920 D. and available for review by the Director or law enforcement officer.

**F. Mandatory Compliance.** Shuttle Drivers shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel or law enforcement officers pursuant to Chapter 16.40.

**G. Driver Reporting.** Every Shuttle Driver shall report any of the following events to the Director and to all affiliated Shuttle Companies within 24 hours of its occurrence:

1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
2. Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;
3. The name of the driver, the date and time and location of any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT by the driver; and
4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.

**H.** Unless otherwise noted, failure to comply with any provision in Section 16.40.480 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.490 Shuttle Company Accessible Service Requirements.**

Shuttle Companies shall provide reasonable accommodations to passengers with disabilities, including to passengers accompanied by a service animal, passengers with hearing and visual impairments and passengers with mobility devices.

**A.** Accommodations to passengers accompanied by a service animal.

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1. Requests for service from a passenger accompanied by a service animal may not be refused.
- B.** Accommodations to passengers with hearing and visual impairments.
1. Shuttle Companies shall maintain at all times mobile apps or online dispatch services available to customers in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.
  2. Shuttle Companies shall maintain dispatch services available to customers pursuant to Subsection 16.40.440 H. in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.
- C.** Accommodations to passengers with mobility devices.
1. Shuttle Companies shall reasonably accommodate passengers with canes, walkers, or other mobility devices that can readily fit within a non-wheelchair-accessible Shuttle Vehicle.
  2. Shuttle Companies shall maintain at all times mobile apps or online dispatch services available to customers that accept requests for a wheelchair-accessible vehicle (WAV).
  3. Shuttle Companies are required to provide WAV service within a reasonable time by maintaining a fleet of affiliated wheelchair-accessible Shuttle Vehicles, contracting with a permitted operator of wheelchair-accessible PFHT vehicles, or a combination thereof. It is a rebuttable presumption that any time beyond 30 minutes of the established time schedule is unreasonable.
  4. Fare rates for WAVs shall not exceed fare rates for commensurate non-wheelchair-accessible Shuttle Vehicles, be reported to the Director, and shall not be subject to dynamic pricing.
  5. WAV services must comply with WAV Service Performance Guidelines as established by the PFHT Advisory Committee in consultation with the Portland Commission on Disability. Service performance guidelines may include best practices pertaining to the following:
    - a. Vehicle specifications;
    - b. Wheelchair loading and securement;
    - c. Customer service and communication with customers;

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- d. Driver training; and
        - e. Estimated wait times.
  - 6. Any permitted Shuttle shall enter into an agreement with the City to regularly provide anonymized data relevant to WAV service. Examples of relevant data may include, but not limited to, the following:
    - a. Number, date, and time of fulfilled WAV trips;
    - b. Number, date, and time of WAV trips declined by the driver or the company;
    - c. WAV trip origin Zip code;
    - d. WAV trip destination Zip code; and
    - e. WAV trip wait time.
  - 7. The Director may implement an Accessible Transportation Fee and establish an Accessible Transportation Fund for the purpose of meeting all objectives established in Administrative Rule for Accessible Service.
    - a. The Accessible Transportation Fee rate shall be established by the PFHT Advisory Committee in consultation with the Portland Commission on Disability for the purpose of funding the Accessible Transportation Fund.
    - b. The Accessible Transportation Fund shall be managed by the Director for the purposes of providing an incentive for PFHT WAV service in keeping with WAV Service Performance Guidelines and mitigating the higher costs of providing WAV service compared to commensurate non-WAV service. A detailed report on the status and performance of the Accessible Transportation Fund and citywide WAV service provided by all permitted PFHT operators shall be presented to the PFHT Advisory Committee annually. Details regarding the Accessible Service Fund are outlined in Administrative Rule, TRN-14.29.
- D. Failure to comply with any provision in Section 16.40.490 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.500 Pedicab and Quadricycle Services Permits Required.**

The operation of a Pedicab or Quadricycle Company is a privilege and not a right. For Pedicab or Quadricycle services to be provided in the City of Portland, the Pedicab or Quadricycle Company shall be required to obtain a permit. The Bureau shall certify that

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all affiliated Pedicab Vehicles and Pedicab and Quadricycle Company Drivers have met all certification and operating requirements.

- A.** No permit issued pursuant to this chapter is required of a person who is operating a Pedicab or Quadricycle as an entry in a parade or otherwise permitted special event, where the Pedicab or Quadricycle entry is specifically noted and approved in said special event permit, and where the Pedicab or Quadricycle rides are not being offered on-demand or by reservation to members of the general public. In the case a Pedicab or Quadricycle is being used during a special event, the City shall be provided with the following:

  - 1.** Copy of the event and or parade permit, and
  - 2.** A description defining the role of the Pedicab or Quadricycle during the parade.
  - 3.** Failure to comply with this Subsection A. shall be a Class C violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.
- B.** Pedicab and Quadricycle Company Permit Requirements. No person or entity shall conduct business as a Pedicab or Quadricycle Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this Subsection B. shall be a Class A violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Pedicab and Quadricycle Driver Certification Requirements. No person or entity shall conduct business as a Pedicab or Quadricycle Driver in the City of Portland without certification by the Director prior to being authorized to provide Pedicab or Quadricycle Services on behalf of an affiliated Pedicab and Quadricycle Company. Drivers not meeting all required conditions will not be certified as Pedicab or Quadricycle Driver and will not be allowed to operate as a Pedicab or Quadricycle Driver. Failure to comply with this Subsection C. shall be a Class B violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.
- D.** Pedicab and Quadricycle Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as a Pedicab or Quadricycle Vehicle in the City of Portland without certification by the Director prior to being used to provide Pedicab or Quadricycle services by an affiliated Pedicab or Quadricycle Company. Vehicles not meeting all required conditions will not be certified as Pedicab and Quadricycle Vehicle and will not be allowed to operate as a Pedicab Vehicle. Failure to comply with this Subsection D. shall be a Class B violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.510      Pedicab and Quadricycle Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

- A.**      Application. An applicant for a Pedicab or Quadricycle Company permit shall submit to the Director:
- 1.**      A completed application on a form supplied by the Director.
  - 2.**      Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity.
  - 3.**      Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such.
  - 4.**      A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates.
  - 5.**      If the applicant Pedicab or Quadricycle Company is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner.
  - 6.**      If the applicant Pedicab or Quadricycle Company is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require.
  - 7.**      The applicant Pedicab or Quadricycle Company’s zero-tolerance drug and non-discrimination policy.
  - 8.**      The applicant Pedicab or Quadricycle Company contact information.
  - 9.**      A nonrefundable application fee.
- B.**      Compliance with Secretary of State’s Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- C.**      Insurance. All Pedicab and Quadricycle Company permit holders shall comply with Pedicab and Quadricycle insurance requirements pursuant to Section 16.40.530. All Pedicab and Quadricycle Companies shall file a certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.

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- D.** Director's Review Process. After receiving a completed Pedicab or Quadricycle Company application form and upon successful completion of all the requirements pursuant to Section 16.40.510, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- E.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may be directed to issue a Pedicab or Quadricycle Company permit.
- F.** Application Denial. The Application shall be denied for any of the following:

  - 1.** The Pedicab or Quadricycle Company applicant fails to submit all required information and documentation, including valid proof of insurance.
  - 2.** The Pedicab or Quadricycle Company applicant provides dispatch services or the use of a Pedicab or Quadricycle to anyone other than affiliated Pedicab and Quadricycle Drivers meeting the requirements set forth in Chapter 16.40 without prior approval by the Director.
  - 3.** The Pedicab or Quadricycle Company applicant leases, permits, or otherwise allows other entities not affiliated with the Pedicab or Quadricycle Company and certified by the Director to operate Pedicab or Quadricycle services.
  - 4.** The application has a material misstatement or omission.
  - 5.** The Pedicab Company application is incomplete.
- G.** Denial Appeal. If the application is denied, the applicant Pedicab or Quadricycle Company may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- H.** Providing Pedicab and Quadricycle Services. Pedicab and Quadricycle Services shall be provided only by a permitted Pedicab Company.
- I.** Certification of Pedicab and Quadricycle Drivers. The Pedicab or Quadricycle Company shall regularly provide a list of applicant Pedicab or Quadricycle Drivers affiliated with the permitted Pedicab or Quadricycle Company for Director certification that drivers meet requirements in Sections 16.40.540 and 16.40.560. All Pedicab and Quadricycle Drivers shall be certified and permitted by the Director prior to providing Pedicab or Quadricycle services on behalf of an affiliated Pedicab or Quadricycle Company, and drivers not meeting all required conditions will not be certified as a permitted Pedicab or Quadricycle Driver and will not be allowed to operate as a Pedicab Driver. Such requirements include:

  - 1.** Criminal and driver background checks;



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2. A valid driver's license for Quadricycle drivers or a driver's license or government-issued photo identification for Pedicab drivers; and
  3. Pedicab Driver or Quadricycle business license number when operating as an independent contractor.
  4. Certification processes that are not completed within 30 calendar days are considered void, and the certification process will need to be reinitiated.
- J.** Pedicab and Quadricycle Driver Re-certification. The Pedicab or Quadricycle Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the Pedicab or Quadricycle Driver certification expiration. Applicant drivers shall meet all conditions and be consistent with Pedicab and Quadricycle Driver certification requirements pursuant to Sections 16.40.540 and 16.40.560. Drivers not meeting all such conditions will not be re-certified as a Pedicab or Quadricycle Driver and shall not be allowed to operate as a Pedicab or Quadricycle Driver.
- K.** Certification of Pedicab and Quadricycle Vehicles. The Pedicab or Quadricycle Company shall regularly provide a list of applicant vehicles affiliated with the permitted Pedicab or Quadricycle Company for Director certification that vehicles meet requirements pursuant to Section 16.40.510 Pedicab or Quadricycle Vehicles shall be certified by the Director and affiliated with a permitted Pedicab or Quadricycle Company prior to being used to provide Pedicab or Quadricycle services. Vehicles not meeting all required conditions will not be certified as a permitted Pedicab or Quadricycle Vehicle and will not be allowed to operate as a Pedicab or Quadricycle Vehicle. Such requirements include:
1. Vehicle safety and condition, and
  2. Pedicab or Quadricycle Company general liability insurance.
- L.** Term of Certification of Pedicab Vehicles. Certifications for Pedicab Vehicles provided by the Director shall be valid for a term of 1 year from date of certification.
- M.** Pedicab and Quadricycle Vehicle Re-certification. The Pedicab or Quadricycle Company shall provide a list of applicant vehicles for re-certification to the within 1 month prior to the Pedicab or Quadricycle Vehicle certification expiration. Applicant vehicles shall meet all conditions and be consistent with Pedicab or Quadricycle Vehicle certification requirements pursuant to Subsections 16.40.510 D. – E. for re-certification. Vehicles not meeting all such conditions will not be re-certified as a Pedicab or Quadricycle Vehicle and shall not be allowed to operate.
- N.** Denial Appeal. If a Pedicab or Quadricycle Driver or Pedicab or Quadricycle Vehicle certification is denied, suspended, or revoked by the Director, the applicant

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driver may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.

- O.** Right to a Permit. The Pedicab or Quadricycle Company's ability to satisfy the criteria for a Pedicab or Quadricycle Company permit does not create a right to a Pedicab or Quadricycle Company permit.
- P.** Transferring Permits. Transferring permits shall be prohibited. The Company must notify the City in the event that all or part of the business ownership and/or assets are transferred to another party within 5 business days.
- Q.** Removal of Pedicab and Quadricycle Drivers and Pedicab and Quadricycle Vehicles from the Affiliated Pedicab or Quadricycle Company. Pedicab and Quadricycle Companies shall provide to the Director notification of affiliated Pedicab and Quadricycle Drivers that have been prohibited from providing Pedicab or Quadricycle services by the affiliated Pedicab or Quadricycle Company and Pedicab or Quadricycle Vehicles that have been removed from the fleet of the affiliated Pedicab or Quadricycle Company as changes occur.
- R.** Operating at the Port of Portland. Pedicab and Quadricycle Companies, Drivers, and Vehicles are prohibited from operating at the Portland International Airport without a City of Portland permit/certification and specific permission or approval from the Port of Portland.
- S.** Failure to comply with any provision in Section 16.40.510 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

#### **16.40.520 Pedicab and Quadricycle Services Permit Fees.**

- A.** Permit Fees. Pedicab and Quadricycle Companies shall pay permit fees and civil penalty fines consistent with Sections 16.40.930 and 16.40.950.
- B.** Permit Issuance. No Pedicab or Quadricycle Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.

#### **16.40.530 Pedicab and Quadricycle Insurance Requirements.**

- A.** Coverages and Limits. All Pedicab and Quadricycle Transportation Company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:
  - 1.** Commercial Business Insurance. Company permit holders must secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT permit.

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2. Worker's Compensation and Employers' Liability Insurance. The company permit holder must secure and maintain a worker's compensation and employer liability policy where required by state law.
- B.** Additional Policy Conditions. Policies required under Subsection 16.40.530 must also contain, include, provide for, or comply with the following:
1. The commercial general liability coverage must name the City and its officers, agents, and employees as additional insureds as respects to claims, in the course of the permit holder's work as a PFHT company, covered by such policies;
  2. Policy coverages must be primary and non-contributory, and any insurance coverage maintained by the City must be considered excess;
  3. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
  4. The insurance policy must allow for written notice to the Director 30 days before any policy is canceled;
  5. The insurance policy must allow for 30 days' written notice to the Director before a policy will expire or be reduced in coverage;
  6. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better; and
  7. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.
- C.** Permit Holder's Insurance Obligations. All Pedicab and Quadricycle Company permit holders must comply with the following obligations with respect to insurance reporting, updating, and filing:
1. The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
  2. The permit holder must file a certificate of liability with the Director that evidences insurance coverage and terms that are in compliance with the requirements of this section. The certificate of liability must be on a standard ACORD form or its equivalent.

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3. The permit holder must file with the Director a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents, and employees as additional insureds.
- D.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and obligations meet the same or higher requirements as found in Section 16.40.530 (and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.
- E.** Failure to comply with any provisions in Section 16.40.530 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

**16.40.540 Pedicab Operating Responsibilities and Prohibitions.**

A permitted Pedicab and Quadricycle Company shall comply with the following.

- A.** Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted Pedicab and Quadricycle companies shall have at all times a zero-tolerance policy for intoxicants, and adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination on the basis of a person’s race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state or federal law, This policy shall be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.
- B.** User Terms of Service. It must be stated within a disclaimer or limitation of liability in a Pedicab and Quadricycle Company’s user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Portland, and that any tort claim against a Pedicab or Quadricycle Company shall be governed by Oregon tort law in effect at the time of the claim.
- C.** Fare Rate Transparency. All Pedicab and Quadricycle fare rates shall be established by the Pedicab and Quadricycle Companies, reported to the Director, and made available in a clear and transparent way to the passenger prior to the passenger accepting a ride.
- D.** Receipts. When providing PFHT services, Pedicab and Quadricycle must display the words “RECEIPTS AVAILABLE UPON REQUEST” in a location visible to all passengers. All Pedicab and Quadricycle passengers shall be provided, upon request, either a paper or digital receipt for services at the termination of the ride that clearly indicates the fare paid, time of ride, name of Pedicab or Quadricycle Company, Pedicab or Quadricycle Driver, Pedicab or Quadricycle Company contact information, and the City of Portland’s PFHT complaint phone number.

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Upon request, paper receipts must be produced on a carbon copy-type receipt book, and each receipt must be identified with an individual unique receipt number. The carbon copy portion of the receipt must be stored at the Pedicab or Quadricycle Company office for at least 12 months. Carbon copy portion of the receipts must be made available for audits upon request.

- E.**     Limitation or Prohibition on Dynamic Pricing. The Bureau Director may limit or prohibit dynamic pricing by any Pedicab or Quadricycle Company and Pedicab or Quadricycle Drivers during a State of Emergency, as declared by the Mayor, pursuant to Portland City Code Section 15.04.040.
- F.**     Reporting Requirements. Each Pedicab and Quadricycle Company shall regularly report the following to the Director:

  - 1.     The name of the driver, the date and time of any crash, and its claim status that arises out of operating as a Pedicab or Quadricycle (open or closed) as required to be reported to the State of Oregon;
  - 2.     The number and type of crimes against drivers to the extent known;
  - 3.     The arrest or conviction for any criminal offense of any affiliated Pedicab or Quadricycle;
  - 4.     The filing of any lawsuit against or on behalf of the Pedicab or Quadricycle Company related to the operation of the company and its services in the City of Portland;
  - 5.     The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
  - 6.     Any information required to be disclosed by Chapter 16.40 that comes to the attention of the Pedicab or Quadricycle Company.
- G.**     Pedicab and Quadricycle Company Records Management and Mandatory Compliance.

  - 1.     Pedicab and Quadricycle Companies will be required to keep documentation of all certified Pedicab and Quadricycle Drivers and all Pedicab and Quadricycle Vehicles. Such records shall be kept on file during the term of the Pedicab or Quadricycle Company Permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, Pedicab or Quadricycle Company records shall be provided to the Director and/or law enforcement officers.

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2. Pedicab and Quadricycle Companies shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.

#### **16.40.550 Pedicab and Quadricycle Vehicle Certification and Operating Requirements.**

- A. Pedicab and Quadricycle Vehicle Certification. The Pedicab or Quadricycle Company shall regularly provide a list of applicant vehicles affiliated with the permitted Pedicab or Quadricycle Company for Director certification that vehicles meet all requirements pursuant to Chapter 16.40. Vehicles shall be certified by the Director and affiliated with a permitted Pedicab or Quadricycle Company prior to being used to provide Pedicab or Quadricycle service. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as a Pedicab or Quadricycle Vehicle. Pedicab and Quadricycle Vehicles are exempt from vehicle age limit restrictions that may apply to other sections of this chapter.
- B. Term of Certified Pedicab and Vehicle. Certifications for Pedicab and Quadricycle Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification. The Pedicab or Quadricycle Company shall provide a re-certification to the Director annually prior to the certification expiration and within 1 month of the expiration date on a form approved by the Director.
- C. Application Process. Applications for Pedicab and Quadricycle Vehicle certification shall be made directly to an affiliated Pedicab or Quadricycle Company. Pedicab and Quadricycle Companies will regularly provide to the Director a Pedicab or Quadricycle Driver a vehicle application list, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle shall operate as a Pedicab or Quadricycle Vehicle, on a form approved by the Director.
- D. Pedicab and Quadricycle Vehicle Safety Requirements. Pedicab and Quadricycle Vehicles shall satisfy the following conditions when operating between dusk and dawn:
  1. Make use of working battery-powered lights;
  2. Be equipped with one headlight capable of projecting a beam of light for a distance of at least 500 feet;
  3. Be equipped with two red taillights mounted on the right and left area of the Pedicab or Quadricycle Vehicle's rear;
  4. Not exceed the manufacturer's limits on the amount of weight the Pedicab or Quadricycle Vehicle may safely carry; and

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- 5. Not pull any kind of cart, trailer, or other enclosed seating contraption behind the vehicle.
- E. Pedicab and Quadricycle Vehicle Condition. Each Pedicab and Quadricycle Vehicle shall:
  - 1. Be kept in safe condition,
  - 2. Be kept clean and in good appearance.
- F. Mandatory Compliance. Pedicab and Quadricycle Vehicles shall be made available for compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- G. Unless otherwise noted, failure to comply with any provisions in Section 16.40.550 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

**16.40.560 Pedicab and Quadricycle Driver Certification and Operating Requirements.**

- A. Pedicab and Quadricycle Driver Certification. The Pedicab and Quadricycle Company shall regularly provide a list of applicant drivers affiliated with the permitted Pedicab or Quadricycle Company for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director. A valid driver's license is required for Quadricycle Drivers. A valid driver's license or valid government-issued photo identification is required for Pedicab Drivers. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as a Pedicab or Quadricycle Driver. Pedicab and Quadricycle Companies shall provide a current driver list to the Director as changes occur.
- B. Term of Certified Pedicab and Quadricycle Drivers. Certifications for Pedicab and Quadricycle Drivers provided by a Pedicab or Quadricycle Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated Pedicab or Quadricycle Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.
- C. Application Process. Applications for Pedicab and Quadricycle Driver certification shall be made directly to an affiliated Pedicab or Quadricycle Company. The Pedicab or Quadricycle Company will regularly provide to the Director Pedicab or Quadricycle Driver and vehicle application lists, pursuant to certification requirements, that the driver meets all requirements before the driver may operate as a Pedicab or Quadricycle Driver on a form approved by the Director.

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- D.** Pedicab and Quadricycle Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated Pedicab or Quadricycle Company by a third party accredited by the National Association of Professional Background Screeners that shall include:
1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  2. All motor vehicle records associated with the applicant driver available pursuant to records laws of each state; and
  3. The National Sex Offender Public Registry.
- E.** Pedicab and Quadricycle Driver Criminal and Driving History Disqualifications. A driver will not be certified as a Pedicab or Quadricycle Driver and cannot provide Pedicab or Quadricycle services if any of the following conditions exist:
1. The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  2. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  3. The applicant is a match in the National Sex Offender Public Registry.
  4. During the 5-year period preceding the submission of the application, based on the conviction date, the applicant has been convicted of any criminal offense involving:
    - a. Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
    - b. Any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
  5. Based on the conviction date, during a 3-year period, the applicant had more than five traffic violations as defined in ORS 801.557; more than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, more than five of any combination of serious traffic violations or motor vehicle accidents as provided above.



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6. Based on the conviction date, during a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  7. Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.
  8. Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
  9. When permitted to operate a Quadricycle, the applicant must have a valid driver's license in a United States jurisdiction.
  10. The applicant is less than 18 years old.
- F.** All Pedicab and Quadricycle Driver criminal and driving histories are subject to review by the Director.
- G.** Pedicab and Quadricycle Driver Training. Pedicab Drivers that do not possess a valid driver's license meeting all the requirements of Section 16.40.550 must successfully complete a Director-approved City bicycle safety course. The affiliated company must ensure that all Pedicab and Quadricycle Drivers successfully complete Director-approved trainings within 30 days of Pedicab and Quadricycle Driver certification by the Director in each of the following subject areas:
1. Relevant City Code provisions and Administrative Rules;
  2. Vision Zero principles of traffic safety;
  3. Portland-area attractions; and
  4. Customer service.
- H.** Business License Requirements. All Pedicab and Quadricycle Drivers operating as independent contractors affiliated with a Pedicab or Quadricycle Company shall comply with all provisions of the Business License Law, Chapter 7.02, prior to operating a Pedicab or Quadricycle Vehicle. Any independent contracted Pedicab or Quadricycle Driver without a valid City of Portland business license as required by Chapter 7.02 cannot be certified as a Pedicab or Quadricycle Driver and will not be allowed to operate as a Pedicab or Quadricycle Driver until such business license is obtained.
- I.** Pedicab and Quadricycle Driver Re-certification. The Pedicab and Quadricycle Company shall provide a list of applicant drivers for re-certification to the Director

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within 1 month prior to the Pedicab or Quadricycle Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with Pedicab and Quadricycle Driver certification requirements pursuant to Sections 16.40.550. Drivers not meeting all such conditions will not be re-certified as a Pedicab or Quadricycle Driver and shall not be allowed to provide Pedicab or Quadricycle services.

- J.** Suspension or Revocation of Certified Pedicab and Quadricycle Drivers. If a Pedicab or Quadricycle certification is suspended or revoked by the Director, the affiliated Pedicab or Quadricycle Company shall be notified, and the driver shall be removed as soon as notified by the City. Pedicab and Quadricycle Drivers without current, valid certification by the Director shall not be allowed to operate as a Pedicab or Quadricycle Driver.
- K.** Failure to comply with any provision in Section 16.40.560 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

#### **16.40.570 Pedicab and Quadricycle Driver Conduct Requirements and Prohibitions.**

- A.** Transferring Credentials. Transferring Pedicab or Quadricycle Driver or Pedicab or Quadricycle Vehicle credentials from one driver or vehicle to another shall be prohibited.
  - 1.** Failure to comply with this Subsection A. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.** Pedicab and Quadricycle Drivers shall carry:
  - 1.** A paper copy of the Pedicab or Quadricycle Company insurance pursuant to ORS 806.011 and a valid driver's license (for Quadricycle drivers) or government-issued photo identification or driver's license for Pedicab drivers always while operating a Pedicab or Quadricycle Vehicle. Upon request by the Director or a law enforcement officer, Pedicab or Quadricycle Drivers shall present proof of a valid Pedicab or Quadricycle Company insurance policy and driver's license or government-issued photo identification.
  - 2.** A paper copy of the driver's City of Portland business license, when operating as an independent contractor, as required by Chapter 7.02, at all times while operating as a Pedicab or Quadricycle Driver.
  - 3.** City of Portland Driver Permit. Drivers must carry a valid, original City of Portland driver permit at all times while operating a Pedicab or Quadricycle.

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4. Failure to comply with any provision in this Subsection B. shall be a Class D violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

**C. Driver Conduct. No Pedicab or Quadricycle Driver shall:**

1. Allow another person to use their Pedicab or Quadricycle Driver certification.
2. Drive or allow another person to drive a Pedicab or Quadricycle Vehicle without a valid driver's license, government-issued photo identification, permit, and company certification while the vehicle is being used to provide Pedicab or Quadricycle Services.
3. Operate any Pedicab or Quadricycle Vehicle while consuming or while under the influence of intoxicants, or operate the vehicle in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon.
4. Operate any PFHT vehicle if impaired by any legally prescribed or over-the-counter drugs or medications.
5. Use a vehicle in the commission of any crime.
6. Use or broadcast profane or obscene language offensive to the passenger or other community members while operating a PFHT vehicle.
7. Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating a Pedicab or Quadricycle Vehicle.
8. Allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke-like vapor inside a Pedicab or Quadricycle Vehicle.
9. Defraud a passenger in any way.
10. Be discourteous to a passenger.
11. Refuse to issue a fully completed receipt, in digital or paper form, for a fare paid if one is requested.
12. Drive passengers to their destination by any other than the safest and most efficient route, unless requested to do so by the passenger.

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13. Operate any Pedicab or Quadricycle Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1).
  14. Provide PFHT services after driving more than 12 hours in any given 24-hour period.
  15. Provide PFHT services without a valid City of Portland permit or certification.
  16. Failure to comply with any provision in this Subsection C. shall be a Class B violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.
- D. Mandatory Compliance.** Pedicab and Quadricycle Drivers shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.
1. Failure to comply with this Subsection D. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- E. Driver Reporting.** Every Pedicab or Quadricycle Driver shall report any of the following events to the Director and to all affiliated Pedicab or Quadricycle Companies within 24 hours of its occurrence:
1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
  2. Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;
  3. Any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT; and
  4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.
  5. Failure to comply with any provision in Subsection E. is a Class C violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.600 LPT Service Permits Required.**

The operation of an LPT Company is a privilege and not a right. For LPT services to be provided in the City of Portland, the LPT Company shall be required to obtain a permit. The Bureau shall certify that all affiliated LPT Company Vehicles and LPT Company Drivers have met all certification and operating requirements.

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- A.** LPT Company Permit Requirements. No person or entity shall conduct business as an LPT Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this Subsection A. is a Class A violation subject to penalties provided in Sections 16.40.930 to 16.40.950.
- B.** LPT Driver Certification Requirements. No person or entity shall conduct business as an LPT Driver in the City of Portland without certification by the Director prior to being authorized to provide LPT services on behalf of an affiliated LPT Company. Drivers not meeting all required conditions will not be certified as LPT Driver and will not be allowed to operate as an LPT Driver. Failure to comply with this Subsection B. is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.
- C.** LPT Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as an LPT Vehicle in the City of Portland without certification by the Director prior to being used to provide LPT services by an affiliated LPT Company. Vehicles not meeting all required conditions will not be certified as LPT Vehicle and will not be allowed to operate as an LPT Vehicle. Failure to comply with this Subsection C. is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

**16.40.610 LPT Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

- A.** Application. An applicant for an LPT Company permit shall submit to the Director:

  - 1.** A completed application on a form supplied by the Director.
  - 2.** Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity.
  - 3.** Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such.
  - 4.** A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates.
  - 5.** If the applicant LPT Company is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner.
  - 6.** If the applicant LPT Company is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or

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to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require.

7. The applicant LPT Company's zero-tolerance drug and non-discrimination policy.
  8. The applicant LPT Company's user terms of service.
  9. The applicant dispatch or passenger reservation contact information.
  10. Contact information of the LPT Company's agent of service and customer service support.
  11. A nonrefundable application fee.
- B.** All fines and penalties must be paid prior to the City issuing or reissuing an LPT company permit.
- C.** Compliance with Secretary of State's Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- D.** Insurance. All LPT permit holders shall comply with LPT insurance requirements pursuant to Section 16.40.630. All LPT Companies shall file a certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.
- E.** Director Review Process. After receiving a completed LPT Company application form and upon successful completion of all the requirements pursuant to Section 16.40.610, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- F.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may be directed to issue an LPT Company permit.
- G.** Application Denial. The Application shall be denied for any of the following:
1. The LPT Company applicant fails to submit all required information and documentation, including valid proof of insurance;
  2. The LPT Company applicant leases, permits, or otherwise allows other entities not affiliated with the LPT Company and certified by the Director to operate LPT services;
  3. The application has a material misstatement or omission; or

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4. The LPT Company application is incomplete.
- H. Denial Appeal. If the application is denied, the applicant LPT Company may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- I. Providing LPT Services. LPT Services shall be provided only by a permitted LPT Company.
- J. Certification of LPT Drivers. The LPT Company shall regularly provide a list of applicant drivers affiliated with the permitted LPT for Director certification that drivers meet requirements in Section 16.40.670 on a form approved by the Director. Drivers shall be certified and permitted by the Director prior to providing LPT services on behalf of the affiliated LPT Company, and LPT Drivers not meeting all required conditions will not be certified as a permitted LPT Driver and will not be allowed to operate as an LPT Driver. Such requirements include:
  1. Criminal and driver background checks;
  2. Automobile liability insurance for independent contractors;
  3. A valid driver's license; and
  4. Bureau-approved driver training within 30 calendar days of an LPT Driver's certification by the Director.
  5. Certification processes that are not completed within 30 calendar days are considered void and the certification process will need to be reinitiated.
- K. LPT Driver Re-certification. The LPT Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the LPT Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with LPT Driver certification requirements pursuant to Section 16.40.670. Drivers not meeting all such conditions will not be re-certified as an LPT Driver and shall not be allowed to operate as an LPT Driver.
- L. Certification of LPT Vehicles. The LPT Company shall regularly provide a list of applicant vehicles affiliated with the permitted LPT Company for Director certification that vehicles meet requirements pursuant to Sections 16.40.650 and 16.40.660 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted LPT Company prior to providing LPT Services. Vehicles not meeting all required conditions will not be certified as a permitted LPT vehicle and will not be allowed to operate as an LPT Vehicle. Such requirements include:
  1. Vehicle ASE safety inspection;

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2. Vehicle registration and licensing;
  3. Vehicle properly equipped and in good condition;
  4. LPT Company general and motor vehicle liability insurance; and
  5. Automobile liability insurance, as required by state law.
- M.** Term of Certification of LPT Vehicles. Certifications for LPT Vehicles provided by the Director shall be valid for a term of 1 year from the date of Director certification.
- N.** LPT Vehicle Re-certification. The LPT Company shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the LPT Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with LPT Vehicle certification requirements pursuant to Sections 16.40.650 and 16.40.660 for re-certification. Vehicles not meeting all such conditions will not be re-certified as an LPT Vehicle and shall not be allowed to operate as an LPT Vehicle.
- O.** Denial Appeal. If an LPT Driver or LPT Vehicle certification is denied, suspended, or revoked by the Director, the applicant driver may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- P.** Right to a Permit. The LPT Company's ability to satisfy the criteria for an LPT Company permit does not create a right to an LPT Company permit.
- Q.** Transferring Permits. Transferring permits shall be prohibited. The Company must notify the City in the event that all or part of the business ownership and/or assets are transferred to another party within 5 business days.
- R.** Removal of LPT Drivers and Vehicles from the Affiliated LPT Company. LPT Companies shall provide to the Director notification of affiliated LPT Drivers that have been prohibited from providing LPT services by the affiliated LPT Company and LPT Vehicles that have been removed from the fleet of the affiliated LPT Company as changes occur.
- S.** Operating at the Port of Portland. LPT Companies, Drivers, and Vehicles are prohibited from operating at the Portland International Airport without a City of Portland permit/certification and specific permission or approval from the Port of Portland.
- T.** Failure to comply with any provision in Section 16.40.610 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.



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**16.40.620 LPT Services Permit Fees.**

- A.** Permit Fees. LPT Companies shall pay permit fees and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** Permit Issuance. No LPT Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.

**16.40.630 LPT Company Insurance Requirements.**

- A.** In order to provide protection to the public, the LPT Company shall provide levels of insurance in accordance pursuant to all requirements of Chapter 16.40.
- B.** Providing LPT Services. The LPT vehicle shall be covered by a general commercial liability and primary automobile insurance policy secured by the LPT Company, the LPT Driver, or a combination of both. Evidence of insurance requirements shall be received and approved by the City prior to an LPT Company receiving an LPT Company permit.
- C.** Additional Named Insured and Notification of Policy Changes. The LPT Company shall provide certificates of insurance naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, workers' compensation, and employers' liability insurance (as required by state law).
- D.** Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.
- E.** Commercial Business Insurance. LPT Company permit holders shall secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT permit.
- F.** Automobile Insurance. All LPT Company permit holders shall provide the City with a copy of a valid commercial auto liability policy with the following coverage:
  - 1.** Combined Single Limit of not less than \$500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a PFHT vehicle.

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- G.** Certification of Auto Insurance. LPT Companies shall provide proof of current, valid insurance for Director certification that all affiliated LPT Drivers and Vehicles operating for such company and satisfying the minimum requirements in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.
- H.** Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term.
- I.** Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.
- J.** Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
- K.** Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better.
- L.** Additional Policy Conditions: Policies required under Section 16.40.630 must also contain, include, provide for, or comply with the following:
  - 1.** Independent Contractors/Owner-Operators. If an independent contractor/owner-operator relationship exists with a permit holder and the independent contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverage and limits and conditions as outlined in Subsections 16.40.630 F. – H. The same certificate of liability and additional insured endorsement requirements will apply.
  - 2.** Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions, and obligations meet the same or higher requirements as found in Subsections 16.40.630 F. – H., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage shall be approved by the City Attorney's Office before such alternative insurance may become effective.
- M.** Failure to comply with any provision in Section 16.40.630 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.640 LPT Company Operating Responsibilities and Prohibitions.**

- A.** LPT Companies shall accept all requests for LPT Service received from any location within the City.
- B.** Drug, Alcohol and Discrimination Policy:
  - 1.** Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted Companies shall employ at all times a zero tolerance policy for intoxicants.
  - 2.** Zero Tolerance for Discrimination. All permitted Companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.
- C.** User Terms of Service. It must be stated within a disclaimer or limitation of liability in an LPT Company's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Portland, and that any tort claim against an LPT Company shall be governed by Oregon tort law in effect at the time of the claim.
- D.** Receipts. All LPT passengers shall be provided either a paper or digital receipt for services at the termination of the ride that clearly indicates the fare paid, time of ride, name of LPT Company, LPT Driver, LPT Company customer service support contact information, and the City of Portland's PFHT complaint phone number.
- E.** Agent of Service Requirements. LPT Companies will maintain, during all times when the LPT Company permit is valid, a locally based agent of service, with regular hours of business during weekdays.
- F.** Customer Service Support Requirements. LPT Companies will maintain, during all times when the LPT Company Permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.
- G.** Reporting Requirements. Each LPT Company shall regularly report the following to the Director:

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1. The name of the driver, the date and time of any crash, and its claim status that arise out of operating as an LPT (open or closed) as required to be reported to the State of Oregon;
2. The number and type of crimes against drivers to the extent known;
3. The arrest or conviction for any criminal offense of any affiliated LPT;
4. The filing of any lawsuit against or on behalf of the LPT Company related to the operation of the company and its services in the City of Portland;
5. The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
6. Any information required to be disclosed by Chapter 16.40 that comes to the attention of the LPT Company.

#### **H. LPT Company Records Management and Mandatory Compliance.**

1. LPT Companies will be required to keep documentation of all certified LPT Drivers and LPT Vehicles. Such records shall be kept on file during the term of the LPT Company Permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, LPT Company records shall be provided to the Director and/or law enforcement officers.
2. LPT Companies shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.

#### **I. Failure to comply with any provision in Section 16.40.640 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.**

### **16.40.650 LPT Vehicle Certification Requirements.**

- A. LPT Vehicle Certification. The LPT Company shall regularly provide a list of applicant vehicles affiliated with the permitted LPT Company for Director certification that vehicles meet all requirements pursuant to Chapter 16.40 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted LPT Company prior to being used to provide LPT service on a form approved by the Director. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as an LPT Vehicle.
- B. Term of Certified LPT Vehicle. Certifications for LPT Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification or 4 months from the date a seasonal permit is issued pursuant to the Administrative Rule. The LPT Company shall provide a re-certification to the Director annually prior to the

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certification expiration and within 1 month of the expiration date on a form approved by the Director.

- C.**     Application Process. Applications for LPT Vehicle certification shall be made directly to an affiliated LPT Company. The LPT Company will regularly provide to the Director an LPT Driver and Vehicle application list, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle shall operate as an LPT Vehicle, on a form approved by the Director.
- D.**     Vehicle Registration, Licensing, and Insurance. All LPT Vehicles shall maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.
- E.**     Vehicle Requirements. No vehicle will be allowed to operate as an LPT Vehicle following 10 years after the vehicle manufactured date, unless the vehicle meets the requirements described in Section 16.40.935, Vehicle Age Exemption, regardless of when the vehicle was purchased or put into service as an LPT Vehicle.
- F.**     Vehicle Safety Inspections. Each LPT Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:

  - 1.       Is more than 1-year-old, based on model year;
  - 2.       Has 10,000 miles or more on its odometer; or
  - 3.       Has the “check engine” light illuminated, regardless of model year or mileage.
- G.**     LPT Vehicle Safety Certificate Requirements. Upon successful completion of the vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the LPT Driver applicant a “Safety Certificate” stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician shall be completed on a form approved by the Director.
- H.**     Vehicle Condition. Each LPT Vehicle shall meet the following requirements:

  - 1.       Be properly equipped and in good condition;
  - 2.       Be kept clean and in good appearance;

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3. Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
  4. Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for the Portland Metro.
  5. Failure to comply with any provision in this Subsection H. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- I.** LPT Vehicle Re-certification. The LPT Company shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the LPT Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with LPT Vehicle certification requirements pursuant to Sections 16.40.650 and 16.40.660 for re-certification. Vehicles not meeting all such conditions will not be re-certified as an LPT Vehicle and shall not be allowed to operate as an LPT Vehicle.
- J.** Unless otherwise noted, failure to comply with any provision in Section 16.40.650 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.660 LPT Vehicle Operating Requirements and Prohibitions.**

- A.** No vehicle shall operate as an LPT Vehicle unless it has been certified by the Director and is affiliated with a permitted LPT Company and properly displays a valid City of Portland permit.
- B.** Vehicle Registration, Insurance, and Business License. A paper copy of the vehicle's registration and proof of insurance shall be kept in every LPT Vehicle, pursuant to ORS 806.011. A copy of the business license is required for every driver operating as an independent contractor.
1. Failure to comply with any provision in this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Identification of LPT Vehicles. Every LPT Vehicle shall meet the following identification requirements to operate as an LPT Vehicle:
1. Every party bus vehicle and tour bus vehicle must prominently display on both sides of the vehicle the following information:
    - a. The full name of the party bus company or tour bus company;

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- b. The company-assigned party bus vehicle or tour bus vehicle number; and
    - c. The telephone number of that party bus company or tour bus company where services can be requested.
  2. Upon successful completion of the LPT Vehicle permit application process and payment of required fees as outlined in Chapter 16.40, the Director will issue a vehicle identification decal bearing the City Seal for each certified LPT Vehicle.
  3. LPT decals are valid for a period of no more than 12 months from the date of issuance, and all decals expire on the same day as the expiration of the affiliated LPT Company permit. Fees for decals that are not issued contemporaneously with an LPT Company permit will be prorated to equal the cost of the number of months remaining until the LPT Company permit expires.
  4. LPT decals must be affixed to the vehicle's front and back window in a manner outlined by the Administrative Rule.
  5. LPT decals that are intentionally destroyed or damaged by an LPT Company or prior to renewal and without the City's authorization are not subject to renewal.
  6. Voided LPT Vehicle decals are not renewable in the year following their voidance. Once an LPT Vehicle decal is voided, an LPT Company may not renew that decal and instead must complete the initial application process if the LPT Company seeks a decal for that LPT Vehicle.
  7. LPT Vehicle decals issued by the Director shall not be leased, sold, transferred, or assigned in any manner.
  8. LPT Vehicle decals issued by the Director that are not returned to the City within 21 days upon revocation or upon a failure to renew are considered conversion of City property and an actionable offense in a court of competent jurisdiction.
- D. Vehicle Operating Conditions. In determining whether an LPT Vehicle meets the vehicle condition requirements, the vehicle shall at all times be maintained in good condition, repair and appearance which includes the following:
1. All LPT Vehicle equipment and devices shall be properly equipped and maintained in good working order;

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2. At all times, LPT Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals and interior lights) windshield wipers, windshield washers, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions;
  3. The LPT Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, top light, and reflectors;
  4. LPT Vehicles shall be free of dirt, grease, grime, glue, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body;
  5. The LPT Vehicle shall include no missing nor makeshift parts for vehicles, including but not limited to fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting and may be equipped with studded tires only during time periods allowed by Oregon Law.
  6. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, and Chapters 801 through 823.
- E.** Mandatory Compliance. LPT Vehicles shall be made available for compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- F.** Unless otherwise noted, failure to comply with any provision in Section 16.40.660 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.670 LPT Driver Certification Requirements.**

- A.** LPT Driver Certification. The LPT Company shall regularly provide a list of applicant drivers affiliated with the permitted LPT Company for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director. Drivers shall be certified/permitted by the director prior to operating an LPT Vehicle. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as an LPT Driver. LPT companies shall provide a current list to the Director as changes occur.
- B.** Term of Certified LPT Driver. Certifications for LPT Drivers provided by an LPT Company to the Director shall be valid for 1 year from the date of the initial



certification. The affiliated LPT Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.

- C.**     Application Process. Applications for LPT Driver certification shall be made directly to an affiliated LPT Company. The LPT Company will regularly provide to the Director LPT Driver and Vehicle application lists, pursuant to certification requirements, that the driver meets all requirements before the driver may operate as an LPT Driver, on a form approved by the Director.
- D.**     LPT Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated LPT Company by a third party accredited by the National Association of Professional Background Screeners that shall include:

  - 1.     Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  - 2.     All motor vehicle records associated with the applicant driver available pursuant to records laws of each state; and
  - 3.     The National Sex Offender Public Registry.
- E.**     LPT Driver Criminal and Driving History Disqualifications. A driver will not be certified as an LPT Driver and cannot provide LPT Services if any of the following conditions exist:

  - 1.     The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  - 2.     The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  - 3.     The applicant is a match in the National Sex Offender Public Registry.
  - 4.     During the 5-year period, based on the conviction date, the applicant has been convicted of any criminal offense involving:

    - a.     Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
    - b.     Any traffic crime, including but not limited to driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.

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5. Based on the conviction date, during a 3-year period, the applicant had greater than five traffic violations as defined in ORS 801.557; greater than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, greater than five of any combination of serious traffic violations or motor vehicle accidents as provided above.
  6. Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  7. Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.
  8. Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
  9. The applicant must have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction.
  10. The applicant is less than 21 years old.
  11. The applicant is unable to obtain car insurance for any reason.
- F.** All LPT Driver Criminal and Driving Histories are subject to review by the Director.
- G.** LPT Driver Training. The affiliated company must ensure that all LPT Drivers successfully complete Director-approved trainings within 30 days of LPT Driver certification by the Director in each of the following subject areas:
1. Relevant City Code provisions and Administrative Rules;
  2. Vision Zero principles of traffic safety;
  3. Portland-area attractions; and
  4. Customer service.
- H.** Business License Requirements. All LPT Drivers operating as independent contractors affiliated with an LPT Company shall comply with all provisions of the Business License Law, Chapter 7.02 prior to operating an LPT Vehicle. Any LPT Driver operating as independent contractors without a valid City of Portland

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Business License cannot be certified as an LPT Driver and will not be allowed to operate as an LPT Driver until such Business License is obtained.

- I.** LPT Driver Re-certification. The LPT Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the LPT Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with LPT Driver certification requirements pursuant to Section 16.40.670. Drivers not meeting all such conditions will not be re-certified as an LPT Driver and shall not be allowed to provide LPT Services.
- J.** Suspension or Revocation of Certified LPT Drivers. If an LPT Driver certification is suspended or revoked by the Director, the affiliated LPT Company shall be notified, and the driver shall be removed as soon as notified by the City. LPT Drivers without current, valid certification by the Director shall not be allowed to operate as an LPT Driver.
- K.** Failure to comply with any provision in Section 16.40.670 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.680 LPT Driver Conduct Requirements and Prohibitions.**

- A.** Transferring Credentials. Transferring LPT Driver or LPT Vehicle credentials from one driver or vehicle to another shall be prohibited.
  - 1.** Failure to comply with this Subsection A. is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- B.** LPT Drivers shall carry:
  - 1.** A paper copy of LPT insurance pursuant to ORS 806.011 and a copy of the vehicle registration at all times while operating as an LPT Driver. Upon request of the Director or law enforcement officer, LPT Drivers shall present proof of a valid LPT primary automobile insurance policy and vehicle registration.
  - 2.** A paper copy of the driver's City of Portland business license, when operating as an independent contractor as required by Chapter 7.02 at all times while operating as an LPT Driver.
  - 3.** A valid state issued driver's license while operating as an LPT Driver.
  - 4.** A valid, original City of Portland driver permit while operating an LPT vehicle.
  - 5.** Failure to comply with this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

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#### **C. Driver Conduct. No LPT Driver shall:**

- 1.** Allow another person to use their LPT Driver certification.
- 2.** Drive or allow another person to drive an LPT Vehicle without a valid driver's license, driver permit, and company certification while the vehicle is being used to provide LPT Services.
- 3.** Operate any LPT Vehicle while consuming, or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon.
- 4.** Operate any PFHT vehicle if impaired by any legally prescribed or over-the-counter drugs or medications.
- 5.** Use a vehicle in the commission of any crime.
- 6.** Use or broadcast profane or obscene language offensive to the passenger or other persons while operating a PFHT vehicle.
- 7.** Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating an LPT Vehicle.
- 8.** Allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke-like vapor inside an LPT Vehicle.
- 9.** Defraud a passenger in any way.
- 10.** Be discourteous to a passenger.
- 11.** Refuse to issue a fully completed receipt, in digital or paper form, for a fare paid if one is requested.
- 12.** Operate any LPT Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1).
- 13.** Refuse LPT services to any passenger of proper demeanor whose request for service has been accepted by the LPT Company or LPT Driver.
- 14.** Provide PFHT services without a valid City of Portland permit or certification.

#### **D. Maximum hours of driving. No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period.**

#### **E. Street-Hails, Taxi Stands, and Hotel Zones.**

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1. All requests for service shall be received and accepted through the LPT company's reservation or dispatch services.
  2. An LPT Driver may not accept street-hails received within the City of Portland, except as approved by the Port of Portland at the Portland International Airport.
  3. An LPT Driver may not utilize taxi stands for drop-off or pick-up.
  4. An LPT Driver may not park an LPT Vehicle in a hotel zone more than 15 minutes before pick up of the request for service. The dispatch call/request for service must be documented in accordance to Subsection 16.40.920 D. and available for review by the Director or law enforcement officer.
- F.** Mandatory Compliance. LPT Drivers shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.
- G.** Driver Reporting. Every LPT Driver shall report any of the following events to the Director and to all affiliated LPT Companies within 24 hours of its occurrence:
1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
  2. Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;
  3. Any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT by the driver; and
  4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.
- H.** Unless otherwise noted, failure to comply with any provision in Section 16.40.680 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.700 NEMT Services Permits Required.**

The operation of an NEMT Company is a privilege and not a right. For NEMT services to be provided in the City of Portland, the NEMT Company shall be required to obtain a permit. The Bureau shall certify that all affiliated NEMT Company Vehicles and NEMT Company Drivers have met all certification and operating requirements.

- A.** NEMT Company Permit Requirements. No person or entity shall conduct business as an NEMT Company, as defined in OAR 410-136-3000, in the City of Portland

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without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this Subsection A. shall be a Class A violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

- B.** NEMT Driver Certification Requirements. No person or entity shall conduct business as an NEMT Driver in the City of Portland without certification by the Director prior to being authorized to provide NEMT services on behalf of an affiliated NEMT Company. Drivers not meeting all required conditions will not be certified as NEMT Driver and will not be allowed to operate as an NEMT Driver. Failure to comply with this Subsection B. shall be a Class B violation subject to the penalties provided in Sections 16.40.930 and 16.40.950.
- C.** NEMT Vehicle Certification Requirements. No vehicle shall be allowed to conduct business as an NEMT Vehicle in the City of Portland without certification by the Director prior to being used to provide NEMT services by an affiliated NEMT Company. Vehicles not meeting all required conditions will not be certified as NEMT Vehicle and will not be allowed to operate as an NEMT Vehicle. Failure to comply with this Subsection C. shall be a Class B violation subject to the penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.710 NEMT Company Permit Application Standards for Approval and/or Denial and Certification Requirements.**

- A.** Application. An applicant for an NEMT Company permit shall submit to the Director:
  - 1.** A completed application on a form supplied by the Director;
  - 2.** Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;
  - 3.** Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
  - 4.** A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates;
  - 5.** If the applicant NEMT Company is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner;
  - 6.** If the applicant NEMT Company is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland (“Authorized Representative”) or

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to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require;

7. The applicant NEMT Company's zero-tolerance drug and non-discrimination policy;
  8. The applicant NEMT Company's user terms of service;
  9. Contact information of the NEMT Company's agent of service and customer service support; and
  10. A non-refundable application fee.
- B.** All fines and penalties must be paid prior to issuing or reissuing an NEMT Company permit.
- C.** Compliance with Secretary of State's Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- D.** Insurance. All NEMT Company permit holders shall comply with NEMT insurance requirements pursuant to Section 16.40.730. All NEMT Companies shall file a certificate of liability and applicable endorsements with the Director that evidences insurance coverage and terms that are in compliance with the requirements.
- E.** Director Review Process. After receiving a completed NEMT Company application form and upon successful completion of all the requirements pursuant to Section 16.40.710, the Director shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.
- F.** Application Approval. Upon approval by the Commissioner-in-Charge, the Director may be directed to issue an NEMT Company permit.
- G.** Application Denial. The Application shall be denied for any of the following:
1. The NEMT Company applicant fails to submit all required information and documentation, including valid proof of insurance;
  2. When providing service within the City of Portland, the NEMT Company applicant provides dispatch services to anyone other than affiliated NEMT Drivers meeting the requirements set forth in Chapter 16.40 without prior approval by the Director;
  3. When providing service within the City of Portland, the NEMT Company applicant leases, permits, or otherwise allows other entities not affiliated

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- with the NEMT Company and certified by the Director to operate NEMT services;
4. When providing services within the City of Portland, the NEMT Company applicant affiliates with and provides dispatch services to drivers operating vehicles without NEMT Vehicle certification by the Director.
  5. The application has a material misstatement or omission; and
  6. The NEMT Company application is incomplete.
- H.** Denial Appeal. If the application is denied, the applicant NEMT Company may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- I.** Providing NEMT Services. NEMT services, as defined in OAR 410-136-3000, shall be provided only by a permitted NEMT Company.
- J.** Certification of NEMT Drivers. The NEMT Company shall regularly provide a list of applicant drivers affiliated with the permitted NEMT for Director certification that drivers meet requirements in Section 16.40.770, on a form approved by the Director. Drivers shall be certified and permitted by the Director prior to providing NEMT Services on behalf of the affiliated NEMT Company. NEMT Drivers not meeting all required conditions will not be certified as a permitted NEMT Driver and will not be allowed to operate as an NEMT Driver. Such requirements include the following:
1. A local and national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated NEMT Company by a third party accredited by the National Association of Professional Background Screeners that shall include:
    - a. A Social Security trace including all aliases for the past 10 years;
    - b. County, state, and national criminal record searches for all aliases for the past 10 years. The primary source search must be performed in a multi- state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
    - c. A National Sex Offender Registry search; and
    - d. All motor vehicle records associated with the applicant driver for the past 5 years available pursuant to records laws of each state.
  2. A valid driver's license.



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3. An NEMT Driver business license number when operating as an independent contractor.
  4. Bureau-approved driver training within 30 calendar days of an NEMT Driver's certification by the Director.
- K. Term of Certified NEMT Driver. Certifications for NEMT Drivers provided by an NEMT Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated NEMT Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.
- L. NEMT Driver Re-certification. The NEMT Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the NEMT Driver certification expiration, on a form approved by the Director. Applicant drivers shall meet all conditions and be consistent with NEMT Driver certification requirements pursuant to Section 16.40.770. Drivers not meeting all such conditions will not be re-certified as an NEMT Driver and shall not be allowed to operate as an NEMT Driver.
- M. Certification of NEMT Vehicles. The NEMT Company shall regularly provide a list of applicant vehicles affiliated with the permitted NEMT Company for Director certification that vehicles meet requirements pursuant to Sections 16.40.750 and 16.40.760 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted NEMT Company prior to providing NEMT services. Vehicles not meeting all required conditions will not be certified as a permitted NEMT vehicle and will not be allowed to operate as an NEMT Vehicle. Such requirements include:
  1. Vehicle ASE safety inspection;
  2. Vehicle registration and licensing;
  3. Vehicle properly equipped and in good condition; and
  4. NEMT Company general liability and automobile liability insurance.
- N. Term of Certification of NEMT Vehicles. Certifications for NEMT Vehicles provided by the Director shall be valid for a term of 1 year from date of Director certification.
- O. NEMT Vehicle Re-certification. The NEMT Company shall provide a list of applicant vehicles for re-certification to the Director within 1 month prior to the NEMT Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with NEMT Vehicle certification requirements pursuant to Sections 16.40.750 and 16.40.760 for re-

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certification. Vehicles not meeting all such conditions will not be re-certified as an NEMT Vehicle and shall not be allowed to operate as an NEMT Vehicle.

- P.** Denial Appeal. If an NEMT Driver or NEMT Vehicle certification is denied, suspended, or revoked by the Director, the applicant driver or vehicle owner may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- Q.** Right to a Permit. The NEMT Company's ability to satisfy the criteria for an NEMT Company permit does not create a right to an NEMT Company permit.
- R.** Transferring Permits. Transferring permits shall be prohibited. The Company must immediately alert the City in the event all or part of the business ownership and/or assets are transferred to another party.
- S.** Removal of NEMT Drivers and Vehicles from the Affiliated NEMT Company. NEMT Companies shall provide to the Director regular notification of affiliated NEMT Drivers that have been prohibited from providing NEMT Services by the affiliated NEMT Company and NEMT Vehicles that have been removed from the fleet of the affiliated NEMT Company.
- T.** Operating at the Port of Portland. NEMT Companies, Drivers, and Vehicles are prohibited from operating at the Portland International Airport without a City of Portland permit/certification and specific permission or approval from the Port of Portland.
- U.** Failure to comply with any provisions in Section 16.40.710 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950

#### **16.40.720 NEMT Services Permit Fees and Civil Penalty Fines.**

- A.** Permit Fees. NEMT Companies shall pay permit fees and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** Permit Issuance. No NEMT Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.

#### **16.40.730 NEMT Company Insurance Requirements.**

- A.** In order to provide protection to the public, the NEMT Company shall provide levels of insurance in accordance with all requirements of Chapter 16.40.
- B.** Providing NEMT Services. The NEMT Vehicle shall be covered by a general commercial liability and primary automobile insurance policy provided by the NEMT Company. Evidence of insurance requirements shall be received and

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approved by the City prior to an NEMT Company receiving an NEMT Company permit.

- C.** Additional Insured and Notification of Policy Changes. The NEMT Company shall provide certificates of insurance naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, workers' compensation, and employers' liability insurance (as required by state law).
- D.** Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.
- E.** Commercial Business Insurance. NEMT Company permit holders shall secure and maintain a Commercial General Liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT permit.
- F.** Automobile Insurance. All NEMT Company permit holders shall provide the City with a copy of a valid commercial auto liability policy with the following coverage:

  - 1.** Combined single limit of not less than \$500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a PFHT vehicle.
- G.** Certification of Auto Insurance. NEMT Companies shall provide proof of current, valid insurance for Director certification that all affiliated NEMT Vehicles operating for such company and satisfying the minimum requirements in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.
- H.** Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
- I.** Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval by the City Attorney's Office.
- J.** Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in

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insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.

- K.** Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better.
- L.** Additional Policy Conditions: Policies required under Sections 16.40.730 and/or 16.40.130 must also contain, include, provide for, or comply with the following:
  - 1.** Independent Contractors/Owner-Operators. If an independent contractor/owner-operator relationship exists with a permit holder and the independent contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverage and limits and conditions as outlined in Subsections 16.40.730 D. – H. The same certificate of liability and additional insured endorsement requirements will apply.
  - 2.** Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions, and obligations meet the same or higher requirements as found in Subsections 16.40.730 D. – H., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage shall be approved by the City Attorney's Office before such alternative insurance may become effective.
- M.** Failure to comply with any provision in Section 16.40.730 is a Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

#### **16.40.740 NEMT Company Operating Responsibilities and Prohibitions.**

- A.** A permitted NEMT Company shall comply with all requirements and standards as defined in OAR 410-136-3000 or otherwise required by state or federal law.
- B.** Drug, Alcohol and Discrimination Policy:
  - 1.** Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted companies shall employ at all times a zero tolerance policy for intoxicants.
  - 2.** Zero Tolerance for Discrimination. All permitted companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the Director for approval. Any changes to the policy shall be submitted to and approved by the Director prior to implementation.

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- C.** User Terms of Service. It must be stated within a disclaimer or limitation of liability in an NEMT Company's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Portland, and that any tort claim against an NEMT Company shall be governed by Oregon tort law in effect at the time of the claim.
- D.** Fare Rate Transparency. In the event NEMT fare rates are billed directly to the passenger, fare rates shall be made available in a clear and transparent way to the passenger prior to the passenger accepting a ride. Fare rates for wheelchair-accessible vehicle (WAV) service shall be comparable with fare rates for non-WAV service. Changes to fare rates shall be submitted by the permitted NEMT Company and approved by the Director prior to implementation.
- E.** Receipts. In the event NEMT fare rates are billed directly to the passenger, all NEMT passengers shall be provided either a paper or digital receipt for services at the termination of the ride that clearly indicates the fare paid, time of ride, name of NEMT Company, NEMT Driver, NEMT Company customer service support contact information, and the City of Portland's PFHT complaint phone number.
- F.** Limitation or Prohibition on Dynamic Pricing. Dynamic pricing is prohibited at all times for NEMT service.
- G.** Agent of Service Requirements. NEMT Companies will maintain, during all times when the NEMT Company Permit is valid, a locally based agent of service, with regular hours of business during weekdays.
- H.** Customer Service Support Requirements. NEMT Companies will maintain, during all times when the NEMT Company Permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.
- I.** Reporting Requirements. Each NEMT Company shall regularly report the following to the Director:

  - 1.** The name of the driver, the date and time of any crash, and its claim status arising out of operating as an NEMT (open or closed) as required to be reported to the State of Oregon;
  - 2.** The number and type of crimes against drivers to the extent known;
  - 3.** The arrest or conviction for any criminal offense of any affiliated NEMT Driver;

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4. The filing of any lawsuit against or on behalf of the NEMT Company related to the operation of the company and its services in the City of Portland;
5. The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
6. Any information required to be disclosed by Chapter 16.40 that comes to the attention of the NEMT Company.

#### **J. NEMT Company Records Management and Mandatory Compliance.**

1. NEMT Companies will be required to keep documentation of all certified NEMT Drivers and NEMT Vehicles, as well as detailed records of all trips. Such records shall be kept on file during the term of the NEMT Company permit and for 2 calendar years after the expiration of such permit. Upon request or subpoena, NEMT Company records shall be provided to the Director and/or law enforcement officers.
2. NEMT Companies shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.

#### **K. Failure to comply with any provisions in Section 16.40.740 is Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950**

#### **16.40.750 NEMT Vehicle Certification Requirements.**

- A. NEMT Vehicle Certification. The NEMT Company shall regularly provide a list of applicant vehicles affiliated with the permitted NEMT Company for Director certification that vehicles meet all requirements pursuant to Chapter 16.40 on a form approved by the Director. Vehicles shall be certified by the Director and affiliated with a permitted NEMT Company prior to being used to provide NEMT service on a form approved by the Director. Vehicles not meeting all required conditions shall not be certified and will not be allowed to operate as an NEMT Vehicle.
- B. Term of Certified NEMT Vehicle. Certifications for NEMT Vehicles provided by the Director shall be valid for 1 year from the date of the initial certification. The NEMT Company shall provide a re-certification to the Director annually prior to the certification expiration and within 1 month of the expiration date on a form approved by the Director.
- C. Application Process. Applications for NEMT Vehicle certification shall be made directly to an affiliated NEMT Company. The NEMT Company will regularly provide to the Director an NEMT Driver and Vehicle application list, pursuant to

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certification requirements, that the vehicle meets all requirements before the vehicle shall operate as an NEMT Vehicle, on a form approved by the Director.

- D.** Vehicle Registration, Licensing, and Insurance. All NEMT Vehicles shall maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.
- E.** Vehicle Age Requirements. No vehicle will be allowed to operate as an NEMT Vehicle following 10 years after the vehicle manufactured date, regardless of when the vehicle was purchased or put into service as an NEMT Vehicle, However, WAV vehicles that meet the requirements described in Section 16.40.935 may apply for a Vehicle Age Exemption.
- F.** Vehicle Safety Inspections. Each NEMT Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:

  - 1. Is more than 1-year-old, based on model year;
  - 2. Has 10,000 miles or more on its odometer; or
  - 3. Has the “check engine” light illuminated, regardless of model year or mileage.
- G.** NEMT Vehicle Safety Certificate Requirements. Upon successful completion of the vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the NEMT Driver applicant a “Safety Certificate” stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician shall be completed on a form approved by the Director.
- H.** Vehicle Condition. Each NEMT Vehicle shall meet the following requirements:

  - 1. Be properly equipped and in good condition;
  - 2. Be kept clean and in good appearance;
  - 3. Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
  - 4. Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for the Portland Metro.

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**5.** Failure to comply with any provision in this Subsection H. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**I.** NEMT Vehicle Re-certification. The NEMT Company shall provide a list of applicant vehicles for re-certification to the Director 1 month prior to the NEMT Vehicle certification expiration, on a form approved by the Director. Applicant vehicles shall meet all conditions and be consistent with NEMT Vehicle certification requirements pursuant to Sections 16.40.150 and 16.40.160 for re-certification. Vehicles not meeting all such conditions will not be re-certified as an NEMT Vehicle and shall not be allowed to operate as an NEMT Vehicle.

**J.** Unless otherwise noted, failure to comply with any provision in Section 16.40.570 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

#### **16.40.760 NEMT Vehicle Operating Requirements and Prohibitions.**

**A.** No vehicle shall operate as an NEMT Vehicle unless it has been certified by the Director and is affiliated with a permitted NEMT Company and properly displays a valid City of Portland permit.

**B.** Vehicle Registration, Insurance, and Business License. A paper copy of the vehicle's registration and proof of insurance shall be kept in every NEMT Vehicle, pursuant to ORS 806.011. In addition, the City requires proof of an NEMT Driver's business license, when operating as an independent contractor, as required by Chapter 7.02, and shall be kept in every NEMT Vehicle.

**1.** Failure to comply this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**C.** Identification of NEMT Vehicles. Every NEMT Vehicle shall meet the following identification requirements to operate as an NEMT Vehicle:

**1.** Using numbers and lettering no less than 3 inches in height, every NEMT Vehicle must prominently display on both sides of the vehicle the following information:

**a.** The full name of the NEMT Company;

**b.** The company-assigned NEMT Vehicle number;

**c.** The telephone number of the NEMT Company where services can be requested; and

**d.** The letters "NEMT."



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2. Upon successful completion of the NEMT Vehicle permit application process and payment of required fees as outlined in Chapter 16.40, the Director will issue a vehicle identification decal bearing the City Seal for each certified NEMT Vehicle.
  3. NEMT decals are valid for a period of no more than 12 months from the date of issuance, and all decals expire on the same day as the expiration of the affiliated NEMT Company permit. Fees for decals that are not issued contemporaneously with an NEMT Company permit will be prorated to equal the cost of the number of months remaining until the NEMT Company permit expires.
  4. NEMT decals must be affixed to the vehicle's front and back window in a manner outlined by the Administrative Rule.
  5. NEMT decals that are intentionally destroyed or damaged by an NEMT Company or NEMT Driver prior to renewal and without the City's authorization are not subject to renewal.
  6. Voided NEMT Vehicle decals are not renewable in the year following their voidance. Once an NEMT Vehicle decal is voided, an NEMT Company may not renew that decal and instead must complete the initial application process if the NEMT Company seeks a decal for that NEMT Vehicle.
  7. NEMT Vehicle decals issued by the Director shall not be leased, sold, transferred, or assigned in any manner.
  8. NEMT Vehicle decals issued by the Director that are not returned to the City within 21 days upon revocation or upon a failure to renew are considered conversion of City property and is an actionable offense in a court of competent jurisdiction.
- D. Vehicle Operating Conditions.** In determining whether an NEMT Vehicle meets the vehicle condition requirements, the vehicle shall at all times be maintained in good condition, repair, and appearance which includes the following:
1. All NEMT Vehicle equipment and devices shall be properly equipped and maintained in good working order.
  2. At all times, NEMT Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals and interior lights) windshield wipers, windshield washers, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions.

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3. The NEMT Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, top light, and reflectors.
  4. NEMT Vehicles shall be free of dirt, grease, grime, glue, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body.
  5. The NEMT Vehicle shall include no missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting and may be equipped with studded tires only when allowed by Oregon Law.
  6. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.
- E.** Mandatory Compliance. NEMT Vehicles shall be made available for compliance audits and enforcement actions upon request by the Director or law enforcement officers pursuant to Chapter 16.40.
- F.** Unless otherwise noted, failure to comply with any provision in Section 16.40.760 is Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

#### **16.40.770 NEMT Driver Certification Requirements.**

- A.** NEMT Driver Certification. When adding drivers, the NEMT Company shall immediately provide a list of applicant drivers affiliated with the permitted NEMT Company for Director certification that drivers meet all requirements pursuant to Chapter 16.40, on a form approved by the Director. Drivers shall be certified and permitted by the Director and affiliated with a permitted NEMT Company prior to operating an NEMT Vehicle. Drivers not meeting all required conditions shall not be certified and will not be allowed to operate as an NEMT Driver. NEMT Companies shall regularly provide a list of all un-affiliated NEMT Drivers and NEMT Vehicles when changes are made.
- B.** Term of Certified NEMT Driver. Certifications for NEMT Drivers provided by an NEMT Company to the Director shall be valid for 1 year from the date of the initial certification. The affiliated NEMT Company shall provide a re-certification to the Director within 1 month prior to the certification expiration on a form approved by the Director.

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- C.** Application Process. Applications for NEMT Driver certification shall be made directly to an affiliated NEMT Company. The NEMT Company will immediately provide to the Director NEMT Driver and Vehicle application lists, pursuant to certification requirements, that the driver meets all requirements before the driver may operate as an NEMT Driver on a form approved by the Director.
- D.** NEMT Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be completed annually on behalf of the affiliated NEMT Company by a third party accredited by the National Association of Professional Background Screeners that shall include:
1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  2. All motor vehicle records associated with the applicant driver available pursuant to records laws of each state, and;
  3. The National Sex Offender Public Registry.
- E.** NEMT Driver Criminal and Driving History Disqualifications. A driver will not be certified as an NEMT Driver and cannot provide NEMT Services if any of the following conditions exist:
1. The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
  2. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  3. The applicant is a match in the National Sex Offender Public Registry.
  4. During the 5-year period, based on the conviction date, the applicant has been convicted of any criminal offense involving:
    - a. Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
    - b. Any traffic crime, including but not limited to driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
  5. Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.

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6. Based on the conviction date, within a 3-year period, the applicant had greater than five traffic violations as defined in ORS 801.557; more than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or more than five of any combination of serious traffic violations or motor vehicle accidents as provided above.
  7. Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  8. Based on the conviction date, during a 3-year period, the applicant's PFHT driving privileges were revoked by the Director.
  9. The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification.
  10. The applicant is less than 21 years old.
  11. The applicant is unable to obtain car insurance for any reason.
- F.** All NEMT Driver criminal and driving histories are subject to review by the Director.
- G.** NEMT Driver Training. The affiliated company must ensure that all NEMT Drivers successfully complete Director-approved trainings within 30 days of NEMT Driver certification by the Director in each of the following subject areas:
1. Relevant City Code provisions and Administrative Rules;
  2. Vision Zero principles of traffic safety; and
  3. Customer service.
- H.** Business License Requirements. All NEMT Drivers operating as independent contractors affiliated with an NEMT Company shall comply with all provisions of the Business License Law, Chapter 7.02, prior to operating an NEMT Vehicle. Any NEMT Driver operating as an independent contractor without a valid City of Portland Business License cannot be certified as an NEMT Driver and will not be allowed to operate as an NEMT Driver until such business license is obtained.
- I.** NEMT Driver Re-certification. The NEMT Company shall provide a list of applicant drivers for re-certification to the Director within 1 month prior to the NEMT Driver certification expiration, on a form approved by the Director.

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Applicant drivers shall meet all conditions and be consistent with NEMT Driver certification requirements pursuant to Section 16.40.770. Drivers not meeting all such conditions will not be re-certified as an NEMT Driver and shall not be allowed to provide NEMT services.

- J.** Suspension or Revocation of Certified NEMT Drivers. If an NEMT certification is suspended or revoked by the Director, the affiliated NEMT Company shall be notified, and the driver shall be removed immediately. NEMT Drivers and NEMT Vehicles without current, valid certification by the Director shall not be allowed to operate as an NEMT Driver or NEMT Vehicle.
- K.** Failure to comply with any provision in Section 16.40.770 is Class B violation subject to penalties provided in Sections 16.40.930 to 16.40.950.

**16.40.780 NEMT Driver Conduct, Requirements and Prohibitions.**

- A.** Transferring Credentials. Transferring NEMT Driver or NEMT Vehicle credentials from one driver or vehicle to another shall be prohibited.
- B.** NEMT Drivers shall carry:
  - 1.** A paper copy of NEMT Company insurance pursuant to ORS 806.011 and a copy of the vehicle registration at all times while operating as an NEMT Driver.
  - 2.** A paper copy of the driver's City of Portland business license, when operating as an independent contractor, as required by Chapter 7.02, for a City-issued driver permit, at all times while operating as an NEMT Driver. Upon request of the Director or law enforcement officer, NEMT Drivers shall present proof of a valid NEMT primary automobile insurance policy and vehicle registration.
  - 3.** A valid state-issued driver's license while operating as an NEMT Driver.
  - 4.** A valid, original, City of Portland driver permit at all times while operating an NEMT Vehicle.
  - 5.** Failure to comply with this Subsection B. is a Class D violation subject to penalties provided in Sections 16.40.930 through 16.40.950.
- C.** Driver Conduct. No NEMT Driver shall:
  - 1.** Allow another person to use their NEMT Driver certification.

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2. Drive or allow another person to drive an NEMT Vehicle without a valid driver's license, City of Portland driver permit, and company certification while the vehicle is being used to provide NEMT services.
  3. Operate any NEMT Vehicle while consuming, or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of the City of Portland or the State of Oregon.
  4. Operate any NEMT Vehicle if impaired by any legally prescribed or over-the-counter drugs or medications.
  5. Use a vehicle in the commission of any crime.
  6. Use or broadcast profane or obscene language offensive to the passenger or other community members while operating an NEMT Vehicle.
  7. Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating an NEMT Vehicle;
  8. Allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke-like vapor inside an NEMT Vehicle.
  9. Defraud a passenger in any way.
  10. Be discourteous to a passenger.
  11. Refuse to issue a fully completed receipt, in digital or paper form, for a fare paid if one is requested.
  12. Drive passengers to their destination by any other than the safest and most efficient route, unless requested to do so by the passenger.
  13. Operate any NEMT Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1);
  14. Refuse to transport to a requested destination within the City of Portland any passenger of proper demeanor whose request for service has been accepted by NEMT dispatch or NEMT Driver.
  15. Provide NEMT services without a valid City of Portland permit or certification.
- D.** Maximum Hours of Driving. No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period.
- E.** Street-Hails, Taxi Stands, and Hotel Zones.

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1. An NEMT Driver shall not accept street-hails.
  2. Other than for drop off, an NEMT Driver may not park an NEMT Vehicle in a hotel zone prior to 15 minutes before pick up for a dispatch or request for service. The dispatch call/request for service must be documented and available for review by the Director or law enforcement officer.
- F.** Mandatory Compliance. NEMT Drivers shall submit to compliance audits and enforcement actions upon request by the Director, any authorized city personnel, or law enforcement officers pursuant to Chapter 16.40.
- G.** Driver Reporting. Every NEMT Driver shall report any of the following events to the Director and to all affiliated NEMT Companies within 24 hours of its occurrence:
1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;
  2. Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;
  3. The name of the driver, the date and time, and location of any vehicle crash required to be reported to the State of Oregon involving any vehicle operated as PFHT by the driver; and
  4. Any restriction, suspension, or revocation of the driver's motor vehicle driver's license.
- H.** Unless otherwise noted, failure to comply with any provision in Section 16.40.780 is a Class B violation subject to penalties provided in Sections 16.40.930 through 16.40.950.

**16.40.800 Horse-Drawn Carriage Company Permits Required – Application Process and Requirements.**

- A.** Permit Required. No person or entity may operate a for-hire Horse-Drawn Carriage Company without a valid, current Horse-Drawn Carriage Company permit issued by the City under Chapter 16.40.
- B.** Each Horse-Drawn Carriage Company permit application must satisfy the requirements of Section 16.40.600, LPT Company Permits Required.
- C.** Applicants must provide the physical location (address) of each stable or other facility used to house the carriage horses. Each facility must be available for inspection during normal hours of operation by the Director or designee.

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- D.** Applicants for a Horse-Drawn Carriage Company permit must obtain certification for each carriage horse to be used in the operation of the permitted carriages. Application requirements for carriage horse certification are:
- 1.** A description of the horse's name, age, breed, and gender;
  - 2.** A photograph and physical description of the horse, including color, markings, or other identifying marks, such as brands or tattoos or any other identifiers, such as microchips;
  - 3.** Certification of examination (health certificate) by an equine veterinarian within 30 days prior to the application for a permit that demonstrates the horse is able to perform the work described (in the Horse-Drawn Carriage Company application) without undue stress or effort; and
  - 4.** Additional veterinary certification requirements as provided in the Administrative Rule.
- E.** Insurance Certificate. All Horse-Drawn Carriage applicants must provide the Bureau with an insurance certificate of liability and an additional insured endorsement indicating that the requirements of Section 16.40.830 have been satisfied.
- F.** Applicants must provide to the Director a description of the types, dates, and time range, length, and location of Horse-Drawn Carriage rides offered.
- G.** Applicants must provide to the Director a schedule of rates and charges. An updated schedule must be provided to the Director when the rates are changed during the course of the permit.
- H.** Horse-Drawn Carriage Company permit fees are outlined in the Administrative Rule.

#### **16.40.810 Horse-Drawn Carriage Driver Permits Required – Application Process and Requirements.**

- A.** Permit Required. No person may operate a Horse-Drawn Carriage without a valid, current Horse-Drawn Carriage Driver's permit issued under Chapter 16.40, except that no permit issued pursuant to this chapter is required of a person who is operating a Horse-Drawn Carriage as an entry in a parade or otherwise permitted special event, where the Horse-Drawn Carriage entry is specifically noted and approved in said special event permit, and where the Horse-Drawn Carriage rides are not being offered on-demand or by reservation to members of the general public. In the case a Horse-Drawn Carriage is being used during a special event, the City shall be provided with the following:



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1. Copy of the event permit, and
  2. A description defining the role of the Horse-drawn Carriage during the event.
- B.** Application. An applicant for a Horse-Drawn Carriage Company permit shall submit to the Director:
1. A completed application on a form supplied by the Director;
  2. Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;
  3. Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
  4. Certification of a Horse-Drawn Carriage Driver training program approved by the Director;
  5. Confirmation that the driver will be employed for a Horse-Drawn Carriage company with current, valid Horse-Drawn Carriage Company and vehicle permits.
  6. If necessary, any information requested by the Director that reasonably relates to the application or is a clarification of information provided.
- C.** Fees Required. The applicant for a Horse-Drawn Carriage driver's permit must submit an initial permit fee per the Administrative Rule.
- D.** Penalties. Horse-Drawn Carriage Companies shall pay civil penalty fines consistent with Section 16.40.880.
- E.** Permit Issuance. No Horse-Drawn Carriage Company permit shall be issued until all permit fees and civil penalty fines have been paid and received by the City.
- F.** Carriage Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually on behalf of the affiliated Horse-Drawn Carriage Company by a third party accredited by the National Association of Professional Background Screeners that shall include:
1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
  2. All motor vehicle records associated with the applicant driver available pursuant to records laws of each state; and

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3. The National Sex Offender Public Registry.
- G.** Horse-Drawn Carriage Driver Criminal and Driving History Disqualifications. A driver will not be certified as a Horse-Drawn Carriage Driver and cannot provide Horse-Drawn Carriage services if any of the following conditions exist:
1. The applicant has a felony conviction of any kind within 10 years from the conviction date.
  2. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
  3. The applicant is a match in the National Sex Offender Public Registry.
  4. During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
    - a. Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
    - b. Any traffic crime including but not limited to driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.
  5. Based on the conviction date during a 3-year period the applicant had greater than five traffic violations as defined in ORS 801.557; greater than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, greater than five of any combination of serious traffic violations or motor vehicle accidents as provided above.
  6. Based on the conviction date during a 3-year period the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.
  7. Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application;
  8. Based on the conviction date, during a 3-year period the applicant's PFHT driving privileges were revoked by the Director.
  9. The applicant is less than 18 years old.

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10. All Carriage Driver criminal and driving histories are subject to review by the Director.
  - H. Driver Safety and Customer Service Training Requirements. The applicant must provide documentation of successful completion of Bureau-approved Horse-Drawn Carriage Driver training prior to issuance of a Horse-Drawn Carriage Driver's permit.
  - I. Driver Knowledge and Skills Testing Requirements. The applicant must successfully complete each of the following tests as administered by the Bureau or its designee before a permit can be issued:
    1. Basic carriage horse care, and
    2. Relevant City Code provisions and Administrative Rules.
- 16.40.820 Horse-Drawn Carriage Permit and Plate Required — Application Process and Requirements.**
- A. Permit and Decal or Plate Required for Horse-Drawn Carriages. No Horse-Drawn Carriage may be used as a PFHT vehicle without a valid and current permit and a valid and current, unobstructed plate issued by the City under Chapter 16.40. Applicants for a carriage vehicle permit and carriage plate must be the owner of the carriage. Carriage permits will only be issued to an owner who has obtained a Horse-Drawn Carriage Company permit.
  - B. Application Form. The applicant for a Horse-Drawn Carriage permit must complete a "Horse-Drawn Carriage Application" on the form required by the Director, which includes, but is not limited to, the following required information:
    1. Carriage make, model, and manufacturer;
    2. Seating capacity and weight limits;
    3. A photograph of each carriage to be registered; and
    4. If necessary, any information that reasonably relates to the application or is a clarification of information provided to the Director.
  - C. Safety Inspection. The Director has the authority to require that a Horse-Drawn Carriage operator demonstrate by inspection that all safety standards are met prior to a permit plate or decal being issued.
  - D. Horse-Drawn Carriage Condition. No Horse-Drawn Carriage will be issued a plate or decal if the Director determines that the carriage is not safe and in good repair, with all required equipment in sound operating condition.

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- E.** Each Horse-Drawn Carriage shall be made available for inspection at the request of the Director or designee.
- F.** Fees. Horse-Drawn Carriage Companies must pay renewal fees per the Administrative Rule.

**16.40.830 Horse-Drawn Carriage Insurance Requirements.**

- A.** Coverage and Limits: All Horse-Drawn Carriage Company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:
  - 1.** Commercial Business Insurance. Company permit holders must secure and maintain a commercial general liability policy reflecting limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a PFHT permit.
  - 2.** Worker's Compensation and Employers' Liability Insurance. The company permit holder must secure and maintain a workers' compensation and employers' liability policy where required by state law.
- B.** Permit Holder's Insurance Obligations. All Horse-Drawn Carriage Company permit holders must comply with the following obligations with respect to insurance reporting, updating, and filing:
  - 1.** The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
  - 2.** The permit holder must file a certificate of liability with the Director that evidences insurance coverage and terms that are in compliance with the requirements of this section. The certificate of liability must be on a standard ACORD form or its equivalent.
  - 3.** The permit holder must file with the Director a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents, and employees as additional insureds.
- C.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions, and obligations meet the same or higher requirements as found in Section 16.40.830, and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

**16.40.840 Horse-Drawn Carriage Temperature, Time, and Place Restrictions.**

- A.** No Horse-Drawn Carriage may operate between the hours of 6 a.m. and 10 a.m. or between the hours of 3 p.m. and 6 p.m. except on Saturdays, Sundays, and City holidays, unless an exemption from this restriction is granted by the Director.
- B.** No Horse-Drawn Carriage may operate when the outdoor temperature is greater than 90 degrees Fahrenheit.
- C.** No Horse-Drawn Carriage may operate when the outdoor temperature/humidity exceeds the Carriage Operators of North America (CONA) standards.
- D.** No Horse-Drawn Carriage may operate in the presence of weather conditions that make Horse-Drawn Carriage travel unsafe.
- E.** Should any condition or combination of conditions in Subsections 16.40.840 B. – D. occur, the Horse-Drawn Carriage Driver will remove the horse from the street to a safe location, provide appropriate rest and shade or shelter, and will return the horse to its stable or usual boarding facility by the least-strenuous and shortest safe route possible.
- F.** No Horse-Drawn Carriage may operate on a street that does not have a posted speed limit of 35 mph or less.
- G.** No Horse-Drawn Carriage may operate along a street with MAX or street car tracks. Upon written request, permission may be granted by the Director, to allow brief access or crossing of streets with MAX or streetcar tracks in order to provide access to particular locations. The Director may provide a list of excepted circumstances and locations in the Administrative Rule.
- H.** The Director or designee who observes a Horse-Drawn Carriage operating in adverse weather or other dangerous conditions creating a threat to the health and safety of the horse, passengers, or to the general public, may order the ride discontinued and the horse returned to its boarding facility by the least-strenuous and shortest safe route possible.

**16.40.850 Operation of Horse-Drawn Carriages: Requirements and Prohibitions.**

- A.** The company and carriage permit holder is responsible to ensure that all drivers operating have a current and valid City Horse-Drawn Carriage Driver permit, and that all drivers operate in compliance with the requirements of this chapter. Penalties may be issued to both company and driver for violations of operating requirements.

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- B.** Each Horse-Drawn Carriage Driver must carry their Horse-Drawn Carriage Driver permit when operating a Horse-Drawn Carriage and present the permit for inspection when requested by the Director or designee.
- C.** Each Horse-Drawn Carriage and Horse-Drawn Carriage operator shall comply with all other requirements of state, federal, and local laws.
- D.** No Horse-Drawn Carriage Driver shall permit other persons to operate the carriage under their control at any time under any circumstances.
- E.** No driver shall operate a Horse-Drawn Carriage at a weight or capacity in excess of the manufacturer's recommendation for that carriage.
- F.** No driver shall operate a Horse-Drawn Carriage when the combined weight of the carriage and passengers exceeds the weight of the horse.
- G.** No driver shall consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating a Horse-Drawn Carriage.
- H.** No driver shall allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke-like vapor while operating a Horse-Drawn Carriage.
- I.** Horse-Drawn Carriages and equipment must be available for inspection immediately upon request by the Director or designee.
- J.** A copy of the health certificate for the working carriage horse shall be in the custody of the company owner at all times. The driver will keep a copy of this certificate in any operating carriage, and make said certificate immediately available for inspection upon request by the Director or designee.
- K.** No Horse-Drawn Carriage Driver shall leave a horse untethered or unattended except when confined to a stable or other safe enclosure.
- L.** Each driver operating a Horse-Drawn Carriage shall maintain the horse at a speed no faster than a walk or slow trot.
- M.** Waste catchers must be in place and functioning properly at all times. It shall be the responsibility of the Horse-Drawn Carriage operator to clean up any spillage.
- N.** The operator of a Horse-Drawn Carriage must comply with the orders of the Director, or any police officer, parking enforcement officer, or animal control officer regarding the operation of the carriage. Failure to comply with these directions is subject to a penalty and/or suspension of the driver's permit and/or the Horse-Drawn Carriage Vehicle and Company permits.

**16.40.860      Care of Carriage Horses.**

- A.** Horse-Drawn Carriage rides must not be initiated nor continued when the ambient temperature is greater than 90 degrees Fahrenheit, or when the combination of temperature and humidity exceeds current Carriage Operators of North America (CONA) standards.
- B.** When the temperature exceeds 90 degrees Fahrenheit, or the combination of temperature and humidity exceeds current CONA standards, the carriage driver will end the ride and return the horse to the home boarding facility or pasture by the least-strenuous and shortest safe route possible, providing rest and shelter as required.
- C.** When the temperature is between 84 and 90 degrees Fahrenheit, no carriage ride will be initiated if the local weather forecast predicts temperatures to rise over 90 degrees Fahrenheit during the time for which the ride is scheduled, or within the time allowed for the trip back to the boarding facility.
- D.** When conducting Horse-Drawn Carriage rides when the temperature is between 78 and 90 degrees Fahrenheit, the driver will monitor respiratory rate, heart rate, and temperature of the horse every hour. Horses exceeding the following resting parameters should immediately undergo cooling measures, then be brought to the stable for rest, and not worked for the remainder of that day:
  - 1.** Respiratory rate > 36 breaths per minute after 1 minute;
  - 2.** Temperature > 103 degrees; and
  - 3.** Heart rate > 52 beats per minute after a 1-minute recovery time.
- E.** Horses must be provided with a blanket for dryness and warmth when appropriate.
- F.** Owners, operators, and drivers of a Horse-Drawn Carriage will monitor the condition of each horse and will not allow a horse to work when there are signs of exhaustion, dehydration, sickness, disease, injury, or severe stress.
- G.** No stallions, no mares with unweaned foals, and no pregnant mares at gestation greater than 9 months shall be used as carriage horses.
- H.** The towing weight of the Horse-Drawn Carriage may not exceed the weight of the horse.
- I.** Tie ropes used around the neck or attaching to the halter shall be carried on all Horse- Drawn Carriages. No horse shall be tied using the bridle, bit, or reins.

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- J.** No animal shall work pulling a Horse-Drawn Carriage for more than 5 hours in a 24-hour period, nor more than 5 days in any given week.
- K.** Each horse will be given at least a 10-minute rest period at the end of each hour of work. The horse must be provided ready access to clean drinking water during each break, and must be allowed at reasonable intervals to consume food and water during the workday.
- L.** Stables or other boarding facilities must be sanitary. Stables and stalls must be in good repair, well-ventilated, and free of hazards and debris.
- M.** Horses must be turned out for at least 1 hour per day. Adequate turn-out facilities include dry paddocks, runs, or pastures of dimensions equal to or greater than 12 feet by 24 feet.

#### **16.40.870 Horse-Drawn Carriage Regulations.**

Unless the context clearly requires otherwise or unless the regulations and requirements are more stringent than those found in Sections 16.40.820 through 16.40.860, horse-drawn carriage drivers, companies, and vehicles are subject to the regulations and requirements found in this chapter.

#### **16.40.880 Horse-Drawn Carriage Penalties.**

- A.** For violation of the regulations and requirements in Sections 16.40.800 through 16.40.860, the penalties are \$250 for the first occurrence, \$500 for the second occurrence, and \$1,000 and permit suspension for subsequent occurrences.
- B.** Three or more violations within 1 year are grounds for permanent revocation of Horse-Drawn Carriage Driver, Vehicle, and Company permits.

#### **16.40.900 Compliance with Federal, State, and Local Laws.**

Any PFHT company, driver, or vehicle that is not in compliance with all federal, state, or local laws relating to “for-hire transportation” services is likewise not in compliance with Chapter 16.40.

#### **16.40.910 Permit Fees and Civil Penalty Fines.**

- A.** All permitted PFHT operators shall pay permit fees and civil penalties consistent with Sections 16.40.910, 16.40.930, and 16.40.950.
- B.** All permitted PFHT operators shall provide payment to the City pursuant to Section 16.40.910. The Director shall suspend or revoke PFHT permits if permit fees are not paid in full in accordance to Section 16.40.910.



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- C.** Permit fee rates shall be established annually by the Director presented to the PFHT Advisory Committee and defined in Administrative Rules pursuant to Section 16.40.970.
- D.** Taxi Company and TNC permit fee rates shall be established annually by the Director in accordance with the following:

  - 1.** Permit fee rates shall be established to fund all program costs required to adequately administer the PFHT program pursuant to Sections 16.40.100–190 and 16.40.200 – 290 and to verify compliance with all relevant requirements pursuant to Chapter 16.40; and
  - 2.** Permit fee rates shall be proportioned according to the expected annual number of trips fulfilled by permitted Taxi Companies and TNCs, as determined by the Director and informed by available trip data provided pursuant to Subsections 16.40.140 K. and 16.40.240 K.
- E.** Permitted Taxi Companies, TNCs, and On-demand/Reservation Shuttles shall add to the total fare of each completed trip charged to passengers the permit fee, as established by the Director and pursuant to this section and in accordance with the following:

  - 1.** The permit fee rate added to total fare of each completed trip charged to passengers by the Taxi Company or TNC shall be clearly identified as the “CITY OF PORTLAND SURCHARGE” on receipts provided to passengers pursuant to Sections 16.40.140 and 16.40.240.
- F.** The Director shall provide permit fee invoices to permitted Taxi Companies and TNCs quarterly pursuant to Section 16.40.910. The Director shall issue invoices on or about the 25th day of the month following the end of the quarter. Invoices are based upon trip data provided by Taxi Companies and TNCs. The invoice payments are due within 30 days of the invoice date. Payments will be considered delinquent if not received within 30 days of invoice date. The first quarter of a new year begins on January 1. The Director shall suspend or revoke Taxi Company or TNC Company permits if permit fees are not paid in full in accordance with Section 16.40.910.
- G.** Permit fee rates applicable to all approved PFHT operators, with the exception of Taxi Companies and TNCs, shall be established annually by the Director to fund all program costs required to adequately administer the PFHT program and to verify compliance with all relevant requirements pursuant to Chapter 16.40 and as defined in the Administrative Rules.
- H.** The Director shall provide notice of permit fee payment requirements to permitted PFHT operators, with the exception of Shuttles, Taxi Companies, and TNCs,

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pursuant to Section 16.40.910. The Director shall suspend or revoke PFHT permits if permit fees are not paid in full in accordance with Section 16.40.910.

#### **16.40.920 Paid Passenger Referrals and Willful Deception Prohibited.**

- A.** All PFHT drivers are prohibited from providing payment to hotel staff, dispatchers, or any other person for referral of a passenger or passengers. The penalties for violation of Subsection 16.40.920 A. are Class A violations.
- B.** It is prohibited for any person to solicit or accept payment for referral of a passenger to a motor vehicle for hire, or for any person or business, firm, association, or corporation to act in concert with or on behalf of another person or persons to solicit or accept payments for the referral of passengers to a motor vehicle for hire. This prohibition does not include payment for legitimate advertising placement, such as placement of flyers or posters, or legitimate commissions provided by tour companies that do not operate on demand. Advertising or commission payments exempted herein must be documented, and said documentation must be provided to the Director when requested. The penalties for violation of Subsection 16.40.920 B. are Class A violations.
- C.** It is prohibited for any person to solicit or accept gifts and/or gratuities or anything of value from any holder of a City of Portland company, vehicle, or driver permit, except as authorized in this chapter, in return for any dispatch call, assignment, vehicle, or shift. The penalties for violation of Subsection 16.40.920 C. are Class A violations.
- D.** If a Limousine, Executive Town Car, Taxi Cab, Shuttle, or other for-hire vehicle is in a marked hotel zone, it is a rebuttable presumption that it is parked there to provide PFHT services pursuant to Subsections 16.40.180 E., 16.40.280 E., 16.40.380 F., 16.40.480 F., 16.40.680 F., and 16.40.740 E. Taxis, Shuttles, Executive Town Cars, and Limousines parked in a hotel zone must provide properly documented logbook entry when requested by the Director. The penalties for violation of Subsection 16.40.920 D. are Class B violations.
- E.** For-hire vehicles, other than Taxi Vehicles, shall not park in taxi zones and may not park in hotel zones without a reservation or request for service. The penalties for violation of Subsection 16.40.920 E. are Class B violations.
- F.** Taxi Vehicles may not park in a hotel zone prior to 15 minutes before pick up for a dispatch or request for service. The dispatched call/request for service must be documented and available for review by any authorized enforcement officer inspecting logs in the field. The penalties for violation of Subsection 16.40.920 F. are Class B violations.

**16.40.930 Civil Penalties and Penalty Table.**

- A.** Any civil penalty assessed must be paid in full within the time ordered and under the terms and conditions specified. If the payment is not made or the required conditions are not met, the penalty will become a suspension, which will take effect immediately upon the deadline given for payment of the civil penalty. The suspension will remain in effect until the penalty is paid in full and/or the conditions required are met. No new certifications, permits, or renewals will be issued until all penalties are paid.
- B.** Unless a specific civil penalty amount is prescribed by any section of this chapter, penalties for specific code and administrative violations are found in the Civil Penalty Table in Section 16.40.930. Any violation of a Code Section that is not found in the Civil Penalty Table and which is not specifically prescribed by a Code Section, but which places an obligation or requirement on a driver or company, will result in an unclassified penalty described in the Civil Penalty Table.
- C.** The following table outlines the penalties that will be assessed for a violation of the specific Code Sections or Subsections listed:

Violation	1st Offense	2nd Offense	3rd Offense	Subsequent Offenses
Class A	\$1,250	\$2,500	\$5,000	Suspension/Revocation of Certification
Class B	\$1,000	\$1,500	\$2,500	Suspension/Revocation of Certification
Class C	\$500	\$750	\$1,000	Suspension/Revocation of Certification
Class D	\$250	\$500	\$750	Suspension/Revocation of Certification
Unclassified	\$250	\$500	\$750	Suspension/Revocation of Certification

- D.** In addition to the civil penalty and the suspension and revocation provisions in Section 16.40.940, any second offense is grounds for suspension of the permit, and any third or subsequent offense is grounds for revocation of the permit.
- E.** Offenses are measured by a period of 36 months. Offenses for the same violation that occurs more than 36 months apart from each other are not considered “subsequent” offenses for purposes of them being the “second,” “third,” etc. offense.

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- F.** Nothing in this section prohibits the Bureau from suspending or revoking any driver, permit, certification, decal, or taxiplate after a third offense for the same violation.

#### **16.40.935 Vehicle Age Exemption.**

Vehicle Age Limit Exemption. A 2-year Vehicle Age Limit Exemption (VAE) can be issued to category vehicles outlined in Administrative Rule. Vehicles currently more than 10 years of age are not excluded. The VAE was established for vehicles in which the registered owners have made a significant investment to purchase, maintain, refurbish, customize, or restore a vehicle.

- A.** All vehicles must conform with all the requirements outlined in Administrative Rules.
- B.** All vehicles are subject to all vehicle requirements of Chapter 16.40.

#### **16.40.940 Company and Driver Permit Suspension and Revocation.**

- A.** Suspension. Any permit, certification, decal, or taxiplate issued under Chapter 16.40 may be suspended by the Director if the Director finds reasonable grounds to believe that any of the following apply:
  - 1.** A temporary suspension is necessary to protect the public safety;
  - 2.** The permittee's insurance is not current;
  - 3.** The permittee has failed to fully pay a civil penalty when due and the permittee did not file a timely appeal; or
  - 4.** At any time, the permittee fails or no longer meets or complies with any section of this chapter.
- B.** Revocation. Any permit, certification, decal, or taxiplate issued under Chapter 16.40 may be revoked by the Director if the Director finds reasonable grounds to believe that any of the following apply:
  - 1.** The revocation is necessary to protect the public safety;
  - 2.** The permittee did not comply with the terms and conditions of a temporary suspension;
  - 3.** The permittee is found operating as a for-hire company or driver while on suspension;
  - 4.** Permittee has fraudulently altered the calibration of the driver's taximeter or computer/application based metered system;

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5. The permittee has provided either the City, an insurance agent, or an insurance carrier with materially false information regarding vehicle insurance; or
  6. The permittee has incurred a total of five penalties and/or suspensions during any consecutive 12-month period.
- C.** Simultaneous Revocation. In the event that a PFHT company permit is revoked, all vehicle decals, certifications, and/or taxiplates assigned to that company are simultaneously revoked and void.
- D.** Notice Requirements for Revocations and Suspensions. If the Director has reasonable grounds to impose a revocation based on any factor found in Subsection 16.40.940 A., the Director will send a “Notice of Proposed Revocation” to the permittee by both regular mail, certified mail (return receipt requested) and, if applicable, email at the address listed in the permittee’s application form. The written notice must include the following:
1. The Director’s findings concerning the alleged violation;
  2. Notice that alleged violator has 10 days from the date of the letter in which to file a written response to the Director if the permittee denies that any violation has occurred;
  3. The terms, conditions, and timeframe of the proposed suspension, if applicable; and
  4. The permittee’s appeal rights.
- E.** Actual Notice Presumed. Actual notice of the proposed suspension or revocation is presumed after 5 days of mailing the notices described in Subsections 16.40.550 D. and E. above.
- F.** Effective Date of Suspensions and Revocations. Suspensions and revocations are effective as provided in Subsections 16.40.940 D. and E., except that they are effective immediately if the Director finds reasonable grounds to believe that:
1. A permittee is not covered by liability insurance as required by Sections 16.40.130 or 16.40.230, 16.40.330, 16.40.430, 16.40.630, 16.40.530, or 16.40.830; or
  2. Continued operation by the permittee would cause, or is likely to cause, danger to the public health or safety.
- G.** Suspension Length. If the suspension resulted from a driver failing to meet code requirements or the failure to pay a civil penalty or due to an ongoing code

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violation, the suspension continues until the penalty is paid or the violation is corrected. The permittee will require recertification after all penalties are paid and the violation has been corrected.

- H.** Right to a Stay. Suspensions and revocations are stayed if a timely appeal is filed, unless the grounds for suspension or revocation relate to public safety issues, in which case there is no right to a stay.
- I.** Renewal Not Allowed After Revocation or During Suspensions. Permits, decals, and taxiplates that have been revoked during their term are not renewable. Permits, certifications, decals, and taxiplates that are in suspended status at the time of renewal are not renewable unless the suspension is for a specific number of days. Drivers and companies whose permits, decals, or taxiplates were not renewable due to a prior revocation or suspension are required to successfully complete the initial application process to obtain another permit, decal, or taxiplate.

#### **16.40.950 Criminal Penalties and General Appeals.**

- A.** It is unlawful to tamper with a taximeter, TNC application, or to conduct any fraudulent scheme with the intent to overcharge charge any person a fare greater than that allowed by a PFHT company.
- B.** Any violation of Subsection 16.40.950 A. is punishable upon conviction by a fine of not more than \$1,000 or imprisonment for not more than 6 months or both.
- C.** In addition to the civil penalties listed in Section 16.40.930, any violation of Subsections 16.40.110 A. – C., 16.40.200 A. – C., 16.40.300 A. – C., 16.40.400 A. – C., 16.40.500 A. – C., 16.40.600 A. – C., 16.40.700 A. – C., and 16.40.800 A. is punishable, upon conviction, by imprisonment for not more than 6 months.
- D.** Vehicles operated for-hire in violation of Sections 16.40.160, 16.40.260, 16.40.360, 16.40.460, and 16.40.660 are subject to vehicle towing and impoundment.
- E.** Civil Penalties Appeals. Any person or entity assessed a civil penalty may appeal that decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- F.** Permit/Decal/Taxiplate Denials, Suspensions, and Revocations — Appeals and Exception.
  - 1.** Any person or entity whose permit, certification, decal, or taxiplate application is denied, or whose permit, decal, or taxiplate is suspended or revoked, may appeal that decision to the Code Hearings Officer under the provisions of Chapter 22.10.
  - 2.** If the suspension is due to a failure to timely pay a civil penalty when due, then the underlying reasons for the civil penalty may not be appealed to the

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Code Hearings Officer. In that situation, the person or entity may appeal only to the Code Hearings Officer to determine if the Bureau properly followed the notice requirements found in Section 16.40.940.

- G.** Stays. If a timely appeal is made pursuant to this section, the action appealed from is stayed pending the outcome of the appeal. This includes any civil penalty payment, suspension, or revocation.

**16.40.960 PFHT Advisory Committee.**

- A.** The PFHT Board of Review shall hereby be dissolved, and any Board Order, Board Rule, or Board Regulation in effect prior to the passage of this ordinance has no legal effect and is hereby repealed.
- B.** There hereby is created a PFHT Advisory Committee, hereinafter referred to as “the Committee.”
- C.** Purpose. The PFHT Advisory Committee is a citizen advisory body, representing those with interests in PFHT in the City of Portland by:
- 1.** Providing expertise and feedback to the public, Director, and City Council on Portland’s PFHT market, PFHT regulations, and policies, taking into consideration the full range of City goals and objectives.
  - 2.** Providing recommendations for regulatory, code, and administrative rule changes affecting the PFHT operators and PFHT services, including service to people with disabilities.
  - 3.** Monitoring the application and enforcement of regulations for their effectiveness in achieving the City’s goals.
  - 4.** Recommending customer service, permitting, process, and compliance improvements to the Director and/or City Council.
  - 5.** Providing input to ensure the budget of the City’s PFHT program is adequate to meet service goals and compliance with all requirements pursuant to Chapter 16.40.
- D.** Membership. The PFHT Advisory Committee shall consist of 19 diverse members with expertise, knowledge, and interest of PFHT in the City of Portland. Prospective members may apply to the Director on a form approved by the Director, and members shall be nominated by the Bureau Commissioner-in-Charge and approved by Council. The members shall be selected to provide representation of those persons concerned about PFHT service, PFHT operators, and PFHT drivers in the City of Portland. Members shall be appointed so that the Committee consists of one representative from each the following:

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- 1.** PBOT (non-voting member);
  - 2.** The tourism industry;
  - 3.** The Portland Commission of Disabilities;
  - 4.** An at-large community member with a disability;
  - 5.** The riding public;
  - 6.** The Port of Portland;
  - 7.** TriMet;
  - 8.** A Taxi Company;
  - 9.** A Taxi Driver;
  - 10.** A TNC;
  - 11.** A Transportation Network Driver;
  - 12.** An LPT Company;
  - 13.** An LPT Driver;
  - 14.** A Shuttle Company;
  - 15.** A Shuttle Driver;
  - 16.** A Limousine or Party Bus Company;
  - 17.** A Tour Bus Company;
  - 18.** A Pedicab Company; and
  - 19.** An NEMT Company.
- E.** Appointments and Terms. Appointment to the PFHT Advisory Committee shall be for a 3-year term. If a position is vacated during a term, it shall be filled for the unexpired term by an appointee selected by the Commissioner-in-Charge. Members of the PFHT Advisory Committee shall serve no two or more complete 3-year terms.
- F.** Meetings, Officers, and Subcommittees.



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1. The PFHT Advisory Committee shall meet at least five times each calendar year and otherwise as necessary to conduct its business. Meetings shall be conducted in accordance with adopted rules of procedure. A quorum shall be necessary of voting members to make decisions that represent the position of the PFHT Advisory Committee and to conduct any other Committee responsibilities.
  2. The officers of the Committee shall consist of a chairperson and a vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice-chairperson shall act as chair when the chairperson is not available.
  3. The PFHT Advisory Committee may divide its members into subcommittees that are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.
- G.** Attendance. Members of the PFHT Advisory Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.
- H.** PBOT shall provide staff and appropriate assistance for the Board.
- I.** All members of the Committee shall serve without pay, except that they may receive their regular salary during the time spent on matters of the Committee.

**16.40.970 Director and Committee Authority and Process.**

- A.** The Director may adopt and implement administrative rules, procedures, forms, and written policies for administering the provisions of Chapter 16.40 under the authority granted under Section 16.40.010.
- B.** The Committee may vote to adopt written recommendations to the Director and/or Bureau Commissioner-in-Charge pertaining to any provisions to Chapter 16.40 and all matters pertaining to PFHT.
- C.** Before a recommendation is adopted, the Committee chairperson must first provide notice of the proposed recommendation to the public in a manner reasonably calculated to accomplish such notice (assistance shall be provided by Bureau staff). 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.
- D.** In addition to the general notice required in Subsection 16.40.970 C., the Committee chairperson must also announce the proposed recommendation at a

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regularly scheduled Committee meeting (the “Announcement Meeting”) prior to the meeting in which public testimony will take place (the “Testimony Meeting”). At the Announcement Meeting, the Committee chairperson will provide a copy of the proposed recommendation to anyone in attendance that so requests, and the Committee chairperson will announce the date and time of the Testimony Meeting. The Testimony Meeting must take place no less than 14 days or more than 75 days from the Announcement Meeting.

- E.** At the Testimony Meeting, the Director and the Committee will receive oral and written testimony concerning the proposed rule by any Committee member. Upon completion of the public testimony, the Committee may then vote to either:

  - 1.** Adopt the proposed recommendation as originally proposed;
  - 2.** Adopt a slightly modified version of the originally proposed recommendation;
  - 3.** Move that a substantially modified version of the originally proposed recommendation be considered at a later Committee Meeting and with additional public testimony; or
  - 4.** Withdraw the proposed recommendation altogether and allow no further vote on it.
- F.** If no Committee member seconds a Committee member’s motion under Subsections 16.40.970 E.1. – F.3. above, then the proposed recommendation does not take effect. Any Committee member may make the motion to adopt a proposed recommendation.
- G.** If a Committee member seconds the motion to adopt the proposed recommendation under Subsections 16.40.970 E.1. or E.2., the Committee will then consider and discuss the proposed recommendation, taking into account any public testimony received. Upon completion of the Committee’s discussion, the Committee chairperson will then call for a vote on the proposed recommendation. If a majority of the Committee votes to adopt the recommendation, it is thereby adopted.
- H.** If Committee member seconds a motion under Subsection 16.40.970 E.3., then additional public review must be conducted, but no additional public notice is required if an announcement is made at the Testimony Meeting of a future hearing for a date, time, and place certain at which the substantially modified rule will be discussed. After the additional testimony is received at the future hearing date, the proposed recommendation will be subject to the discussion, testimony, and voting procedures found in Subsections 16.40.970 E. – G.

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- I.** Recommendations for Rule Adoption and Code Revisions. At the recommendation of the PFHT Advisory Committee, the Director may adopt administrative rules pursuant to Section 16.40.970 and may provide to the Bureau Commissioner-in-Charge a recommendation to revise any sections here within Chapter 16.40.
- J.** 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 and posted on the Bureau's website. Copies of all current rules will be made available to the public upon request.
- K.** Notwithstanding Subsections 16.40.970 I. and J., the Director may adopt an interim rule without prior public notice or Committee action upon a finding that a failure to act promptly will likely result in prejudice to the public interest or the interest of the affected parties. If the Director adopts a rule under this Subsection, the Director must state the specific reasons for such prejudice. Any interim rule adopted pursuant to this Subsection is effective for a period of no longer than 120 days.
- L.** Administrative rules adopted pursuant to Section 16.40.970 have the same force and effect as any other provision of Chapter 16.40. To the extent that any administrative rule conflicts with the provisions of Chapter 16.40, Chapter 16.40 will control and prevail.
- M.** Before a rule is adopted, the Director must first provide notice of the proposed rule to the public in a manner reasonably calculated to accomplish such notice. 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.
- N.** In addition to the general notice required in Subsection 16.40.970 N., the Director must also announce the proposed rule at a regularly scheduled Committee meeting (the "Announcement Meeting") prior to the meeting in which public testimony will take place (the "Testimony Meeting"). At the Announcement Meeting, the Director will provide a copy of the proposed rule to anyone in attendance that so requests, and the Director will announce the date and time of the Testimony Meeting. The Testimony Meeting must take place no less than 14 days or more than 75 days from the Announcement Meeting.
- O.** At the Testimony Meeting, the Director and the Committee may will receive oral and written testimony concerning the proposed rule. Upon completion of the public testimony, the Director may then choose, at the Director's sole discretion, to either:

  - 1.** Move to adopt the proposed rule as originally proposed;
  - 2.** Move to adopt a slightly modified version of the originally propose rule;

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3. Move that a substantially modified version of the originally proposed rule be considered at a later Committee Meeting and with additional public testimony; or
  4. Withdraw the proposed rule altogether and allow no further vote on it.
- P.** Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau's office and posted on the Bureau's website. Copies of all current rules will be made available to the public upon request.
- Q.** Revisions to Chapter 16.40 may be presented to Council for consideration by the Transportation Commissioner-in-Charge.

#### **16.40.980 Currently Permitted Companies, Vehicles, and Drivers Grandfathered — Renewal Process.**

- A.** All companies that are currently permitted, and all valid, current decals, taxiplates, and certifications issued by the City on the effective date in this Chapter do not need to reapply for new permits, decals, taxiplates, or certifications or provide additional proof of valid insurance but must otherwise adhere to all the requirements as found in this Chapter.
- B.** To achieve the goal of staggered renewal dates, the Director may, by administrative rule, require that the initial permit term of some permittees be for less than the 12-month term required pursuant to Chapter 16.40. The fees associated with any permit terms that are less than the 12-month requirement will be prorated as necessary to reflect the shorter permit duration.
- C.** The effective date of any requirement in this Chapter applicable to the operation of a non-motorized PFHT vehicle or provision of non-motorized PFHT and Non-Emergency Medical Transportation (NEMT) Companies/Specially Attended Transportation (SAT) Companies, NEMT/SAT Vehicles, NEMT/SAT Services, and NEMT/SAT Drivers is suspended until such time that alternate provisions in Chapter 16.40 pertaining to non-motorized and NEMT/SAT companies, drivers, or vehicles are adopted by City Council.
- D.** The Director may, by administrative rule, suspend any requirement in this Chapter for a period of 180 days that will likely result in prejudice to the public interest or the interest of the affected parties.

#### **16.40.995 Severability.**

If a court of law finds any provision of this Chapter invalid or unenforceable as to any person, business, or circumstance, then that provision is considered severed from this

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Chapter. The severed provision has no effect on the remainder of the Chapter or its application to other persons, businesses, and circumstances.

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**CHAPTER 16.48 - TAXICAB REGULATIONS**

(Chapter added by Ordinance No. 139316;  
Replaced by Ordinance No. 147243; Repealed by  
Ordinance No. 165189; Reinstated by Ordinance  
No. 165522, and repealed by Ordinance No.  
165947, effective October 28, 1992.)

**CHAPTER 16.50 - MASS TRANSIT**

**Sections:**

- 16.50.001 Purpose.
- 16.50.100 Designation of Transit Lanes.
- 16.50.110 Designation of the Transit Mall and Auxiliary Vehicular Lanes.
- 16.50.200 Prohibited Use of Transit Lanes, Transit Mall and Auxiliary Vehicular Lanes.
- 16.50.300 Vehicles Allowed In Transit Lanes, Auxiliary Vehicular Lanes and on the Transit Mall.
- 16.50.400 Vehicles Allowed in Non Transit Mall Transit Lanes During Certain Hours.
- 16.50.410 Vehicles Allowed on the Transit Mall and Auxiliary Vehicular Lanes by Permit.
- 16.50.500 Regulation and Permit Procedure.

**16.50.001 Purpose.**

(Amended by Ordinance No. 182921, effective June 17, 2009.) This section describes how mass transit lanes, the Transit Mall and Auxiliary Vehicular Lanes are designated, the regulations that apply, and which vehicles may use them.

**16.50.100 Designation of Transit Lanes.**

(Amended by Ordinance No. 182921, effective June 17, 2009.) Designation of transit lanes, excluding the Transit Mall and Auxiliary Vehicular Lanes separately designated herein will be made by the City Traffic Engineer upon advice of the City Engineer and the Tri-County Metropolitan Transportation District of Oregon (TriMet). Designation will be shown by official signs or markings. Signs or markings will distinguish whether the transit lane may be used by:

- A. Bus only;
- B. Light rail vehicle only;
- C. Trolley or streetcar vehicle; or
- D. Carpool vehicle only; or some combination of the above.

**16.50.110 Designation of the Transit Mall and Auxiliary Vehicular Lanes.**

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall is hereby designated to be that portion of 5th Avenue and 6th Avenue between NW Irving Street and SW Jackson Street including NW Irving Street between NW 5th Avenue and NW 6th Avenue, and SW Morrison and Yamhill Streets between SW 4th Avenue and SW Broadway specifically designated with official signs or marking for the use of transit vehicles. The automobile lanes on 5th Avenue, 6th Avenue, NW Irving Street, SW Morrison Street and SW Yamhill Street adjacent the Transit Mall are hereby designated as Auxiliary Vehicular Lanes for purposes of this Section.

**16.50.200 Prohibited Use of Transit Lanes, Transit Mall and Auxiliary Vehicular Lanes.**

(Amended by Ordinance No. 182921, effective June 17, 2009.)

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- A.** Except as otherwise provided for in this Section, no vehicle may enter upon, park on, or use an officially designated transit lane, or the Transit Mall.
- B.** Restrictions on transit lane use will vary depending on whether the lane is designated for light rail, motor bus, trolley, or carpool use.
- C.** Except as otherwise provided for in this Section, no vehicle may stop or park on Auxiliary Vehicular Lanes except vehicles acting in compliance with law, or at the direction of a police officer or a control device or Multnomah County prisoner transfer vehicles actively transferring people.
- D.** Except vehicles may cross the Transit mall to ingress or egress the following driveways provided that the vehicles shall obey all applicable traffic control devices:
  - 1.** The driveway located on the west side of SW 5th Avenue immediately south of SW Jefferson Street.
  - 2.** The first two driveways located on the west side of SW 5th Avenue immediately north of SW College Street.
  - 3.** The driveway located on the west side of SW 5th Avenue immediately south of SW Harrison Street.

#### **16.50.300 Vehicles Allowed In Transit Lanes, Auxiliary Vehicular Lanes and on the Transit Mall.**

(Amended by Ordinance Nos. 182921 and 183979, effective August 13, 2010.) The following vehicles may enter upon, stop or park in a transit lane or the Transit Mall:

- A.** A vehicle owned or operated by the Tri-County Metropolitan Transportation District of Oregon.
- B.** A vehicle so allowed by the terms of a maintenance contract with the City of Portland or TriMet or City Transportation maintenance crews engaged in maintenance.
- C.** A police, fire, ambulance, or outpatient vehicle, if performing emergency services.
- D.** A vehicle and equipment engaged in emergency response:
  - 1.** Towing;
  - 2.** Snow removal; or
  - 3.** Street, sewer, utility, bus or fire alarm repair.



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- E. Street Car.

**16.50.400 Vehicles Allowed in Non Transit Mall Transit Lanes During Certain Hours.**

(Amended by Ordinance Nos. 173627, 182389 and 182921, effective June 17, 2009.)

- A. A vehicle may enter upon and park in a transit lane if the lane is closed by a street closure permit from the City Engineer per Title 17 and if the vehicle is specifically authorized to do so by the street closure permit.
- B. A vehicle with a travel lane parking permit (16.20.550) or an angle loading permit (16.20.540) may park in a transit lane if authorized to do so by the permit.
- C. A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use except during the following hours: 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, after giving notification as required by regulations governing the Special Traffic Control District (17.23.050).
- D. A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use between the hours of 7 a.m. to 9 a.m. and/or 4 p.m. to 6 p.m., Monday through Friday, when specifically allowed during this time by a permit from the City Traffic Engineer. The City Traffic Engineer will notify Tri-Met and the City Engineer before issuing such a permit.
- E. A vehicle requiring direct access to properties facing a transit lane for ingress/egress or special loading may enter upon and use (but not park in) the transit lane(s) between 7 p.m. and 6 a.m. A permit from the City Traffic Engineer is required for this access between 6 a.m. and 7 p.m.
- F. A taxicab, for hire vehicle, delivery vehicle, maintenance vehicle, or garbage truck may enter certain transit lanes during times established by the Bureau of Transportation's Administrative Rules.

**16.50.410 Vehicles Allowed on the Transit Mall and Auxiliary Vehicular Lanes by Permit.**

(Added by Ordinance No. 182921; Amended by Ordinance No. 183979, effective August 13, 2010.)

- A. A public utility or construction vehicle engaged on or adjacent to the Transit Mall may enter upon, park and use the Transit Mall and/or the Auxiliary Vehicular Lanes if the Transit Mall and/or Auxiliary Vehicular Lanes are closed by permit from the City Engineer per Title 17, or TriMet access permit, and the vehicle is specifically authorized to do so by the permit.

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- B.** Except in the case of emergency and as otherwise provided for herein, the City Engineer shall not issue permits for the use of Auxiliary Vehicular Lanes between the hours of 6:00 AM and 7:00 PM Monday through Friday. The City Engineer may issue permits for Saturday and/or Sunday, but permits shall not be short term closures as required for operational safety of the service provider and shall not interrupt TriMet service.
  - 1.** “Emergency” shall mean any unscheduled repair of existing facilities which must be accomplished immediately to protect the life, health and well being of the public, or to protect public or private property. Under this definition, “emergency” work shall encompass only immediately required repairs and shall not include extensive replacement or upgrading of the facility.
- C.** The City Engineer may issue permits for the use of Auxiliary Vehicular Lane on SW 6th Avenue between SW Taylor and SW Morrison Streets to accommodate events permitted and authorized by Pioneer Courthouse Square, Inc. as may be deemed appropriate in the judgment of the City Engineer.
- D.** All permits shall include a traffic control plan approved by the City Engineer and Tri-County Metropolitan Transportation District of Oregon (TriMet).

#### **16.50.500 Regulation and Permit Procedure.**

- A.** The Traffic Engineer must notify the Tri-County Metropolitan Transportation District of Oregon of any rule, regulation or permit proposed to be issued under this chapter. The rule, regulation or permit will become effective on a date agreed upon by both parties. In the event of disagreement between Tri-Met and the Traffic Engineer, the City Council will determine whether the rule be adopted or the permit issued based upon the amount of interference to mass transit operations.
- B.** No limitation or prohibition of use herein applies to vehicles on a street intersecting or crossing a transit lane unless it is specifically designated as a transit lane.

**CHAPTER 16.60 - MOTOR VEHICLE FUELS**

(Chapter added by Ordinance No. 180313, effective  
August 11, 2006.)

**Sections:**

- 16.60.010 Definitions.
- 16.60.020 Biofuel Requirements.
- 16.60.025 Additional Regulation in the 122nd Avenue Subdistrict.
- 16.60.030 Exemptions.
- 16.60.040 Enforcement and Notice of Violation.
- 16.60.050 Penalties.
- 16.60.060 Disclosure.
- 16.60.070 Additional Regulations.

**16.60.010 Definitions.**

(Amended by Ordinance No. 180671, effective January 12, 2007.) As used in this Chapter, the following terms shall be defined as provided in this section:

- A. “B5 Fuel” means a fuel mixture consisting of 5% Biodiesel and 95% Diesel Fuel.
- B. “B10 Fuel” means a fuel mixture consisting of 10% Biodiesel and 90% Diesel Fuel.
- C. “B20 Fuel” means a fuel mixture consisting of 20% Biodiesel and 80% Diesel Fuel.
- D. “Biodiesel blend stock” means 100% biodiesel fuel utilized for the purpose of blending with diesel fuel.
- E. “Biodiesel fuel” means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM).
- F. “Biofuel” means any fuel that is derived from plant or animal matter that meets the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM) as determined by the Director of the Bureau of Development Services under Section 16.60.020.D. For the purposes of this Chapter, Biofuel shall include Biodiesel and Ethanol.
- G. “Diesel” means petroleum based liquid that is suitable for use as a fuel in diesel powered vehicles.
- H. “E10” means a fuel mixture of 10% ethanol and 90% gasoline.

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- I.** “Ethanol” means ethyl alcohol, a flammable liquid used or sold for the purpose of blending or mixing with gasoline.
- J.** “Feedstock” means the plant or animal matter from which a biofuel is derived.
- K.** “Fuel” means all gasoline or diesel sold within the City of Portland for the purpose of operating motor vehicles on public roadways.
- L.** “Fuel distributor” means a person that causes the transportation or storage of fuel at any point between a refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer within the City of Portland.
- M.** “Gasoline” means any fuel sold for use in spark ignition engines.
- N.** “Motor Vehicle” means every inanimate vehicle which is self-propelled. For the purposes of this Chapter, the definition of motor vehicle shall not include aircraft, watercraft, or locomotives.
- O.** “Nonretail dealer” means any person who owns, operates, controls or supervises an establishment at which motor vehicles fuel is dispensed through a car or key-activated fuel dispensing device to nonretail customers.
- P.** “Reseller” means a person who purchases fuel and resells or transfers it to a retailer or wholesale purchaser-consumer within the City of Portland.
- Q.** “Retail outlet” means any establishment within the City of Portland at which fuel is sold or offered for sale to the ultimate consumer for use in motor vehicles.
- R.** “Retailer” means any person who owns, leases, operates, controls or supervises a retail outlet within the City of Portland.
- S.** “Wholesale purchaser-consumer” means any organization within the City of Portland that is an ultimate consumer of fuel, and which purchases or obtains diesel or gasoline from a fuel distributor or reseller for use in motor vehicles, and receives delivery of that product into a storage tank or directly into a vehicle’s tank.

#### **16.60.020 Biofuel Requirements.**

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.**
  - 1.** On and after July 1, 2007, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).

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2. On and after August 15, 2007, all diesel fuel sold by fuel retailers, dispensed by nonretail dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).

**B.**

1. On and after July 1, 2010, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).
2. On and after July 1, 2010, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).

**C.**

1. On and after September 16, 2007, all gasoline sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.
2. On and after November 1, 2007, all gasoline sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.

- D.** The Director of the Bureau of Development Services shall establish, and revise as necessary, standards for biofuels sold in the City of Portland. The Director shall consult specifications established for biofuels by the American Society for Testing and Materials, the Oregon Department of Agriculture or similar specifications, in forming its standards.

- E.** Biodiesel produced from a feedstock of palm oil may not be used to satisfy the requirements of this Chapter.

- F.** The Bureau of Development Services shall study and monitor biodiesel production, use and sales in Oregon and in the City of Portland. When the production of biodiesel from Oregon grown feedstock and used cooking oil reaches a level of at least two million five hundred thousand gallons on an annualized basis for at least three months, the Bureau of Development Services shall notify all fuel distributors, resellers, retailers, nonretail dealers and wholesale-purchaser consumers that:

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1. The production of biodiesel from Oregon grown feedstock and used cooking oil has reached the level described above; and
  2. That three months from the date of the notice, all biodiesel used for the purposes of satisfying the requirements of this Chapter shall contain a minimum of 50% (by volume) of biodiesel produced from used cooking oil and/or feedstock from the Genera Brassica, Camelina, Helianthus or Carthamus.
- G.** Fuel retailers shall be required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling guidelines or rules established by the Oregon Department of Agriculture. For example, B5 fuel shall be labeled “B5 Biodiesel Blend.”

#### **16.60.025 Additional Regulation in the 122<sup>nd</sup> Avenue Subdistrict.**

(Added by Ordinance No. 180372; amended by Ordinance 180671, effective January 12, 2007.) Effective July 1, 2007, in the 122<sup>nd</sup> Avenue subdistrict of the East Corridor plan district, all fuel vendors established under the provisions of Subsection 33.521.300. F. of Title 33, Planning and Zoning, must sell a minimum blend of 20% Biodiesel (B20 fuel) at one or more pumps.

#### **16.60.030 Exemptions.**

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.** Any retailer who offers a biodiesel blend of 20% (B20 fuel) or greater shall be exempt from the requirements of Section 16.60.020 (A) and (B), and may also provide for sale, on the same site or a contiguous site, diesel fuel which does not contain biodiesel.
- B.** The Director of the Bureau of Development Services may temporarily suspend or modify the minimum biofuel content requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director’s determination shall be made by filing a report with the City Council.
- C.** The requirements of this Chapter do not apply to fuel used for the operation of railroad locomotives, watercraft or aircraft.
- D.** Nothing in this Chapter is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using up to eighty-five percent ethanol fuel blends.

#### **16.60.040 Enforcement and Notice of Violation.**

(Amended by Ordinance No. 180671, effective January 12, 2007.)

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- A.** The Director of the Bureau of Development Services, or designee, upon determining that a violation of this code or regulations duly adopted pursuant to this Chapter has occurred, shall issue a written notice of the violation by certified mail to the fuel distributor, reseller or retailer identifying the violation and applicable penalty.
- B.** The fuel distributor, reseller or retailer shall, upon receipt of a notice of violation, correct the violation and pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer within 10 days of receipt of the notice.
- C.** A determination issued pursuant to Section 16.60.040.A may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

**16.60.050 Penalties.**

Violations of this Chapter may be punishable by fines as follows:

- A.** A fine of up to \$5,000 for the first violation;
- B.** A fine of up to \$10,000 for each subsequent violation.

**16.60.060 Disclosure.**

(Amended by Ordinance No. 180671, effective January 12, 2007.) For all sales of biofuels blended products by fuel distributors or resellers for the purposes of meeting this Chapter, the distributor or reseller must provide a bill of lading or shipping manifest disclosing biofuel content, stating volume percentage, gallons of biofuel per gallon base stock, or an “Bxx” or “Exx” designation where “xx” denotes the volume percent biofuel included in the blended product, and the feedstock from which the biofuel was derived.

**16.60.070 Additional Regulations.**

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.** The Bureau of Development Services is authorized to promulgate administrative rules and take other actions reasonable and necessary to enforce this Chapter.

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**CHAPTER 16.65 - FUNERAL PROCESSIONS**

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

**Section:**

16.65.010 Funeral Processions.

**16.65.010 Funeral Processions.**

As used in this Section, funeral procession means four or more motor vehicles accompanying the body of a deceased person in the daytime, when each of such vehicles has its headlights lighted.

- A.** Pedestrians and the operators of all vehicles, except emergency vehicles, must yield the right-of-way to each vehicle which is a part of a funeral procession. Whenever the lead vehicle in the funeral procession lawfully enters an intersection, the remainder of the vehicles in such a procession may continue to follow such lead vehicle through the intersection notwithstanding any traffic control device or right-of-way provisions prescribed by statute or ordinance, provided the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian upon the streets or highway.
- B.** No person may operate any vehicle as part of a funeral procession without having the headlights of such vehicle lighted.
- C.** No operator of a vehicle may drive between vehicles in a funeral procession which are properly identified while the procession is in motion, except when directed to do so by a police officer.



**CHAPTER 16.70 - MISCELLANEOUS  
REGULATIONS**

**Sections:**

16.70.001	Purpose.
16.70.200	Pedestrians.
16.70.210	Must Use Crosswalks.
16.70.220	Must Cross at Right Angles.
16.70.230	To Obey Directions of School Traffic Patrol and Crossing Guard.
16.70.240	Bridge Railings.
16.70.300	Bicycles.
16.70.310	Persons Riding Bicycles to Obey Traffic Regulations.
16.70.320	Operating Rules.
16.70.330	Impounding Bicycles.
16.70.340	Renting Bicycles.
16.70.400	Other Transportation.
16.70.410	Roller Skates and Skateboards.
16.70.430	Train Switching Prohibited in Certain Areas
16.70.450	Off Street Parking Required for Trucks.
16.70.500	Traffic Regulations.
16.70.510	Trespassing - Leaving Pamphlet on Vehicle.
16.70.520	Hitching Onto Vehicle.
16.70.530	Central City Plan District Closed to Driving Lessons.
16.70.550	Vendor Traffic Regulations.
16.70.560	Traffic Regulations in Parks.
16.70.570	Inoperative Electric Traffic Control Signals.
16.70.600	Over Dimensional Vehicles.
16.70.610	General Prohibitions.
16.70.620	Exemptions.
16.70.630	Permits.
16.70.640	Limits of Authority to Issue Variance Permit.
16.70.650	Requirements, Conditions and Procedures for Issuance of Variance Permit; Duration; Cancellation.
16.70.660	Permit Must Be Carried and Displayed.
16.70.670	Movement of Building or Other Structure Excluded.
16.70.680	Liability for Damage to Streets or Other Public Property.
16.70.690	Designation of Streets for Vehicles of Excess Weight or Size.
16.70.700	Traffic Congestion Thoroughfares.
16.70.710	Purpose.
16.70.720	Posting Signs.
16.70.730	Signs.
16.70.740	Acts Prohibited.
16.70.750	Penalty.
16.70.760	Subsequent Violation.
16.70.770	Notice of Towing For Subsequent Violations.

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- 16.70.800      Visibility.
- 16.70.810      Street Obstructions and Dangerous Conditions.
- 16.70.900      Reckless Driving.

#### **16.70.001      Purpose.**

This Section provides traffic regulations in addition to those of the Oregon Revised Statutes that apply in the City of Portland.

#### **16.70.200      Pedestrians.**

##### **16.70.210      Must Use Crosswalks.**

No pedestrian may cross a street other than within a crosswalk if within 150 feet of a crosswalk.

##### **16.70.220      Must Cross at Right Angles.**

A pedestrian must cross a street at right angles unless crossing within a crosswalk.

##### **16.70.230      To Obey Directions of School Traffic Patrol and Crossing Guard.**

At intersections where a member of the school traffic patrol or crossing guard is stationed for the safety of school children, all pedestrians must obey the directions of such school traffic patrol member or crossing guard. It is unlawful for any pedestrian to cross at any intersection where such patrol member or crossing guard is stationed contrary to the direction of such school traffic patrol member or crossing guard.

##### **16.70.240      Bridge Railings.**

No pedestrians may sit, stand on, or lean their torso over a Willamette River bridge railing unless engaged in bridge maintenance work or otherwise authorized by an appropriate government agency.

#### **16.70.300      Bicycles.**

##### **16.70.310      Persons Riding Bicycles to Obey Traffic Regulations.**

Every person riding a bicycle upon a roadway is subject to state law and the provisions of this Title applicable to the driver of a vehicle, except state law and those provisions of this Title which by their very nature can have no application.

##### **16.70.320      Operating Rules.**

(Amended by Ordinance No. 165594, effective July 8, 1992.) No person may:

- A.      Leave a bicycle so that it obstructs vehicle or pedestrian traffic on a roadway, sidewalk, driveway, handicap access ramp, building entrance, or so that it prevents operation of a parking meter or newspaper rack;
- B.      Leave a bicycle secured to a fire hydrant or to a police or fire call box;

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- C. Leave a bicycle on private property without consent of the owner or legal tenant. Consent is implied on private commercial property;
- D. Leave a bicycle on a street or other public property for more than 72 hours; or
- E. Ride a bicycle on a sidewalk, unless avoiding a traffic hazard in the immediate area, within the area bounded by and including SW Jefferson, Front Avenue, NW Hoyt and 13th Avenue, except:
  - 1. On sidewalks designated as bike lanes or paths;
  - 2. On the ramps or approaches to any Willamette River Bridge; or
  - 3. In the area bounded by the west property line of SW Ninth Avenue, the east property line of SW Park Avenue, the north property line of SW Jefferson and the south property line of SW Salmon Street.
  - 4. For police or special officers operating a bicycle in the course and scope of their duties; or
  - 5. For employees of the Association for Portland Progress and companies providing security services operating a bicycle in the course and scope of their duties. These employees must have in possession an identification card issued by the Chief of Police certifying the rider has completed a training course in the use of a bicycle for security patrol.

**16.70.330 Impounding Bicycles.**

- A. A bicycle left on a street or other public property for more than 72 hours may be impounded.
- B. A bicycle may be immediately impounded if:
  - 1. It is parked in violation of this code and obstructs or impedes pedestrian or vehicular traffic; or
  - 2. It is an immediate threat to the public welfare.
- C. The impounding agency must make reasonable efforts to notify the owner of the impoundment and a description of how and by what date the bicycle must be claimed.
- D. A fee may be charged to the owner of an impounded bicycle. No impoundment fee will be charged to the owner of a stolen bicycle that has been impounded.

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- E.** An impounded bicycle that remains unclaimed after 30 days may be disposed of in accordance with city procedures for disposal of abandoned or lost personal property.

#### **16.70.340 Renting Bicycles.**

No person may rent a bicycle to another person unless the bicycle is equipped as required by state law.

#### **16.70.400 Other Transportation.**

#### **16.70.410 Roller Skates and Skateboards.**

(Replaced by Ordinance No. 185596, effective September 5, 2012.)

- A.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any sidewalk within the area bounded by and including SW Jefferson, Naito Parkway, NW Hoyt and 13th Avenue. The middle and bisecting sidewalks in the Park Blocks are considered sidewalks for the purposes of this Subsection.
- B.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk on
  - 1.** SW 5th or 6th Avenues between SW Lincoln and Burnside; and on
  - 2.** NW 5th or 6th Avenues between Burnside and Union Station.
- C.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk between the hours of 10 p.m. and 7 a.m. on
  - 1.** SW Fairview Boulevard between SW Knights Boulevard and SW Kingston Avenue;
  - 2.** SW Kingston Avenue between SW Tichner Drive and the Washington Park entrance;
  - 3.** SW Tichner Drive between SW Kingston Avenue and SW Marconi Avenue;
  - 4.** SW Marconi Avenue;
  - 5.** SW Park Place between SW Marconi Avenue and SW Wright Avenue;
  - 6.** SW Lafayette Place;

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7. SW Hampshire Street between SW Lafayette Place and SW Champlain Drive;
  8. SW Champlain Drive between SW Hampshire Street and SW Rutland Terrace;
  9. SW Rutland Terrace; and
  10. West Burnside Street from Skyline Boulevard to SW Vista Avenue.
- D.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk while attached in any manner to any motor vehicle on the roadway. In addition, a person shall not knowingly drive a motor vehicle that is towing a person riding same.
- E.** All persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must while on a public street, traveling at less than the speed limit of the roadway shall yield to vehicles approaching from the rear by moving to the right curb or shoulder of the street.
- F.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that shows a white light visible from a distance of at least 500 feet to the front of the device.
- G.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that has a red reflector or lighting device or material of such size or characteristic and so mounted, carried or worn as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.
- H.** The penalty for failing to follow the rules of Subsections A. - G. shall be a minimum fine of \$115.
- I.** All persons under 16 years of age shall wear protective headgear when using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, sidewalk, or bridge. The penalty for failure to wear protective headgear as required in this subsection shall be a maximum fine of \$25.
- J.** Except for those provisions by their very nature can have no application, this subsection adopts the Oregon Motor Vehicle Code's rules of the road for vehicle

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drivers to regulate the use of roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon a public highway in the City. Riders of such devices are subject to the provisions applicable to, and have the same rights and duties provided any driver of a vehicle by the Oregon Vehicle Code concerning operating on highways except when otherwise specifically provided in this Code.

1. The penalty for failing to follow the rules of the road incorporated by Subsection J. shall be a fine of \$250.

a. First time offenders of this Code are eligible to participate in Share the Road or similar program in lieu of the fine.

K. This Section does not apply to bicycles as defined by Section 16.90.025 of this Code.

#### **16.70.430 Train Switching Prohibited in Certain Areas.**

A. On railroad tracks located in NW 12th Avenue between West Burnside and NW Hoyt Streets, and on railroad tracks located on NW Flanders Street, between NW 12th Avenue and NW Front Avenue, it is unlawful for any person to direct, cause, or permit switching movements of freight cars between the hours of 6 a.m. and 7 p.m.

B. No person may direct, cause, or permit any railroad equipment to be left or parked on the main line tracks of these streets.

#### **16.70.450 Off-Street Parking Required for Trucks.**

A person owning or controlling any truck or truck trailer must provide at his or her own expense complete off-street parking facilities for the storage of all such equipment.

#### **16.70.500 Traffic Regulations.**

#### **16.70.510 Trespassing - Leaving Pamphlet On Vehicle.**

(Amended by Ordinance No. 165987, November 12, 1992.)

A. It is unlawful for any person to ride or trespass upon or within any motor vehicle without the consent of the owner or operator thereof.

B. It is unlawful for any person to post, stick, or place upon or within any motor vehicle any card, notice, handbill, leaflet, pamphlet, survey, or similar matter without the consent of the owner or operator.

C. The provisions of this Section do not apply to any card, notice, handbill, leaflet, pamphlet, survey, or similar matter placed upon or within such motor vehicle by

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authority of law, by an authorized officer of the City, County, or State or by a designee of the City Traffic Engineer.

**16.70.520 Hitching Onto Vehicle.**

- A.** It is unlawful for any person riding upon any vehicle, sled, or other conveyance to hitch or hold on to any part of another vehicle or conveyance for the purpose of being propelled or drawn along any street or highway within the City.
- B.** Nothing contained in this Section is deemed to prohibit the coupling of one or more motor vehicles or motor vehicle and trailer in the manner approved by ORS 818.

**16.70.530 Central City Plan District Closed to Driving Lessons.**

It is unlawful for any person to give or receive lessons or instructions in driving or operating any vehicle upon any street, except interstate freeways, in the Central City Plan District except for access directly to and from an institution or business located in the Central City Plan District. This Section does not apply to an applicant for a motor vehicle operator's license when accompanied by an examiner from the office of the Department of Motor Vehicles of Oregon.

**16.70.550 Vendor Traffic Regulations.**

(Amended by Ordinance Nos. 165594, 166575, and 176585, effective July 5, 2002.)

- A.** It is unlawful for any:
  - 1.** Vehicle, cart, or temporary stand used to conduct business to be left unattended for 30 or more minutes or parked or stored over night on any public grounds, street, or highway. See also: 14A.50.030, 14A.50.040, 14A.50.050, 16.20.150 D., 16.60.100 F., 17.25, 17.26.
  - 2.** Vendor to conduct business in a roadway adjacent to or directly across from residential property for a period longer than 10 minutes within any block face. Such vendor must vacate said block face for a period of 2 hours upon expiration of the 10-minute limit.
- B.** Whenever, in the judgement of the Bureau of Police, traffic is or will be congested in and around an area being used by a vendor, the Bureau of Police is hereby given authority to cause said vendors to move and remain out of the congested area.

**16.70.560 Traffic Regulations in Parks.**

(Amended by Ordinance Nos. 165594 and 187564, effective January 27, 2016.)

- A.** Except as otherwise provided in this Section, the provisions of this Title regulating street traffic and parking apply to driving or parking a vehicle in a City park or golf course.

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- B.** With approval of the Commissioner In Charge, the Director of Portland Parks & Recreation may restrict or prohibit traffic or types of traffic and parking in City parks as defined in Title 20. Signs giving notice of any restriction or prohibition imposed under this Subsection shall be posted and maintained by the Director of Portland Parks & Recreation in a conspicuous manner and place to inform the public. It is unlawful for any person to violate any restriction or prohibition imposed under this Subsection after notice thereof has been posted.
- C.** The Bureau of Police or the Director of Portland Parks & Recreation or the Director's designee has authority to enforce the provisions of this Section and is authorized to order that a vehicle parked in violation of such restrictions or prohibitions be towed in the manner provided in this Title.
- D.** The provisions of this Section do not apply to City authorized vehicles used in park or golf course service.

#### **16.70.570 Inoperative Electric Traffic Control Signals.**

An intersection with inoperative electric traffic control signals shall be treated as an uncontrolled intersection, unless other official traffic control devices have been erected at the intersection. This Section does not apply to freeway ramp metering signals operated by the Oregon Department of Transportation.

#### **16.70.600 Over Dimensional Vehicles.**

#### **16.70.610 General Prohibitions.**

- A.** It is unlawful for any person or owner to drive, move, or to cause or permit to be driven or moved on any street in the City any vehicle or combination of vehicles that:
  - 1.** Exceeds the weight or size limitations set forth in the Oregon Revised Statutes (ORS), Chapter 818;
  - 2.** Is not constructed or equipped as required by ORS 818;
  - 3.** Is dragging upon or over the surface of a street any log, pole, piling, or other thing;
  - 4.** Does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the street;
  - 5.** Is so constructed or loaded so as to allow its contents to drop, sift, leak, or otherwise escape therefrom; or
  - 6.** Violates any other provisions of this Title.



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- B.** Operation of any vehicle or combination of vehicles in violation of the provisions of this Chapter is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed pursuant to ORS 818.

**16.70.620 Exemptions.**

- A.** The provisions of this Chapter governing size and weight do not apply to:
- 1.** Any vehicle, combination of vehicles, article, machine, or other equipment in use by the Federal Government, the State of Oregon, or any county or city while in the immediate vicinity of and involved with the construction, maintenance, or repair of public highways;
  - 2.** Any vehicle in use by a mass transit district for the purposes authorized under ORS 267.010 to ORS 267.390, provided the size or weight of the vehicle is approved by the City for that route; or
  - 3.** Any vehicle, combination of vehicles, article, machine, or other equipment operated under a permit issued by the Traffic Engineer and in compliance with the conditions and restrictions thereof.
- B.** None of the size limits described in ORS 818, except the maximum limit of allowable extension beyond the last axle of a combination of vehicles, apply to agricultural equipment hauled, towed, or moved upon any street if the movement is incidental to the farming operations of the owner of the agricultural equipment.

**16.70.630 Permits.**

Under authority granted in Section 16.10.200, the Traffic Engineer may grant written permits for the operation over City streets, or sections thereof, of any vehicle or combination of vehicles, including any load thereon, having:

- A.** A gross weight;
- B.** A length;
- C.** A width;
- D.** A height; or
- E.** A maximum number of vehicles in combination; in excess of that authorized in ORS 818 or administratively imposed weight or size limits designated in accordance to 16.70.690.

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#### **16.70.640 Limits of Authority to Issue Variance Permit.**

A permit may not be issued for any vehicle or load that can readily or reasonably be dismantled or disassembled to reduce weight or width. This does not apply to any vehicle, combination of vehicles, load, article, property, machine, or thing that is:

- A.** Used in the immediate vicinity of construction, maintenance, or repair of public highways; and
- B.** Of a length in excess of that permitted in ORS 818.

#### **16.70.650 Requirements, Conditions and Procedures for Issuance of Variance Permit; Duration; Cancellation.**

(Amended by Ordinance Nos. 176361 and 181217, effective September 14, 2007.)

- A.** In issuing a permit, the Traffic Engineer may:
  - 1.** Grant a permit that is valid for a single trip, a number of trips or an amount of time not to exceed one year.
  - 2.** Establish seasonal or other time limitations on a permit.
  - 3.** Require the applicant to furnish public liability or automobile insurance and property damage insurance as follows:
    - a.** General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage; or
    - b.** Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired or nonowned vehicles, as applicable; and
    - c.** The City of Portland, and its agents, officers, and employees are Additional Insured, but only with respect to operations occurring within the scope of the permit.
    - d.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
    - e.** As evidence of the insurance coverage required, the applicant shall furnish acceptable insurance certificates to the City prior to issuance of any permit. The certificate will specify that the City is additional insured and will include the 30-day cancellation clause. Insuring companies or entities are subject to City acceptance. The applicant

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shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

4. Require the applicant to furnish indemnity insurance or an indemnity bond in an amount fixed by the Traffic Engineer to:
    - a. Reimburse the City of Portland for any damage to the highways or streets that may be caused under the permit; and
    - b. Indemnify the members, officers, employees, and agents of the City of Portland from any claim that might arise from the granting of the permit and from the use of the highways under the permit.
  5. Require a demonstration by the applicant to establish that any vehicle, combination of vehicles, load, article, property, machine, or thing in operation under a permit would:
    - a. Stay on the right side of the center line of the traveled way at all times; and
    - b. Allow sufficient room in the opposing traffic lane for the safe movement of other vehicles.
- B.** A permit must be in writing and must specify:
1. All highways or streets over which the permit is valid;
  2. Any vehicle, combination of vehicles, load, article, property, machine, or thing allowed under the permit; and
  3. Maximum dimensions and maximum weights allowed under the permit.
- C.** Under this section, the Traffic Engineer may not issue a permit that is valid for longer than 1 year.
- D.** An application for a permit issued under this section must specify:
1. The vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is requested;
  2. The particular highways and streets for which the permit is sought; and
  3. Whether the permit is sought for a single trip, a number of trips or continuous operation.
- E.** This Section does not authorize:

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1. Any vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is issued to be operated or moved contrary to any provisions of the vehicle code, except as specified in a permit; or
  2. Any movement or operation of a vehicle, combination of vehicles, load, article, property, machine, or thing until a permit is issued.
  3. Any vehicle, combination of vehicles, load, article, property, machine, or thing which is eligible for a permit under the State of Oregon Continuous Operation Variance Permit program as described in OAR 734.074.0010.
- F.** The City Traffic Engineer may be present during the movement. The presence of the City Traffic Engineer and any directions or suggestion made by him/her is not to be considered supervision of the movement and does not relieve the permit holder or the permit holder's insurers or sureties from liability for any damage done by the movement. If there are any of the permit's terms or conditions with which the movement does not comply, the City Traffic Engineer who is present at the movement may order it to be stopped.
- G.** Any permit may be canceled at any time by the City Traffic Engineer upon satisfactory proof that:
1. The permit holder has violated any of the terms of the permit;
  2. The permit was obtained through misrepresentation in the application therefor; or
  3. The public interest requires cancellation.

#### **16.70.660 Permit Must Be Carried and Displayed.**

- A.** The driver of any vehicle or combination of vehicles for which a variance permit has been issued commits the offense of failure to carry and display a variance permit if the driver does not:
1. Have the variance permit in immediate possession at all times when driving the vehicle or combination of vehicles upon a public highway or street; and
  2. Display the variance permit upon demand of any police officer, department or county weighmaster, judicial officer, or the City Traffic Engineer.
- B.** Later producing a variance permit issued prior to and valid at the time of an offense by authority of this section is not a defense for a charge under this Section.

**16.70.670 Movement of Building or Other Structure Excluded.**

The movement of buildings or other structures on or over the streets and other public right-of-ways of the City is excluded from the provisions of this Chapter. (See Chapter 17.48, Public Improvements.)

**16.70.680 Liability for Damage to Streets or Other Public Property.**

Any person moving any vehicle of excess weight or size on or over any street or other public right-of-way in the City is responsible for damage to pavement or other public improvement or property caused thereby.

**16.70.690 Designation of Streets for Vehicles of Excess Weight or Size.**

- A. When in the judgement of the City Traffic Engineer any City street or section thereof is capable of carrying any vehicle or combination of vehicles having a gross weight or overall size in excess of that authorized in ORS 818, the City Traffic Engineer may report to the City Council so declaring that street and fixing the maximum gross weight, width, height, and/or length and types and classes of vehicles or combination of vehicles which may be operated thereon.
- B. The provisions of any report accepted by the City Council pursuant to recommendation of the City Traffic Engineer under this Section may be changed or rescinded at any time and is subject to any order made pursuant to Section 16.10.200.
- C. If a report submitted by the City Traffic Engineer under this Section is accepted by the City Council, a duplicate original thereof (and any amendment or revocation thereof) must be filed by the Auditor with the Secretary of State. After such resolution is adopted and filed, no permit is required for the operation upon such street or section thereof of a vehicle or combination of vehicles not exceeding the maximum gross weight and length fixed by the report for vehicles or combinations of vehicles of that type and class.

**16.70.700 Traffic Congestion Thoroughfares.**

**16.70.701 Purpose.**

The purpose of this Chapter is to prohibit the repeated driving of a motor vehicle along and across one portion of a congested public street, which constitutes a strict liability violation without any requirement of culpable mental state, all as described in this Chapter.

**16.70.720 Posting Signs.**

With respect to any traffic congestion thoroughfare, the Chief of the Bureau of Police or his/her designee is authorized to declare that portion of the street to be a traffic congestion thoroughfare and to cause signs, as described in this Chapter, to be posted notifying of that designation.

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#### **16.70.730 Signs.**

The signs referred to in Section 16.70.720 will notify drivers that they are entering a traffic congestion thoroughfare; that repeated passage of a motor vehicle through or across the traffic congestion thoroughfare is a violation of City Code Section 16.70.740; and that for a subsequent violation, the vehicle will be towed.

#### **16.70.740 Acts Prohibited.**

Between the hours of 9 p.m. and 5 a.m. of the following morning, no vehicle may pass along or across a traffic congestion thoroughfare, designated as such by signs as described in Section 16.70.730, more than two times.

#### **16.70.750 Penalty.**

(Amended by Ordinance Nos. 165987 and 176394, effective April 17, 2002. Corrected under authority of PCC Section 1.01.035 on May 15, 2017.)

- A.** Except as provided below, violation of this Chapter is an infraction punishable by a fine not to exceed \$150.
- B.** Violation of Sections 16.20.470, 16.70.510 A. and 16.10.060, is punishable by a fine of not more than \$500, or by imprisonment not exceeding 10 days or both.

#### **16.70.760 Subsequent Violation.**

If a vehicle passes along or across a traffic congestion thoroughfare as designated by signs in violation of Section 16.70.740, any single subsequent drive-through of that traffic congestion thoroughfare by that vehicle within the same 9 p.m. to 5 a.m. time period constitutes a separate violation of Section 16.70.740, punishable as provided in section 16.70.750; and the vehicle may be towed and taken to a storage area designated by the City and may be held for not more than 24 hours, all at the expense of the owner or person entitled to possession.

#### **16.70.770 Notice of Towing For Subsequent Violations.**

Upon issuing a citation for a violation of Section 16.70.740, the officer will give the person to whom the citation is issued a written notice which will state:

##### **NOTICE**

You have been cited for violation of Code Section 16.70.740 for repeated passage of a motor vehicle on or across a traffic congestion thoroughfare.

If the vehicle you are driving is again driven along or across this traffic congestion thoroughfare before 5 a.m. this morning, this vehicle may be impounded and towed in accordance with City Code Section 16.70.760.

Chief of the Bureau of Police

#### **16.70.780 Exemptions.**

This Section does not apply to:

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- A.** Any publicly owned vehicle of any city, county, public district, state, or federal agency;
- B.** Any vehicle licensed for public transportation; or
- C.** Any other vehicle granted an exemption by the Chief of Police because passage of the vehicle along or across the traffic congestion thoroughfare is necessary for commercial or medical reasons.

**16.70.800 Visibility.**

(Amended by Ordinance Nos. 165987, 173369, 183397, 184522, 185448 and 186053, effective January 1, 2015.)

- A.** It is the responsibility of the owner or occupant of any property to prevent any vegetation including trees on the property or the abutting public right-of-way from partially or wholly obstructing the visibility of traffic control devices, the visibility of or for drivers, bicyclists, or pedestrians, or in any way presents a safety hazard.
- B.** The person who owns or occupies said property is liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or prune such vegetation as required by Title 16 or any other Title of the City Code. Furthermore, said person is liable to the City of Portland for any judgement or expense incurred or paid by the City, by reason of said person's failure to satisfy the obligations imposed by this or any other Title of the City Code.
- C.** Any tree removal or pruning required by this Title shall be done in accordance with the provisions of Title 11, including the need to obtain tree permits for removal and pruning.
- D.** Vegetation, including trees, in green street or other public stormwater management facilities, shall be trimmed only by the City or under the authorization of the Bureau of Environmental Services (BES).
- E.** Any vegetation or tree not removed or pruned as required in this Title is hereby declared to be a public nuisance and may be summarily abated as provided in Title 29.
- F.** Whenever the provisions of this section conflict with those of any other section of this code, including but not limited to Titles 11, 16, 17 and 33, the stricter provisions shall govern.

**16.70.810 Street Obstructions and Dangerous Conditions.**

(Added by Ordinance No. 176585, effective July 5, 2002.) No person, whether acting as private citizen, principal, employee or agent shall:

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- A.** Between the hours of sunset and sunrise, place or allow to remain on any street any obstruction, other than a lawfully parked vehicle or any permitted structure, unless a clearly displayed warning light or lights are:
  - 1.** plainly visible for 200 feet in either direction parallel to the street and at least 25 feet in all other directions, and
  - 2.** placed on the edge or side of the obstruction nearest the center of the street.
- B.** At any time, create a dangerous condition on any street without erecting and maintaining a distinctly visible barricade which provides a clear indication of the danger and directs people safely around it; and/or
- C.** Remove such a barricade from any street while the danger continues.

#### **16.70.900 Reckless Driving.**

(Added by Ordinance No. 173097, effective by February 10, 1999.)

- A.** A driver of a vehicle commits the crime of reckless driving within the City of Portland if the driver commits two or more of the following violations in a single series of acts in such a way as to endanger the safety of persons or property:
  - 1.** Unlawful or unsignaled lane change;
  - 2.** Unsafe passing on the left or right;
  - 3.** Passing in a no-passing zone;
  - 4.** Following too close;
  - 5.** Illegal backing;
  - 6.** Unlawful stop or deceleration;
  - 7.** Failure to signal;
  - 8.** Violation of maximum speed limit in an urban area; or
  - 9.** Taking other actions that a reasonable driver would know endanger the safety of persons or property in a congested urban driving environment such as the City of Portland.
- B.** Violation of this law shall constitute a Class A Misdemeanor as prescribed in State law.



**CHAPTER 16.90 - DEFINITIONS**

**Sections:**

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16.90.005	Abandoned Vehicle.
16.90.010	Accessory Recreational Vehicle.
16.90.015	Alley.
16.90.020	Angle Loading.
16.90.025	Bicycle.
16.90.030	Bicycle Boulevard.
16.90.032	Bicycle Lane.
16.90.034	Bikeway, Shoulder.
16.90.036	Bikeway, Extra Width Curb Lane.
16.90.038	Bikeway, Off-Street Path.
16.90.040	Bikeway, Signed Connection.
16.90.045	Block Face.
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16.90.060	Central City Plan District.
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16.90.070	Compact Car.
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16.90.095	Curb Line.
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16.90.100	Driver.
16.90.105	Driveway.
16.90.110	Drop box.
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16.90.130	Gross Vehicle Weight Rating.
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16.90.140	Handicap Access Ramp.
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16.90.150	Improper Use.
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16.90.160	Light Rail Transit System.
16.90.165	Light Rail Vehicle.
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16.90.185	Mobile Construction Trailer.
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16.90.295	Regulated Parking Zone.
16.90.300	Repair (a vehicle).
16.90.302	Right-of-Way.
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16.90.395	Tri-Met Bus.
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### **16.90.001      Generally.**

The following words and phrases when used in this Title shall, for the purpose of this Title, have the meanings respectively ascribed to them in this Chapter, except in those instances where the context clearly indicates a different meaning. Definitions of words and phrases in the Oregon Revised Statutes may be applied unless defined differently in this Title or in those instances where the context clearly indicates a different meaning.

### **16.90.005      Abandoned Vehicle.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) A vehicle that remains in violation for more than 24 hours and one or more of the following conditions exist:

- A.      The vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration.
- B.      The vehicle appears to be inoperative or disabled.
- C.      The vehicle appears to be wrecked, partially dismantled or junked.

### **16.90.010      Accessory Recreational Vehicle.**

See Recreational Vehicle.

### **16.90.015      Alley.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular movement.

### **16.90.020      Angle Loading.**

When a vehicle is parked at an angle to traffic flow for the purpose of loading/unloading and extends into the public right-of-way anywhere outside of a legal parking area.

### **16.90.025      Bicycle.**

A type of vehicle that:

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- A.** Is designed to be operated on the ground on wheels;
- B.** Has a seat or saddle for use of the rider;
- C.** Is designed to travel with not more than three wheels in contact with the ground;
- D.** Is propelled exclusively by human power; and
- E.** Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.

#### **16.90.030 Bicycle Boulevard.**

(Replaced by Ordinance No. 177028, effective December 14, 2002.) A roadway with low vehicle traffic volumes where the movement of bicycles is given priority.

#### **16.90.032 Bicycle Lane.**

(Added by Ordinance No. 177028, effective December 14, 2002.) The part of the street designated by official signs or markings for the movement of persons riding bicycles except as otherwise specifically provided by law.

#### **16.90.034 Bikeway, Shoulder.**

(Added by Ordinance No. 177028, effective December 14, 2002.) A street upon which the paved shoulder, separated by a four-inch stripe and no bicycle lane markings, is used for the movement of persons riding bicycles. Auto parking is also allowed on shoulders marked in this manner.

#### **16.90.035 Bicycle Path.**

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

#### **16.90.036 Bikeway, Extra Width Curb Lane.**

(Added by Ordinance No. 177028, effective December 14, 2002.) A wider than normal curbside travel lane provided to give extra room for the movement of persons riding bicycles where there is insufficient space for a bicycle lane or shoulder bikeway.

#### **16.90.038 Bikeway, Off-Street Path.**

(Added by Ordinance No. 177028, effective December 14, 2002.) An off-street path for the movement of persons riding bicycles that is physically separated from motorized vehicular traffic by an open space or barrier and either within a street right-of-way, but not in the roadway, or within an independent right-of-way or dedicated easement.

#### **16.90.040 Bikeway, Signed Connection.**

(Replaced by Ordinance No. 177028, effective December 14, 2002.) A bikeway upon which signing is placed to direct bicyclists to a destination or another bikeway.

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**16.90.045      Block Face.**

The area between the line separating a public right-of-way from private property and the center line of a street or highway, and between the midpoint of two intersections.

**16.90.050      Bureau of Transportation System Management.**

(Repealed by Ordinance No. 182389, effective January 2, 2009.)

**16.90.055      Carpool Vehicle.**

- A.** Any vehicle that is designed by its manufacturer to seat three or more people and is utilized to transport on a regular basis, three or more people including the driver, from a point of origin to a destination.
- B.** For the purpose of this Title of the City Code, carpool vehicle specifically means any vehicle described in A. above, which displays a carpool permit issued by the Tri-County Metropolitan Transportation District of Oregon.

**16.90.060      Central City Plan District.**

The Central City Plan District is defined in Title 33 of this code. For purposes of this Title, however, regulations that apply to the Central City Plan District apply to the whole street (up to the property line or extension of a property line to the corner of a property line across an intersection) of the streets whose center lines serve as boundaries to the Central City Plan District.

**16.90.065      City Recognized Holidays.**

City recognized holidays are:

- A.** New Year's Day;
- B.** Martin Luther King Jr.'s Birthday;
- C.** President's Day;
- D.** Memorial Day;
- E.** Fourth of July;
- F.** Labor Day;
- G.** Veteran's Day;
- H.** Thanksgiving Day; and
- I.** Christmas Day.

A day begins at 12:00:00 a.m. and ends at 11:59:59 p.m.

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#### **16.90.070 Compact Car.**

Any vehicle which will fit within the space lines of a space designated for compact cars by official signs or markings.

#### **16.90.075 Conduct Business.**

The act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.

#### **16.90.080 Construction Zone.**

The space adjacent to the curb and in immediate proximity to the premises where construction, alteration, remodeling, repairing, or similar work is in progress, and designated by official parking meter or sign hoods, signs, or markings.

#### **16.90.085 Crosswalk.**

Any portion of a roadway at an inter-section or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked cross- walks have been indicated, such cross- walks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- A.** Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:
  - 1.** The connections of the lateral lines of the sidewalks, shoulders, or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
  - 2.** The prolongation of the lateral lines of a sidewalk, shoulder, or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.
- B.** If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than 6 feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk.

#### **16.90.090 Curb.**

Any raised margin defining the space in the street devoted to vehicular traffic.

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**16.90.095 Curb Line.**

The curb line separates a street or highway into the area dedicated to vehicle traffic (roadway) and the area dedicated to pedestrian and nonmotor vehicle traffic (planting strip, sidewalk, etc.).

**16.90.097 Disabled Person Permit/Placard.**

(Added by Ordinance No. 186575, effective July 1, 2014.) Any official State-issued disabled person registration plate, placard, permit or decal, including: Regular, Program, Family, Motorcycle, Golf Cart or any other placard not issued specifically for “Wheelchair Only”.

**16.90.100 Driver.**

The rider, driver, or leader of any animal or vehicle that is not self-propelled and the operator of any vehicle that is self-propelled.

**16.90.105 Driveway.**

**A.** A road or access, whether improved or unimproved, extending from a public right-of-way onto private or public lands or structures for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious opening for access. For purposes of enforcement, a driveway:

- 1.** Extends from one curb return to the other;
- 2.** If winged, includes the wings; or
- 3.** If the street is unimproved, the driveway area falls between the projections of the edges of an improved driveway or the most established tire ruts of an unimproved driveway.

**B.** Such road or access will be enforced as a driveway unless closed by a structure or permanent closure device.

**16.90.110 Drop Box.**

A container in which trash or any other refuse material is temporarily stored or collected. For the purposes of Title 16, a drop box will be considered a vehicle in terms of parking provisions and restrictions.

**16.90.115 Emergency Vehicles.**

(Amended by Ordinance No. 180917, effective May 26, 2007.) Vehicles of Portland Fire & Rescue, police vehicles, emergency vehicles of municipal departments, and ambulances while being used for emergency purposes and displaying lights as required by the Oregon Revised Statutes.

**16.90.120 Fire Station.**

Any building used for the purpose of housing fire apparatus of the City.

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#### **16.90.125 Fog Line or Edge Line.**

The official 4-inch wide marking that defines the lateral lines of a roadway.

#### **16.90.130 Gross Vehicle Weight Rating.**

The value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle or the registration weight, whichever is greater.

#### **16.90.135 Guest.**

As used in a regulated parking zone sign, means a patron or visitor to the adjacent hotel.

#### **16.90.140 Handicap Access Ramp.**

An inclination, ramp-like structure, or any other such device designed to serve and provide ease of access from the sidewalk to the roadway or from the street to adjacent property for individuals using a mobility aid. If winged, it includes the winged area of the structure.

#### **16.90.145 Hotel.**

Any structure intended or designed for transient occupancy and which offers more than 25 percent of its rooms for dwelling, lodging or sleeping purposes for less than a 30 day period.

#### **16.90.150 Improper Use.**

Improper use occurs when a permit holder violates the provisions described on the permit application.

#### **16.90.155 Intersection.**

The area of a roadway created when two or more public roadways join together at any angle, as described in one of the following:

- A.** If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.
- B.** If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.
- C.** The junction of an alley with a roadway does not constitute an intersection.
- D.** Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection.

#### **16.90.160 Light Rail Transit System.**

A commuter transit mode consisting of steel-wheeled rail vehicles, powered electrically through overhead lines, operating predominately on exclusive right-of-way that need not be grade separated.



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**16.90.165      Light Rail Vehicle.**

A component car in a light rail transit system.

**16.90.170      Load/Unload.**

To load or unload a vehicle means to be actively engaged in removing merchandise from or putting merchandise in a vehicle.

**16.90.175      Local Authorities.**

Every county, municipality, and other local board or body having authority to adopt local police regulations under the constitution and laws of this State.

**16.90.180      Long-Term Parking Meter.**

A parking meter with a designated time limit of more than 4 hours.

**16.90.185      Mobile Construction Trailer.**

A trailer that is used temporarily in conjunction with a construction site for office and other related purposes.

**16.90.190      Motor Bus.**

Every motor vehicle designed or used for carrying passengers and their personal baggage for compensation. The term “motor bus” does not mean or include taxicabs designed or constructed to accommodate and transport not more than five passengers, exclusive of the driver, and fitted with taximeters or using or having some other device, method, or system to indicate and determine the passenger fare paid for distance traveled.

**16.90.195      Motor Home.**

See Recreational Vehicle.

**16.90.200      Motor Vehicle.**

Every inanimate vehicle which is self-propelled.

**16.90.205      Municipal Terminal.**

Any property owned or operated by the Port of Portland for the provision of port services.

**16.90.210      Official.**

By authority of or recognized by law or code.

**16.90.215      Official Vehicle.**

Any government vehicle so identified by public registration plates.

**16.90.220      Official/Reserved Zone.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any space adjacent to the curb or edge of the roadway, or on City of Portland owned or operated property, which is exclusively reserved for those vehicles which have been assigned the use of such space through official permits or other means of designation.

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#### **16.90.225 Operator.**

Any person who is in actual physical control of a vehicle.

#### **16.90.230 Parade.**

Any group of persons and/or vehicles moving on a street or streets of the City under permit as herein provided in accordance with a plan or common purpose for a celebration, display, exhibition, show, or advertisement, whether for public, semi-public, or private purposes, but does not include funeral processions or advertising vehicles operating under the provisions of Title 7.

#### **16.90.235 Park, Parking, or Parked.**

The stopping or standing of any vehicle upon any street or highway within the City, whether such vehicle is occupied or not. It does not mean stopping or halting temporarily for less than 30 seconds to load/unload passengers, or in obedience to traffic regulations, signs, signals, or officers.

#### **16.90.240 Parking Lane.**

The area between the curb and not more than 8 feet from the curb or curb line or as shown by official street markings. The parking lane is generally intended for vehicle parking. Parking regulations may apply to the parking lane area according to the provisions of Title 16 of the Portland City Code.

#### **16.90.245 Parking Meter.**

(Amended by Ordinance Nos. 176394 and 179141, effective March 23, 2005.) A device placed at or near the curb adjacent to the street area, or on City of Portland owned or operated property authorized by the City and designed to register the duration of the parking time and the limit thereof, upon payment by a U.S. coin or a payment card. Parking meter includes a pay station.

#### **16.90.247 Payment Card.**

(Added by Ordinance No. 176394, effective April 17, 2002.) A valid credit, debit or stored value card.

#### **16.90.249 Space Reservation Device.**

(Added by Ordinance No. 176394; amended by 179141, effective March 23, 2005.) A hood that is secured over a parking meter or a marker that is placed near the curb of the parking space, which contains administrative information on permit holder and regulations.

#### **16.90.250 Pedestrian.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A person afoot; a person operating a pushcart; a person riding on or pulling a coaster wagon, sled, scooter, tricycle, bicycle with wheels less than 14 inches in diameter, or a similar non-motorized vehicle; or on roller skates, skateboard, wheelchair, or a baby in a carriage.

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**16.90.255 Pedestrian Way.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility intended for pedestrian movement.

**16.90.260 Permanently Exhibit.**

To display affixed to a vehicle so that the sign may not be removed from the vehicle without mechanical tools.

**16.90.265 Person.**

A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

**16.90.270 Planting Strip.**

The area between the curb or edge of the roadway and an improved sidewalk.

**16.90.275 Private Road.**

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

**16.90.280 Public Right-of-Way.**

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

**16.90.285 Rail Vehicles.**

Any steel-wheeled vehicle(s) propelled on fixed steel rails, including, but not limited to: trolleys; light rail vehicles; and diesel- powered trains.

**16.90.290 Recreational Vehicle.**

A vehicle which is designed for sport or recreational use, or which is designed for human occupancy on an intermittent basis. Recreational vehicle is divided into two categories as follows:

- A.** Motor Home. A motor vehicle designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck.
- B.** Accessory Recreational Vehicle. A nonmotor vehicle designed for human occupancy on an intermittent basis such as vacation trailers and fifth-wheel trailers. A camper is considered an accessory recreational vehicle when it is not on the back of a pick-up or truck. Accessory recreational vehicle also includes vehicles designed for off-road use such as off-road vehicles, dune buggies, and recreational boats.

**16.90.295 Regulated Parking Zone.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) A space adjacent to a curb or curb line, designated by official signs or markings, where special regulations for

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parking or stopping a vehicle apply in addition to the general parking regulations that apply to all parking areas in the public right-of-way, or on City of Portland owned or operated property.

#### **16.90.300 Repair (a vehicle).**

To perform work on the motor, mechanical, or body parts of a vehicle.

#### **16.90.302 Right-of-Way.**

(Added by Ordinance No. 177028, effective December 14, 2002.)

- A.** The area between property lines of a street, easement, tract or other area dedicated to the movement of vehicles, pedestrians and/or goods.
- B.** A public right-of-way is dedicated or deeded to the public for public use and under the control of a public agency.
- C.** A private right-of-way is in private ownership, for use by the owner and those having express or implied permission from the owner, but not by others.

#### **16.90.305 Roadway.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) The portion of a street or highway improved for vehicle movement, including any parking lane. On an improved street, the area between the curbs or edge lines of a street.

#### **16.90.310 School Bus.**

A motor bus owned or operated by authority of any lawfully recognized school district.

#### **16.90.315 Service (a vehicle).**

To perform routine maintenance such as replacing fluids or charging batteries. It does not include repairs to motor or body parts.

#### **16.90.320 Short-Term Parking Meter.**

A parking meter with a designated time limit of 4 hours or less.

#### **16.90.325 Shoulder.**

The portion of a public street or highway without curbs, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

#### **16.90.330 Sidewalk.**

The portion of the street between the curb or lateral lines of the roadway and the adjacent property lines, intended for use by pedestrians. An improved sidewalk is a pedestrian walkway with permanent surfacing in the sidewalk area of a street or highway.

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**16.90.335      Skateboard.**

A board of any material, natural or synthetic, with wheels affixed to the underside, designed to be ridden by a person.

**16.90.340      Sled.**

Vehicles that do not move exclusively on revolving wheels in contact with the surface of the road or on fixed rails.

**16.90.345      Stop, Stopping, or Stopped.**

Any halting, even momentarily, of a vehicle, whether occupied or not, except to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

**16.90.350      Street or Highway.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) The entire width of a right-of-way when any portion thereof is intended for motor vehicle movement or motor vehicle access to abutting property.

**16.90.351      Storage Container.**

(Added by Ordinance No. 179141, effective March 23, 2005.) A Storage Container in which any material is temporarily stored or collected. For the purposes of Title 16, a storage container will be considered a vehicle in terms of parking provisions and restrictions.

**16.90.355      Taxicab.**

Any motor vehicle which carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly licensed by the City of Portland as a taxicab.

**16.90.360      Tire.**

The band of material used on the circumference of a wheel, on the outer face of a track or on a runner of a sled, which forms the tread that comes in contact with the surface of the road, or, if no band is used, then it means the tread or runner of a sled.

**16.90.365      Traffic.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) Pedestrians, ridden or herded animals, and vehicles, either singly or together, while using any street or highway for purposes of movement or parking.

**16.90.370      Traffic Congestion Thoroughfare.**

Any portion of a street or highway within the City affected by traffic congestion caused in whole or in part by the repeated driving of the same motor vehicles along or across that portion of the thoroughfare.

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#### **16.90.375 Traffic Control Device.**

- A.** All signs, signals, markings, and devices consistent with this Title placed or operated by direction of the City Traffic Engineer for the purpose of guiding, directing, warning, or regulating traffic or parking.
- B.** Any device that remotely controls by electrical, electronic, sound, or light signal the operation of any device identified in subsection (A) of this definition.

#### **16.90.380 Traffic Control Signal.**

Any device, whether manually, electrically, or mechanically operated, by which traffic is directed. An electric traffic control signal is considered inoperative when none of the signal control indications are illuminated.

#### **16.90.385 Traffic Hazard.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any object, including vehicles, that impede the safe movement of vehicles in the public right-of-way or, on City of Portland owned or operated property.

#### **16.90.390 Traffic Lane.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) An area of a street or highway, designated by official signs or markings, as dedicated to the movement of one vehicle at a time.

#### **16.90.392 Transit Mall and Auxiliary Vehicular Lanes.**

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall and Auxiliary Vehicular Lanes shall be designated in Section 16.50.110. An emergency is defined in Subsection 17.23.020 E.

#### **16.90.395 Tri-Met Bus.**

A motor bus owned or operated by the Tri-Metropolitan Transit District of Oregon.

#### **16.90.400 Trolley or Streetcar.**

(Amended by Ordinance No. 175564, effective May 9, 2001.) An electric or diesel powered, steel wheeled rail vehicle, operating on steel rails, used to transport passengers.

#### **16.90.405 Truck.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) Every motor vehicle designed, used or maintained primarily for the transportation of property, goods or providing a service, tow truck with passenger plates, step vans, vehicle length or width or height greater than original manufacturer's vehicle dimensions, and meeting the description as defined by DMV registration as a truck, van or pickup.

#### **16.90.410 Truck Trailer.**

A vehicle which is not a recreational vehicle or utility trailer, is more than 16 feet in length, and is designed to be pulled by a motor vehicle.

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**16.90.415      Uncontrolled Intersection.**

Any intersection with no official traffic control device to designate vehicular right-of-way.

**16.90.420      Utility Trailer.**

A vehicle which is used to carry property, refuse, or special equipment, is 16 feet or less in length and is designed to be pulled by a motor vehicle. Boat trailers are included as utility trailers no matter what their length.

**16.90.421      Valid Receipt.**

(Added by Ordinance No. 179141, effective March 23, 2005.) A parking meter receipt dispensed from a City of Portland Parking Meter device indicating the valid date, time purchased, expiration time, watermark, or any other identifications showing validity of receipt. The receipt issued is valid only in the designated meter district where purchased.

**16.90.425      Vehicle.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) Every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway. Bicycle is more specifically defined in Section 16.90.025.

**16.90.430      Vehicle Alarm System.**

Any device, equipment, assembly, or system designed, arranged, or intended to sound an alarm horn, siren, klaxon, or other sound emitting device to signal an entry or attempted entry into, or tampering with, a vehicle.

**16.90.435      Vendor.**

Any person who conducts business in the public right-of-way or any other public property.

**16.90.440      Way.**

(Added by Ordinance No. 177028, effective December 14, 2002.) A facility for the movement of pedestrians, vehicles or goods, the specific user or users being determined by modifying words, such as road, bicycle, pedestrian, etc. Path and lane are synonyms for way, and likewise may be given a more specific meaning through use of a specified user or specific definition. See: Roadway, Pedestrian Way, Traffic Lane, Bicycle Path, et. al.

**16.90.445      Wheelchair User Disabled Permit/Placard.**

(Added by Ordinance No. 186575, effective July 1, 2014.) Any official State-issued disabled person registration plate, placard, permit or decal specifically for the use of a wheelchair or similar low-powered, motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.





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**CHAPTER 17.25 - SIDEWALK CAFES**

(Chapter added by Ordinance No. 150637, effective  
October 23, 1980.)

**Sections:**

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- 17.25.020 Definitions.
- 17.25.030 Application Fee and Permit Fee.
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- 17.25.070 Liability and Insurance.
- 17.25.080 Forms and Conditions of Permit.
- 17.25.090 Denial, Revocation, or Suspension of Permit.
- 17.25.100 Appeal.

**17.25.010 Permit Required.**

(Amended by Ordinance No. 182870, effective June 3, 2009.) Operating a Sidewalk Cafe on City sidewalks is unlawful without a permit. No person shall conduct a business as herein defined without first obtaining a permit from the Bureau of Transportation and paying the fee therefor to the City of Portland. It shall be unlawful for any person to operate a sidewalk cafe on any sidewalk within the City of Portland except as provided by this Chapter.

**17.25.020 Definitions.**

(Amended by Ordinance Nos. 177028, 182870, 184957 and 188556, effective August 16, 2017.)

- A.** Operate a Sidewalk Cafe. Operate a Sidewalk Cafe means serving food or beverage from a cafe or restaurant located in an adjacent building to patrons seated at tables located within the Sidewalk area adjacent to the cafe or restaurant.
- B.** Sidewalk. Sidewalk means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians and includes all areas of a pedestrian plaza as defined under Chapter 17.43.
- C.** Commercial zone. Commercial zone means abutting property which is zoned C, Commercial, or E, Employment pursuant to Title 33, Planning and Zoning of this Code or any other zone which may be created as a successor zone to such existing commercial zones.
- D.** Transit Mall. Transit Mall means the entire length of 5th and 6th Avenues bounded by I-405 on the south and NW Irving on the north.

## **TITLE 17**

### **PUBLIC IMPROVEMENTS**

- E.** Clear Pedestrian Zone. The Clear Pedestrian Zone is the area reserved for travel. No café operations are allowed in this area and the area must meet City standards and be free of hazards as described in the Sidewalk Maintenance Program Policy & Operating Guidelines (Portland Policy Document TRN-1.11).
- F.** Area of Operation: Area of Operation means the area of Sidewalk established by the City Engineer and demarcated on the sidewalk according to the specifications of the City Engineer within which the business is allowed to Operate a Sidewalk Café.
- G.** Responsible Party: Responsible Party means an individual who works on-site at the business and is responsible for overseeing the Operation of the Sidewalk Café, such as the restaurant manager or other person with similar responsibility.
- H.** Permittee: Permittee means the individual who applied for the sidewalk café permit and to whom the permit is issued. The Permittee bears ultimate responsibility for the operation of the Sidewalk Café.
- I.** Storage of Materials: Storage of Materials means any arrangement of furniture and materials that precludes operating a sidewalk café.

#### **17.25.030 Application Fee and Permit Fee.**

(Amended by Ordinance Nos. 177028 and 182870, effective June 3, 2009.) Fees for operating a sidewalk café are established by the City Engineer. Fees are assessed as prescribed in Section 17.24.010.

Each application for a sidewalk café permit shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee shall be collected prior to issuance of the permit. Permits renewed prior to April 1st do not require an application fee.

#### **17.25.040 Permit Application.**

(Amended by Ordinance No. 182870, effective June 3, 2009.) Application for a permit to operate a sidewalk cafe shall be made at the office of the City Engineer in a form deemed appropriate by the City Engineer. Such application shall include, but not be limited to, the following information:

- A.** Name and address of the applicant.
- B.** A drawing showing the width of the applicant's cafe or restaurant facing the sidewalk indicating the area requested to be used, location of doorways, and the width of sidewalk (distance from curb to building face), location of tree wells, parking meters, bus shelters, sidewalk benches, trash receptacles, driveway (curb cut), or any other semi permanent sidewalk obstruction.
- C.** A color rendition in perspective for review by the Bureau of Development Services shall be furnished upon request by the City Engineer.

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

- D.** A letter signed by the property owner, consenting to a sidewalk cafe adjacent to the property on which the restaurant is located.
- E.** A signed agreement between the Responsible Party and the City stating the Responsible Party understands all terms and conditions of the permit.

**17.25.050 Permit Requirements.**

No person shall operate any restaurant or cafe, to provide food or alcoholic liquor, on any public street or sidewalk unless such person has obtained a valid permit, to operate that business in such a manner, pursuant to this Chapter.

**17.25.060 Location Rules and Review.**

(Amended by Ordinance Nos. 182870 and 185397, effective July 6, 2012.)

- A.** A sidewalk café shall only be allowed where the sidewalk is at least 8 feet wide. Café operations will be allowed only within the Area of Operation, which shall be established by the City Engineer.

The following table shows the minimum width of the Clear Pedestrian Zone for a given sidewalk width.

Sidewalk Width	Clear Pedestrian Zone Minimum Width
Greater than or equal to 8' 0" and less than or equal to 10' 0"	5' 6"
Greater than 10' 0" and less than 15' 0"	6' 0"
Greater than or equal to 15' 0"	8' 0"

- B.** Sidewalk width is determined by City records. Adjustments may be made at the discretion of the City Engineer when field measurements conflict with City records.
- C.** As a tool to allow compliance in areas with space conflicts a sidewalk café may be allowed pinch points that are less than the required Clear Pedestrian Zone minimum width. At a pinch point, the Clear Pedestrian Zone minimum width may be reduced by 6 inches for a length of no more than 2 feet. Pinch points must be at least 4 feet from adjacent pinch points. Pinch points are to be used at the discretion of the City Engineer.
- D.** The Clear Pedestrian Zone shall be free of all obstructions, permanent and temporary. This includes objects such as posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, vegetation, trees, tree-wells, planters, literature and news racks, parking meters, bus shelters, benches, tables, chairs, umbrellas, heaters, and waste receptacles.

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- E.** Obstructions controlled by the café or property owner that extend into the Clear Pedestrian Zone shall be at least 7 feet above the sidewalk surface within the Clear Pedestrian Zone.
- F.** Curbside seating may be allowed, subject to approval, and must allow a 2 foot buffer from the curb closest to the property line. Loading zones, bus stops, adjacent travel lanes or other conditions may prohibit curbside seating. The 2 foot buffer may be waived at the Bureau of Transportation's discretion when seating is adjacent to bike corrals or no-parking zones.
- G.** Within the Clear Pedestrian Zone there shall also be a continuous, straight passage at least 2 feet in width, known as the clear visual zone, to provide pedestrians with a clear visual indication of the direction and location of the Clear Pedestrian Zone. The Clear Pedestrian Zone is allowed to meander to navigate obstructions, but its ability to do so is limited by the clear visual zone.
- H.** To ensure compliance with the Americans with Disabilities Act, there shall be a continuous passage at least 4 feet in width with a maximum 2 percent pavement cross slope within the Clear Pedestrian Zone.
- I.** The approved Area of Operation shall be established by the City Engineer.
- J.** Within the Transit Mall, additional criteria regarding Clear Pedestrian Zone minimum widths may be applied per the City Engineer's discretion.

#### **17.25.070 Liability and Insurance.**

(Replaced by Ordinance No. 182870, effective June 3, 2009.) A signed statement that the permittee shall hold harmless the City of Portland, its officers and employees, and shall indemnify the City of Portland, its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability and property damages insurance as will protect permittee and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 (one million dollars). Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City of Portland, its officers and employees, the property owner, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City of Portland Bureau of Transportation, 1120 SW Fifth Avenue, Room 825.

#### **17.25.080 Form and Conditions of Permit.**

(Amended by Ordinance Nos. 182870 and 184957, effective November 25, 2011.) The permit issued shall be in a form deemed suitable by the City Engineer. In addition to naming the name of the business and other information deemed appropriate by the City Engineer, the permit shall contain the following conditions:

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- A.** Each permit issued shall terminate December 31st of the year in which issued.
- B.** The permit issued shall be personal to the Permittee only and is not transferable in any manner.
- C.** The permit may be suspended by the City Engineer when an ordinance providing for a “community event” shall so provide.
- D.** The permit is specifically limited to the approved Area of Operation.
- E.** The Responsible Party shall use positive action to assure that its use of the sidewalk in no way interferes with or embarrasses sidewalk users or limits their free and unobstructed passage.
- F.** The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition. Trash containers may be provided for use by the cafe patrons.
- G.** The Permit shall be posted in a conspicuous place near the main entrance visible from the sidewalk at all times.
- H.** All furniture and equipment used in the operation of a sidewalk café shall be removed within a period of 10 days from the right-of-way when not available for use by patron’s. Removal of furniture and equipment may be required, on a case by case basis, outside of the business’ hours of operation if determined necessary for safety or other reasons at the discretion of the Director of the Bureau of Transportation. The Portland Police Bureau or the Office of Neighborhood Involvement may provide recommendations for the consideration by the Director of the Bureau of Transportation.
- I.** Responsible Party shall notify the Bureau of Transportation of any changes to the contact information provided in the City /Responsible Party Agreement.
- J.** Outdoor cooking shall be prohibited.

**17.25.090 Denial, Revocation or Suspension of Permit.**

(Amended by Ordinance No. 182870, effective June 3, 2009.)

- A.** The City Engineer may deny, revoke, or suspend the permit for any sidewalk cafe authorized in the City of Portland if it is found:
  - 1.** That the provisions of this Chapter have been violated.
  - 2.** The Permittee does not have insurance which is correct and effective in the minimum amount prescribed in Section 17.25.070.

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- B.** Upon denial or revocation, the City Engineer shall give notice of such action to the Responsible Party and Permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective upon giving such notice to the Responsible Party. Any denial or revocation may be appealed to the City Engineer by filing within 10 days.

**17.25.100 Appeal.**

(Replaced by Ordinance No. 182870, effective June 3, 2009.) Any Applicant aggrieved by an Administrator's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of \$250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.

**CHAPTER 17.26 - SIDEWALK VENDORS**

(Chapter replaced by Ordinance No. 154042,  
effective January 1, 1983.)

**Sections:**

- 17.26.010 Conducting a Business on City Sidewalks Unlawful without Permit.
- 17.26.020 Definitions.
- 17.26.030 Item for Sale.
- 17.26.040 Permit Fee.
- 17.26.050 Application for Permit.
- 17.26.060 Location Selection.
- 17.26.070 Location Review.
- 17.26.080 Payment for Written Consent is Unlawful.
- 17.26.090 Design Review.
- 17.26.100 Fire Marshal Inspection.
- 17.26.110 Application Time Limit.
- 17.26.120 Form and Condition of Permit.
- 17.26.125 Renewal of Permits.
- 17.26.130 Restrictions.
- 17.26.140 Special Event Designation.
- 17.26.150 Denial, Suspension or Revocation of Permit.
- 17.26.160 Appeal.
- 17.26.170 Penalty for Violation.
- 17.26.180 Violation a Nuisance, Summary Abatement.

**17.26.010 Conducting a Business on City Sidewalks Unlawful without Permit.**

No person shall conduct business as herein defined on any City sidewalk without first obtaining a permit from the Office of the City Engineer and paying the required fee. It shall be unlawful for any person to sell any goods or services on any sidewalk within the City of Portland except as provided by this Chapter.

**17.26.020 Definitions.**

(Amended by Ordinance Nos. 164492, 177028 and 188556, effective August 16, 2017.)

- A. **“Conduct business.”** Conduct business means the act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.
- B. **“Sidewalk.”** Sidewalk means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians and includes all areas of a pedestrian plaza as defined under Chapter 17.43.
- C. **“Commercial zone.”** Commercial zone means abutting property which is zoned C, Commercial, or E, Employment, pursuant to Title 33, Planning and Zoning, of

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this Code or any other zone which may be created as a successor zone to such existing commercial zones.

- D. “Permit operating area.”** Permit operating area means the sidewalk from the midpoint of one block face to the midpoint of an adjacent block face.
- E. “Special events.”** Special events mean an event specifically approved by an individual ordinance or permit granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding 10 days to a community based organization.

#### **17.26.030 Item for Sale.**

(Amended by Ordinance No. 167130, effective Nov. 24, 1993.) The City Engineer shall maintain a list of items and services which are either approved or prohibited for sale from sidewalk vending carts. Any item or service not on the list may be considered for approval based on the following criteria:

- A.** All items or services to be sold must:
  - 1.** Be vended from a regulation size vending cart;
  - 2.** Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;
  - 3.** Involve a short transaction period to complete the sale or render the service;
  - 4.** Not cause undue noise or offensive odors;
  - 5.** Be easily carried by pedestrians.

Requests to have an item or service considered for approval shall be submitted in writing to the City Engineer who shall determine whether the item or service conforms to the above criteria. If the item or service conforms to the above criteria, it shall be listed as approved for sale by sidewalk vendors. If the item or service does not conform, it shall be listed as prohibited for sale by sidewalk vendors. The decision of the City Engineer if adverse to the party making the request, may be appealed to the Council.

#### **17.26.040 Permit Fee.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) Each application for a permit to conduct business on a sidewalk shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee shall be collected prior to issuance of the permit. The permit fee between September 1st and December 31st shall be 30% of the yearly permit fee. Permits renewed prior to expiration do not require an application fee.



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**17.26.050      Application for Permit.**

(Amended by Ordinance Nos. 165594 and 182760, effective June 5, 2009.) Application for a permit to conduct business on a sidewalk shall be made at the office of the City Engineer on a form deemed appropriate by the City Engineer. Such application shall include but not be limited to the following information:

- A.**     Name and address of the applicant;
- B.**     The expiration date of applicant's City business license;
- C.**     Type of items sold or services rendered. Individual applications shall be accepted for one type of product or service only.
- D.**     A valid copy of all necessary permits required by State or local health authorities;
- E.**     A signed statement that the permittee shall hold harmless the City of Portland, its officers and employees and shall indemnify the City of Portland, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 (one million dollars) per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insures the City of Portland, their officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the Auditor of the City of Portland.
- F.**     Means to be used in conducting business including but not limited to a description of any vending cart, to be used for transport or to display approved items or services.
- G.**     A separate application shall be required for each vending cart to be used for transportation or display;
- H.**     The proposed location for conducting business and the written consent of the property owner(s) adjacent to the permit operating area, along with a signed statement that permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. This consent and hold harmless statement must be submitted on a form deemed appropriate by the City Engineer. No application shall apply to more than one location. No application will be accepted for a permit operating area within which a current permit has been issued or an application is pending. Valid 1982 permits which allowed two carts within a

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permit operating area may apply for renewal provided they have not lapsed or been revoked.

- I.** No food vendor application will be accepted for a permit operating area where a restaurant or fruit and vegetable market, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. No application will be accepted for a flower vendor for a permit operating area where a flower shop, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. The above requirement may be waived if the application is submitted with the written consent of the proprietor of the restaurant, fruit and vegetable market or flower shop. The consent must be submitted on a form deemed appropriate by the City Engineer.

This provision is not an exception to the location and distance prohibitions included in Section 16.70.550 of the Code of the City of Portland, and no application shall be accepted for a location which would be in violation of that Section.

#### **17.26.060 Location Selection.**

- A.** Permit operating areas which have not been issued a current permit shall be available only upon receipt of the written consent of the property owners adjacent to the permit operating area.
- B.** No vendor or vending business may obtain permits for adjacent permit operating areas on the same block. Valid 1982 permits are exempt from this restriction provided they have not lapsed or been revoked.
- C.** The City Engineer may establish an additional permit operating area on a block face which exceeds 300 feet in length.

#### **17.26.070 Location Review.**

Upon receipt of an application for a permit the City Engineer shall review the proposed permit operating area to determine if the said area is suitable for sidewalk vending. In making this determination, the City Engineer shall consider the following criteria:

- A.** The permit operating area must be within a commercial zone.
- B.** The use of the permit operating area for sidewalk vending must be compatible with the public interest in use of the sidewalk areas as public right of way. In making such determination the City Engineer shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to, signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as, the presence of bus stops, truck loading zone, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.

The City Engineer shall inform the applicant whether the proposed permit operating area is suitable or unsuitable. In the event the applicant is dissatisfied with the City

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Engineer's decision regarding a certain application, he may appeal the decision to the Commissioner In Charge. The decision of the Commissioner, if adverse to the applicant or any notified party may be appealed to the City Council.

**17.26.080 Payment for Written Consent is Unlawful.**

No person or corporation shall either pay or accept payment for written consent required for the issuance or continued operation of a sidewalk vending permit.

**17.26.090 Design Review.**

(Amended by Ordinance Nos. 176955, 177028 and 182760, effective June 5, 2009.)

- A.** The applicant for a sidewalk vendor permit shall submit detailed scale drawings of the cart to be used, material specifications, and an isometric drawing in color of at least two views showing all four sides of the vending cart and any logos, printing or signs which will be incorporated and utilized in the color scheme. The City Engineer shall submit the isometric drawings of the vending device to the Bureau of Development Services for approval prior to issuing a permit. Vending carts shall be measured by the City Engineer prior to the issuance of a permit or the renewal of a sidewalk vendor's permit to ensure compliance with Section 17.26.090 A of this Chapter.
- B.** The Bureau of Development Services shall furnish the City Engineer standards required by the Portland Design Commission to be incorporated in the sidewalk vendors application packet.

**17.26.100 Fire Marshal Inspection.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any vending cart to assure the conformance of any cooking or heating apparatus with the provisions of the City Fire Code.

**17.26.110 Application Time Limit.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) The applicant must complete all reviews, inspections and present all required documents to the City Engineer within 60 days from date of location approval. Failure to meet this requirement shall result in cancellation of the application and forfeiture of the application fee. The City Engineer may extend this time limit, upon written request and a finding of reasonable need.

**17.26.120 Form and Condition of Permit.**

The permit issued shall be in a form deemed suitable by the City Engineer. In addition to naming the permittee and other information deemed appropriate by the City Engineer, the permit shall contain the following conditions:

- A.** Each permit will expire at midnight, December 31st of the year issued;
- B.** The permit issued shall be personal only and not transferable in any manner;

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- C.** The permit is valid only when used at the permit operating area designated on the permit. The permit operating area may be changed by submitting a new letter of consent accompanied by an additional application fee;
- D.** The permit is valid for one cart only;
- E.** The location within the permit operating area may be changed, either temporarily or permanently, by written notice of the City Engineer;
- F.** The permit is subject to the further restrictions of this Chapter;
- G.** The permit as it applies to a given permit operating area may be suspended by the Council for a period up to 10 days when an ordinance providing for a “community event” shall so provide.

#### **17.26.125 Renewal of Permits.**

Application for renewal of permits shall be received from November 1st through December 31st. Application shall be on a form deemed suitable to the City Engineer, accompanied by a permit fee. Applications received after December 31st shall be processed as new applications. The City Engineer shall review each application to determine that:

- A.** Any required consent has not been withdrawn;
- B.** The applicant has a currently effective insurance policy in the minimum amount provided in Section 17.26.050 E;
- C.** All required permits are current;
- D.** The cart size is in conformance with Section 17.26.130 E. If the City Engineer finds that the application meets all the above requirements, he shall issue a new permit.

#### **17.26.130 Restrictions.**

(Amended by Ordinance Nos. 182760 and 185397, effective July 6, 2012.)

- A.** Any person conducting business on the sidewalks of the City of Portland with a valid permit issued under this Chapter may transport and/or display approved items or services upon any vending cart, under or subject to the following conditions:
  - 1.** The operating area shall not exceed 24 square feet of sidewalk which shall include the area of the vending cart, and, when externally located, the operator and trash receptacle.
  - 2.** The length of the vending cart shall not exceed 6 feet.
  - 3.** The height of the vending cart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.

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- B.** No person may conduct business on a sidewalk in any of the following places:
- 1.** Within 10 feet of the intersection of the sidewalk with any other sidewalk except that the City Engineer may waive this restriction in writing for any location upon finding that construction of extra width sidewalks makes such use consistent with the standards established by Section 17.26.070.
  - 2.** Within 8 feet of the adjacent property line;
  - 3.** Within 10 feet of the extension of any building entrance or doorway, to the curb closest to the property line.
  - 4.** Within 10 feet of any handicapped parking space, or access ramp.
- C.** All persons conducting business on a sidewalk must display in a prominent and visible manner the permit issued by the City Engineer under the provisions of this Chapter and conspicuously post the price of all items sold.
- D.** All persons conducting business on a sidewalk must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this Chapter shall carry a suitable container for placement of such litter by customers or other persons.
- E.** All person conducting business on a sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk or remove his vending cart entirely from the sidewalk if necessary to avoid such congestion or obstruction.
- F.** No person shall conduct business as defined herein at a location other than that designated on his permit.
- G.** No permittee shall make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his wares.
- H.** No permitted vending cart shall be left unattended on a sidewalk nor remain on the sidewalk between midnight and 6 a.m.
- I.** No permittee shall conduct business in violation of the provisions of any ordinance providing for a special event.

**17.26.140 Special Event Designation.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) The special event designation allows vendors to conduct business on City sidewalks at the Rose Festival parades and other major special events that the City Engineer shall so designate, subject to the following conditions:

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- A.** Application shall be made to the City Engineer on a form deemed appropriate by the City Engineer. Each application shall apply to only one event or parade. Application is open to any vendor who possesses a valid sidewalk vending permit. Each application shall be accompanied by:
  - 1.** All necessary permit fees.
  - 2.** The proposed location for conducting business along with the temporary written consent of the property owners adjacent to the permit operating area. This temporary consent must be on a form deemed appropriate by the City Engineer. No application will be accepted for a permit operating area within which a permit has been issued or an application is pending.
- B.** Application must be made at least 5 working days prior to an event to qualify for participation.
- C.** All temporary locations shall be on side streets adjacent to the parade or event.
- D.** Temporary locations are valid only for the date and hours specified by the City Engineer.
- E.** All other conditions of this Chapter, except as herein stated, shall remain in effect.

#### **17.26.150 Denial, Suspension or Revocation of Permit.** (Amended by Ordinance No. 182760, effective June 5, 2009.)

- A.** The City Engineer may revoke or suspend the permit, or deny either the issuance or renewal thereof, of any person to conduct business on the sidewalks of the City of Portland based on the following findings:
  - 1.** that such person has violated or failed to meet any of the provisions of this Chapter;
  - 2.** that the cart operation has become detrimental to surrounding businesses and/or the public, due to either appearance or condition of the cart.
  - 3.** any required permit has been suspended, revoked or canceled; or
  - 4.** the permittee does not have a currently effective insurance policy in the minimum amount provided in Section 17.26.050 E.
- B.** Upon denial, suspension or revocation, the City Engineer shall give notice of such action to the permit holder or applicant, as the case may be, in writing stating the action the City Engineer has taken and the reasons therefore. If the action of the City Engineer is a revocation based on Subsections A.3. and 4. of this Section, the action shall be effective upon giving such notice to the permittee, otherwise such notice shall contain the further provision that it shall become final and effective

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within 10 days. Any revocation effective immediately may also be appealed to the Council by such filing within 10 days. Any revocation, suspension or denial may be appealed to the City Council by filing a written notice of appeal with the City Auditor within 10 days of receipt of notification.

**17.26.160      Appeal.**

The Auditor shall place the appeal on the Council calendar at the first convenient opportunity therefor and shall notify the City Engineer thereof. At the hearing upon appeal, the Council shall hear all witnesses including the City Engineer or his representative who shall state the grounds for this action, and the applicant or person whose permit has been revoked or suspended may supply testimony in writing by witnesses or otherwise and may question witnesses on his own behalf or on behalf of the City. The Council shall hear and determine the appeal and the decision of the Council shall be final and effective immediately.

**17.26.170      Penalty for Violation.**

Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment for a period not exceeding 6 months, or by both such fine and imprisonment. In the event that any provisions of this Chapter is violated by a firm or corporation, the officer or officers, or the person or persons responsible for the violation shall be subject to the penalty herein provided.

**17.26.180      Violation a Nuisance, Summary Abatement.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) The placement of any vending cart on any sidewalk in violation of the provisions of this Chapter is declared to be a public nuisance. The City Engineer may cause the removal of any vending cart found on a sidewalk in violation of this Chapter and is authorized to store such vending cart until the owner thereof shall redeem it by paying the removal and storage charges therefore to be established by the Commissioner In Charge.





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- b.** Stormwater, groundwater discharge or other waters discharged to the City's storm sewer and drainage system must comply with the Stormwater Management Manual and Chapter 17.38.
- D.** All components of the City sewer, storm sewer and drainage system must be located within public rights-of-way, including easements. The width of public rights-of-way must be adequate to allow reasonable access for inspection, maintenance, repair and replacement, using standard construction methods. The minimum width for City sewer, storm sewer or drainage easements located outside of the public right-of-way is 15 feet. The Director may require enlargement of an easement as necessary to address topographic conditions, the design of the improvement, or other relevant factors.
- E.** It is unlawful for any person who obtains a permit to fail or refuse to immediately remove all surplus sand, earth, rubbish, and other material from public streets and other public areas. All public streets, easements, and other public properties must be repaired or replaced to a condition satisfactory to the City Engineer, or the BES chief Engineer for sewer, storm sewer and drainage easements, at the permittee's own expense for the period of two years from the date of the completion of the work, as acknowledged in writing by the City.

**17.32.060 Permit-Related Records.**

BES will keep a record of permitted activities and improvements made under permit, permits issued under this Chapter, permit conditions, and the dates of acceptance of improvements. Any plans, specifications, survey notes, or other original documents as required by the BES Chief Engineer that were prepared for or produced during permit application or the design of, construction of, or connection to of a public sewer or drainage improvement, become the property of the City and must be delivered to the BES Chief Engineer before acceptance of the improvement by the BES Chief Engineer. The permittee must provide copies of any sampling data or other information obtained as a result of accessing the City sewer, storm sewer and drainage system.

**17.32.070 Maintenance of Sewer and Drainage Systems.**

(Amended by Ordinance No. 188477, effective July 21, 2017.) Sewer system maintenance obligations including inspection, rehabilitation, routine cleaning and repair are based on ownership of the system:

- A.** Private Systems. A sewer or drainage system that was not constructed by the City, built under a public works permit, or otherwise accepted pursuant to Subsections 17.32.070 B.1. or B.2. must be maintained by the parties served by the system, regardless of whether the system is located within a public right-of-way.
  - 1.** If any portion of an existing sewer or drainage system extends into a public right-of-way, the property owner must obtain a permit pursuant to Chapter 17.24 before beginning work within the right-of-way.

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2. For a sewer or drainage system located in a public right-of-way that is under either private or unclear ownership, the BES Chief Engineer may grant or deny a permit to repair, upgrade, or replace the system as provided by Section 17.32.030. Such a system may only remain in the public right-of-way at the discretion of the BES Chief Engineer.
  3. Incidental, inadvertent, or emergency City maintenance of private sewer or drainage systems or systems with unclear ownership does not obligate the City to perform future maintenance, imply acceptance of the system, or confer ownership of the system on the City.
- B. Public Systems.** A sewer or drainage system constructed by the City, constructed under a public works permit, or accepted by the City pursuant to Subsections 17.32.070 B.1. or B.3. will be maintained by the City as explained below in this Section unless otherwise specified by written agreement with the City.
  1. **Limits of City Maintenance Responsibility.** The City maintains City sewer and drainage improvements that are located in City rights-of-way and that are described as part of the City public sewer, storm sewer and drainage system. However, the City only maintains sewer laterals as follows:
    - a. For a City-paved street with curbs, the City will maintain a lateral from the sewer main to the street-side curb face nearest the property being served. If there is more than one curb, as with stormwater facilities, the City will maintain to the street-side curb face closest to the property line. Otherwise, the City will maintain only the wye or tee connection for sewer laterals.
    - b. For a City-paved street without curbs, the City will maintain a lateral from the sewer main to the edge of the City paved street area.
    - c. Under Subsections 17.32.070 B.1.a. and b., when the sewer main is located in the right-of-way between the property line and the street-side curb face closest to the property line, the City will maintain only the wye or tee connection for the lateral.
    - d. For an unpaved street, the City will maintain those portions of any sewer lateral within an area of right-of-way up to 28 feet wide and centered on the centerline of the City right-of-way, as determined by the City, as follows:
      - (1) When the sewer main is within the 28-foot maintenance area, the City will maintain the lateral to the limit of the maintenance area;
      - (2) When the sewer main is outside the 28-foot maintenance area and at least a portion of the sewer service lateral lies

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within the maintenance area, the City will maintain the lateral to the limit of the maintenance area; and

- (3)** When the sewer main is outside the 28-foot maintenance area and no portion of the sewer service lateral lies within the maintenance area, the City will maintain only the wye or tee connection for the lateral.
- e.** In City sewer, storm sewer and drainage system easements, the City will maintain public sewer mains and only the wye or tee connections for sewer service laterals.
  - f.** Those portions of a sewer service lateral not addressed by Subsections 17.32.070 B.1.a. through d. are the responsibility of the property owner receiving service through the lateral.
- 2.** Acceptance of Systems with Unclear Ownership. The Chief Engineer may agree to conduct future maintenance of a sewer or drainage system located in a public right-of-way or City utility easement where the ownership is unclear if, in the judgment of the BES Chief Engineer, the public will benefit thereby and:

  - a.** The system conveys only domestic sanitary or stormwater flows from residential property; or
  - b.** The system has been specifically modified through City permit or by the City to accept stormwater flows from City rights-of-way or other City-controlled property.
  - c.** Acceptance of a system under this Section does not include or imply acceptance by the City of any maintenance responsibility, cost, liability or damage that arises from conditions or use of the system before acceptance by the City.
- 3.** Acceptance of Systems from Other Agencies., utilities or Individuals. The BES Chief Engineer may accept sewer, storm sewer and drainage systems from other public or private utilities, public agencies, non-profit groups or other persons as the BES Chief Engineer deems appropriate. This acceptance may include full ownership or only assumption of maintenance responsibilities.
- 4.** Adoption of Private Systems in the Public Right-of-Way. The BES Chief Engineer may agree to take ownership of a private sewer system or drainage improvement in the City right-of-way as provided by administrative rule. At the discretion of the BES Chief Engineer, a system meeting the following general criteria may be adopted:

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- a.** All the properties connected to the system are participating in the City's Nonconforming Sewer Conversion Program pursuant to Chapter 17.33;
  - b.** The sewer system conveys only domestic sanitary or stormwater flows from residential property;
  - c.** The owners of all properties connected to the system provide the City with detailed information about the design, location, and condition of the system, and the properties connected to it as specified by administrative rule;
  - d.** The owners of all the properties connected to the system relinquish all claims to the system; and
  - e.** All branch fees assessed by the City are paid or financed.
- 5.** A system accepted under Subsection 17.32.070 B.1. or adopted under Subsection 17.32.070 B.2. will be added to the City maintenance roles as of the date of acknowledgment by the BES Chief Engineer.
- 6.** The City's responsibility for maintenance of any sewer or drainage system, branch or connection point is subject to the City's annual budget appropriation and will be limited to the level of service dictated by the City Council's discretionary budget decision. The City assumes no responsibility for activities requiring a level of maintenance in excess of the level for which funds have been appropriated.
- 7.** Any private piping, collection or conveyance structures needed to provide service to or used to transport discharges to the City's sewer, storm sewer or drainage system, will be the sole responsibility of the property owners(s) served by such systems. System installation, maintenance and repair will occur at the expense of the applicable property owner(s).
- 8.** Volunteer Maintenance. Property owners adjacent to City green street or other drainage improvement are not responsible for routine maintenance of the facilities, but BES-approved volunteers may voluntarily perform any of the following tasks:
  - a.** Trash, debris, and sediment removal;
  - b.** Weed removal;
  - c.** Leaf pick up and removal;
  - d.** Watering of vegetation;

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- e. Clearing inlets and outlets to allow stormwater to freely enter and exit the facility; and
- f. Planting vegetation with written approval from BES.

**C. Nuisance Abatement.**

1. The BES Chief Engineer may determine that a sewer or drainage improvement located in a public right-of-way that is under either private or unclear ownership constitutes a public nuisance if it:
  - a. Impairs or threatens to impair the operation, maintenance or installation of any street or public utility;
  - b. Is so deteriorated that its flows infiltrate or threaten to infiltrate any public utility or impact or threaten to impact the support structures of any street or public utilities;
  - c. Violates City operation, maintenance or construction standards or rules, or
  - d. Otherwise creates a public health or safety hazard.
2. Summary abatement of the nuisance is authorized when the BES Chief Engineer determines it is necessary to take immediate action to meet the purposes of this Title.
3. Notice to the responsible party before summary abatement is not required. Following summary abatement, the BES Chief Engineer will notify all owners identified in this Chapter or Chapter 25.09 as having maintenance or repair responsibilities. An error in the name of the property owner or address listed in the county assessment and taxation records does not affect the sufficiency of the notice.
4. The City will bill each property that the City determines caused or contributed to the nuisance to recover the costs of abatement. If the amount due is not paid in full within 30 days of the date of notice, the City may place a lien against the property.

See Figure 13 for an example visual representation of ownership situations.

**17.32.080 Use and Access Permits.**

- A.** Access to or use of the City sewer, storm sewer and drainage system requires the written approval of the Director and payment of all applicable fees. Public agencies or BES discharge permittees may be eligible for multi-use or programmatic

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permits. Structural modification of the City sewer, storm sewer and drainage systems requires a public works permit under Section 17.32.100.

- B.** Drainage System Modifications. Modifications of any public or private stormwater management systems require the written approval of the Director.

#### **17.32.090 Connection Permits.**

Connecting to a City sewer, storm sewer or drainage system, requires the written permission of the Director and payment of all applicable fees. A permit application must include the purpose of the work; the name of the street or proposed or existing easement or right of way where work is proposed; the location of potentially affected components of the City sewer, storm sewer and drainage system; the location of the building or lot to be connected by the work (if any); and the location and the area to be drained.

- A.** If the application is for a permit to connect a commercial or industrial occupancy it must also include:
  - 1.** A description of the business, a plat of the property, plans and specifications for any special installations;
  - 2.** A description of the character and quantity of waters and wastes to be discharged through the connection;
  - 3.** A proposed schedule for work; and
  - 4.** Any further information required by the BES Chief Engineer.
- B.** If the application is for a permit to connect properties outside the City limits, connection approval will be at the sole discretion of the BES Chief Engineer. No connection from property outside the City limits or within a neighboring jurisdiction will be permitted which, in the opinion of the BES Chief Engineer, may overload or otherwise compromise any component of the City sewer, storm sewer or drainage system. Connection of properties outside the City's boundaries is subject to the requirements and limitations of the City's adopted urban services policy.
  - 1.** Application for a permit to connect must be made in writing by the owner or other person having a recorded equitable interest in the property for which the connection is desired. Before a permit can be issued, all fees and special charges must be paid and any permits that may be required for street or highway opening and use must be obtained.
  - 2.** Any person connecting a property outside the City limits to the City sewer, storm sewer or drainage system must enter into a maintenance agreement as may be required by the Director.

**CHAPTER 17.43 – PEDESTRIAN PLAZAS**

(Chapter added by Ordinance No. 188556, effective  
August 16, 2017.)

**Sections:**

- 17.43.010 Purpose of Establishing Prohibited Conduct.
- 17.43.020 Pedestrian Plaza Defined.
- 17.43.030 Soliciting For or Conducting Business.
- 17.43.040 Unlawful Urination or Defecation.
- 17.43.050 Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.
- 17.43.060 Possession of Weapons.
- 17.43.070 Structures in Pedestrian Plazas.
- 17.43.080 Disposing of Rubbish.
- 17.43.090 Vandalism; Protection of Pedestrian Plaza Property and Vegetation.
- 17.43.100 Fires and Fireworks Prohibited.
- 17.43.110 Animals.
- 17.43.120 Use of Certain Devices or Equipment.
- 17.43.130 Remote Control Vehicles, Aircraft and Watercraft.
- 17.43.140 Emergency Pedestrian Plaza Closure.
- 17.43.150 Trespassing and Areas Closed to the Public.
- 17.43.160 Condition of Parole or Probation or Judicial or Other Order.
- 17.43.170 Rules and Regulations, Directions of Police Officers to be Obeyed.
- 17.43.180 Pedestrian Plaza Exclusions.

**17.43.010 Purpose of Establishing Prohibited Conduct.**

The purpose of these rules is to preserve pedestrian plazas areas as defined by the Portland Bureau of Transportation (PBOT) for the enjoyment, safety, comfort and convenience of the public and to enhance the orderly administration of the pedestrian plazas, by prohibiting conduct that unreasonably interferes with the administration and lawful use of the pedestrian plaza. The purpose of this Chapter is not to punish any person for prior conduct, but, rather, to provide civil and non-punitive regulations the Council finds necessary to prevent nuisances and to protect the health, welfare and safety of the public using the pedestrian plazas. Any violation of the provisions of this Chapter is punishable in accordance with these rules.

**17.43.020 Pedestrian Plaza Defined.**

Pedestrian plazas are places designated by the City of Portland as unique places where licensed businesses and pedestrians come together. They are not parks. Therefore, sitting or lying down is not allowed. Travel through pedestrian plazas should be unfettered, however, conduct incidental to travel, such as speech or expression, is allowed if it is performed in a reasonable amount of time that does not detract from the enjoyment of the plaza by all persons and if it is done in a manner that is consistent with the use of the plaza as a unique place conducive to pedestrian enjoyment.

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**17.43.030 Soliciting For or Conducting Business.**

- A.** Except as expressly permitted under the terms of a lease, concession or permit, no person shall solicit for or conduct any business in a pedestrian plaza.
- B.** For purposes of this Section, “solicit for or conduct any business” means:
  - 1.** Sell or offer to sell any article or service;
  - 2.** Display goods, or descriptions or depictions of goods or services, with the intent to engage any member of the public in a transaction for the sale of any good or service; or
  - 3.** Perform or engage in any act with the intent or expectation of receiving payment in any form from any person.
- C.** Nothing in this Section shall prohibit any act by any Police Officer in the scope of employment or duty, or by any person performing any work on behalf of the City, nor shall this Section be construed to prohibit any act protected under the circumstances by the federal or state constitution.

**17.43.040 Unlawful Urination or Defecation.**

No person shall urinate or defecate in any pedestrian plaza except in a convenience station designed for that purpose; or blow, spread, or place any nasal or other bodily discharge; or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public convenience station or in any place in such station, excepting directly into the particular fixture provided for that purpose; or place any bottle, can, cloth, rag, or metal, wood, or stone substance in any of the plumbing fixtures in any such station.

**17.43.050 Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.**

- A.** No person shall sell or consume any alcoholic beverage, or possess any open container of alcoholic beverage, in any pedestrian plaza, except under a concession contract or lease, or by permit issued under Chapter 17.24 or 17.25. Such permit may include any conditions as, in the discretionary judgment of PBOT, will promote the preservation of the pedestrian plaza for the peaceful enjoyment of the public at large.
- B.** No person shall commit any of the following acts in a pedestrian plaza:
  - 1.** Sell, distribute, make available or offer to provide a controlled substance or prescription drug to another;
  - 2.** Package, possess or store a controlled substance;



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3. Transport a controlled substance or materials intended to be used in the packaging of a controlled substance;
  4. Solicit another to provide, make available, sell or distribute a controlled substance or prescription drug to any person; or
  5. With the intent to engage in any act prohibited by this Section, seek, meet, approach or encounter another.
- C. Nothing in Subsection B. of this Section shall prohibit the possession in a pedestrian plaza of medications prescribed to the person or to a person under that person's care, if and under such conditions as possession of such substance is otherwise lawful.
- D. Nothing in Subsection B. of this Section shall prohibit the possession in a pedestrian plaza by any person 21 years of age or older of not more than one ounce of usable cannabis, so long as that cannabis is in a closed container.
- E. For purposes of this Section, "controlled substance" shall have the meaning provided in ORS 475.005(6), and "prescription drug" shall have the meaning provided in ORS 689.005(6).

**17.43.060 Possession of Weapons.**

No person shall possess in any pedestrian plaza anything specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another. Things prohibited under this Section include, but are not limited to: any firearm, pellet gun, spring-loaded weapon, stun gun or taser, any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any knife with a blade longer than 3-½ inches, any dirk, dagger, ice-pick, sling shot, slungshot, metal knuckles, nunchaku, studded handcoverings, swords, straight razors, tear gas containers, saps, sap gloves, hatchets or axes. The prohibitions of this Section do not apply to handguns lawfully carried by persons exempt from local regulation under ORS 163.173. The prohibitions of this Section do not apply to any thing possessed or used to carry out actions authorized by any contract or permit in any pedestrian plaza.

**17.43.070 Structures in Pedestrian Plazas.**

Except as permitted under these rules, no person shall excavate for, erect, install or place, or do any act as part of or commencement of excavation, erection, installation or placement of any permanent or temporary structure or facility in or on any pedestrian plaza. This Section does not prohibit the mere carrying of any item in or through a pedestrian plaza, nor does it prohibit the use or placement of personal accessories, such as purses, backpacks or bags, or the use or placement of wheelchairs, walkers or baby carriages or child strollers in any pedestrian plaza, except in areas where those items are prohibited by the Director.

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**17.43.080      Disposing of Rubbish.**

- A.** No person shall place any garbage, or other rubbish, or refuse or debris, nor shall any person deposit or leave birdseed, breadcrumbs or other food particles or food waste, in or upon any pedestrian plaza. Nothing in this Section shall prohibit any person from eating food in any pedestrian plaza, nor shall the prohibitions of this Section apply to the incidental loss of food particles that cannot reasonably be collected and properly disposed of.
- B.** No person shall enter any pedestrian plaza with garbage, or other rubbish or refuse or debris that has originated from outside the pedestrian plaza, for the purpose of disposing of any of the rubbish, refuse, or debris in the pedestrian plaza.
- C.** The prohibitions of this Section shall not apply to the disposal, in receptacles provided for that purpose, of garbage or refuse that results from the normal use of the pedestrian plaza for recreational or other lawful purposes.

**17.43.090      Vandalism; Protection of Pedestrian Plaza Property and Vegetation.**

- A.** No person shall take, remove, destroy, break, cut, injure, mutilate, or deface in any way or attach any thing to, any structure, monument, statue, vase, fountain, wall, fence, railing, gate, vehicle, bench, or other property in any pedestrian plaza. No person shall remove, destroy, break, injure, mutilate, or deface in any way in any pedestrian plaza any shrub, fern, plant, flower, or other vegetation. No person shall plant, prune, remove, destroy, break, injure, mutilate, or deface in any way in any pedestrian plaza any tree without a permit from the City Forester under the provisions of Title 11. This provision shall not prohibit authorized work done for, by or on behalf of the City.
- B.** No person shall, without prior authorization, take, use, or have in his or her possession any equipment belonging to the City and designated for pedestrian plaza or recreation use, outside of the limits of the established pedestrian plaza.

**17.43.100      Fires and Fireworks Prohibited.**

- A.** No person shall light any fire in any pedestrian plaza, except in areas and/or facilities designated by the Director for such use and in conformance with all applicable laws.
- B.** No person shall possess or ignite any fireworks in any pedestrian plaza.
- C.** Notwithstanding any other provision of this Code, a person who violates this section shall not be subject to exclusion under these rules, or to criminal enforcement under Section 1.01.140 of this Code. Rather, any person violating this section shall be required to leave the pedestrian plaza in which the offense occurred, for the remainder of the day. Enforcement will be administered by Police. All

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Portland Police Bureau Officers, including all Transit Officers, are authorized to enforce pedestrian plaza rules.

**17.43.110     Animals.**

- A.** No person shall injure, harm, disturb, or molest any wild or domestic animal in any pedestrian plaza.
- B.** All dogs within any pedestrian plaza shall be held securely on a leash, no more than 8 feet in length, at all times.
- C.** No person shall hitch any animal to any tree, shrub, fence, railing, or other structure or facility in any pedestrian plaza, except to such structures or facilities as are designated for that purpose.
- D.** No person shall bring or keep any animal in any pedestrian plaza if the animal is not within the person's immediate reach and control.
- E.** No person shall allow any animal in that person's ownership, possession, custody or control to injure any other person or animal or damage any property in any pedestrian plaza. Any person so allowing any animal to cause any such injury or damage shall be liable for the costs of impounding the animal.
- F.** No person shall allow any animal in the person's possession, custody or control to discharge any fecal material in any pedestrian plaza unless the person promptly removes and disposes of the fecal material in an appropriate receptacle. No person shall allow any animal in the person's possession, custody or control to enter or remain in any pedestrian plaza unless the person has in the person's possession the equipment necessary to remove and properly dispose of any fecal material deposited by the animal in the pedestrian plaza.
- G.** No person owning, in control of or responsible for any animal shall allow that animal to be in any pedestrian plaza if the animal is not in compliance with applicable Multnomah County Animal Control regulations; provided, however, that dogs otherwise complying with those regulations may be off leash in designated off-leash areas or during designated off-leash hours.
- H.** Any animal in any pedestrian plaza in violation of any provision of this Section may be impounded, at the expense of the animal's owner, on the order of any Police Officer or of any Animal Control officer.
- I.** The prohibitions of this Section do not apply to animals while in the course of the official performance of police or rescue activities.
- J.** Notwithstanding any other provision of this Code, any person violating this section is subject only to a civil penalty not to exceed \$150 for each violation. Any person

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assessed a civil penalty under this Subsection may appeal the citation to the Code Hearings Officer in accordance with the provisions of Title 22 of this Code.

#### **17.43.120 Use of Certain Devices or Equipment.**

- A.** No person shall ride or operate a skateboard on any brickwork, cobblestone or ornamental surface, table, chair, bench, fountain area, planter, or sculpture located in a pedestrian plaza.
- B.** No person shall operate any motorized vehicle or motorized wheeled vehicle or motorized wheeled device in any pedestrian plaza, except designated vehicle areas, or by permit. The prohibitions of this Section do not apply to authorized service or emergency vehicles or to the following electric mobility devices used by persons who need assistance to be mobile, and used in accordance with all applicable pedestrian plaza and traffic rules:
  - 1.** “Electric assisted bicycle” as defined in ORS 801.258;
  - 2.** “Motorized wheelchair,” “Mobility scooter” or “Power chair” defined as an electric powered transportation device for one person in a seated position, with feet resting on floorboards or foot rests, and incapable of exceeding a speed of 20 mph; or
  - 3.** “Human or personal transporter system” defined as a self-balancing, electric-powered transportation device with two wheels, able to turn in place, and designed to transport one person in a standing position, with a top speed of 20 mph.
- C.** No person shall operate an electric mobility device in a pedestrian plaza in an unsafe manner or at a speed exceeding 15 mph, or, when pedestrians are present, at a speed exceeding 5 mph, or fail to yield the right-of-way to all pedestrians.

#### **17.43.130 Remote Control Vehicles, Aircraft and Watercraft.**

No person shall operate any remote-controlled internal combustion powered vehicle, or any remote-controlled electric or internal combustion powered watercraft or aircraft, in, on or over any pedestrian plaza, except in such places the Director may designate for such use.

#### **17.43.140 Emergency Pedestrian Plaza Closure.**

- A.** In case of an emergency, or in case where life or property are endangered, all persons, if requested to do so by any Police Officer, shall depart from the portion of any pedestrian plaza specified by that Police Officer, and shall remain off that pedestrian plaza or that portion of the pedestrian plaza until permission is given to return.
- B.** Whenever it is in the interest of public health or safety to do so, the Commissioner or the Mayor, the Director, or Police Officer may close any pedestrian plaza, or any

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part thereof, and may erect or cause to be erected barricades prohibiting access to any such pedestrian plaza, or part thereof, at appropriate locations. Notices that any pedestrian plaza, or part thereof, is closed shall be posted at appropriate locations during the period of such closure, if feasible; however, failure to post such notices shall not invalidate such closure nor shall it invalidate any exclusion for violating this Section.

- C.** No person shall enter any pedestrian plaza or any part thereof that has been closed under this Section, or remain in such pedestrian plaza, or part thereof, after having been notified of the closure and having been requested to leave by the Commissioner, the Mayor, the Director or Police Officer. A closure under this Section shall not exceed 18 hours without the written approval of the both the Commissioner and the Mayor.
- D.** When a state of emergency is declared under Section 15.04.040 of this Code, the Mayor or other persons authorized by Section 15.08.020 or by Subsection B of this Section may close any pedestrian plaza and recreation facility to normal use and may designate that facility for emergency operations, which operations may include providing emergency services to the public, subject to the following conditions:

  - 1.** The scope of use of pedestrian plaza facilities during such emergency shall be defined by approved City emergency plans or by the Mayor or Commissioner in Charge.
  - 2.** If emergency services are provided in any pedestrian plaza facility, members of the public may be allowed into the facility, under the control of and subject to restrictions and conditions established by the organization responsible for the emergency operations at that facility.
  - 3.** Costs incurred by PBOT for emergency operations shall be submitted to the City's Office of Emergency Management for reimbursement. Costs reimbursable under this Section include facility operating costs, costs to repair damage caused by the emergency operations, and the costs to restore the facility to the condition it was in at the commencement of the emergency.
  - 4.** As soon as practicable after the state of emergency is officially terminated, any pedestrian plaza facility closed on account of the emergency or used for emergency operations will re-open for normal use.

**17.43.150     Trespassing and Areas Closed to the Public.**

- A.** No person, without the consent of the Director or other authorized Police Officer, shall enter any pedestrian plaza upon which the words "no admittance," or similar words indicating that entry is prohibited or restricted, are displayed.

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- B.** No person shall ride, drive, or walk on such parts or portions of the pedestrian plazas or pavements as are closed to public travel, nor shall any person interfere with barriers erected in any pedestrian plaza.
- C.** No person shall enter or remain in any pedestrian plaza in violation of an exclusion issued under this section.

**17.43.160 Condition of Parole or Probation or Judicial or Other Order.**

No person shall be in any pedestrian plaza when that person is required by any term or condition of the person's parole, probation, post-prison supervision, pretrial release agreement or other judicial order, to stay out of the pedestrian plaza. No person shall be in any pedestrian plaza at any time if an exclusion of the person from that pedestrian plaza under these rules is in effect.

**17.43.170 Rules and Regulations, Directions of Police Officers to be Obeyed.**

No person shall violate any rule or regulation established under the authority of these rules, nor refuse or fail to obey any lawful direction of a Police Officer. For purposes of this Section, a direction of a Police Officer is lawful if it directs a person to obey, or to cease a violation of, any law, rule or regulation applicable in the pedestrian plaza, or if it is otherwise reasonably related to protection of the health, welfare or safety of the person or of any other person in the pedestrian plaza or to the prevention of damage to property, or if it is reasonably necessary to preserve the peace or to prevent the disruption of any organized activity or permitted event in the pedestrian plaza, or if it relates to enforcement of any state law or City of Portland Ordinance.

**17.43.180 Pedestrian Plaza Exclusions.**

- A.** In addition to other remedies provided for violation of these rules, or of any of the laws of the State of Oregon, any Police Officer may exclude any person who violates any applicable provision of law in any pedestrian plaza from that pedestrian plaza in accordance with the provisions of this Section.
- B.** For purposes of this Section, "applicable provision of law" includes any applicable provision of this Code, of any City ordinance, or of any rule or regulation promulgated by the Commissioner or the Council under this Title, any applicable criminal or traffic law of the State of Oregon, any law regarding controlled substances or alcoholic beverages, any applicable County ordinance or regulation, and any ordinance or regulation adopted by the Tri-County Metropolitan Transportation District of Oregon (TriMet) governing any TriMet facility in that pedestrian plaza. For purposes of this Section, "applicable" means relating to the person's conduct in the pedestrian plaza.
- C.** An exclusion issued under the provisions of this Section shall be for 30 days. If the person to be excluded has been excluded from any pedestrian plaza at any time within two years before the date of the present exclusion, the exclusion shall be for 90 days. If the person to be excluded has been excluded from one or more pedestrian

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plazas on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for 180 days.

- D.** Before issuing an exclusion under this Section, a Police Officer shall first give the person a warning and a reasonable opportunity to desist from the violation. An exclusion shall not be issued if the person promptly complies with the direction and desists from the violation. Notwithstanding the provisions of this Subsection, no warning shall be required if the person is to be excluded for engaging in conduct that:
- 1.** Is classified as a felony or as a misdemeanor under the following Chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such felony or misdemeanor defined in ORS:
    - a.** Chapter 162 - Offenses Against the State and Public Justice;
    - b.** Chapter 163 - Offenses Against Persons;
    - c.** Chapter 164 - Offenses Against Property, except for ORS 164.805, Offensive Littering;
    - d.** Chapter 165 - Offenses Involving Fraud or Deception;
    - e.** Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering;
    - f.** Chapter 167 - Offenses Against Public Health, Decency and Animals;
    - g.** Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors; or
  - 2.** Otherwise involves a controlled substance or alcoholic beverage; or
  - 3.** Has resulted in injury to any person or damage to any property; or
  - 4.** Constitutes a violation of any of the following provisions of this Code:
    - a.** Section 14A.40.030 - Indecent Exposure;
    - b.** Section 14A.40.040 - Loitering to Solicit Prostitution;
    - c.** Section 14A.40.050 - Unlawful Prostitution Procurement Activities;
    - d.** Section 14A.60.010 - Possession of a Loaded Firearm in a Public Place;

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- e. Section 14A.60.020 - Discharge of a Firearm;
    - f. Section 14A.60.030 - Tear Gas and Stun Guns;
    - g. Section 14A.60.040 - Explosives and Bottle Bombs;
  5. Is conduct for which the person previously has been warned or excluded for committing in any pedestrian plaza.
- E.** Written notice shall be given to any person excluded from any pedestrian plaza under this Section. The notice shall specify the date, length and place of the exclusion, shall identify the provision of law the person has violated and shall contain a brief description of the offending conduct. The notice shall inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal. It shall be signed by the issuing party. Warnings of consequences for failure to comply shall be prominently displayed on the notice.
- F.** A person receiving such notice of exclusion may appeal to the Code Hearings Officer in accordance with the provisions of Title 22 of this Code. The Code Hearings Officer shall uphold the exclusion if, upon the Code Hearings Officer's de novo review, the preponderance of evidence admissible under the provisions of Title 22 of this Code convinces the Code Hearings Officer that, more likely than not, the person in fact committed the violation, and if the exclusion is otherwise in accordance with law.
- G.** At any time within the period of exclusion, a person receiving such notice of exclusion may apply in writing to the Commissioner for a waiver of some or all of the effects of the exclusion for good reason. If the Commissioner grants a waiver under this Subsection, the Commissioner shall promptly notify the Portland Police Bureau's Records Division and the PBOT Director of such action. In exercising discretion under this Subsection, the Commissioner shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be in the pedestrian plaza during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the Commissioner determines to be relevant to the determination of whether or not to grant a waiver. Notwithstanding the granting of a waiver under this Subsection, the exclusion will be included for purposes of calculating the appropriate length of exclusions. The decision of the Commissioner to grant or deny, in whole or in part, a waiver under this Subsection is committed to the sole discretion of the Commissioner, and is not subject to appeal or review.
- H.** If an appeal of the exclusion is timely filed under this section, the effectiveness of the exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon



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the issuance of the Hearings Officer's decision, unless the Hearings Officer specifies a later effective date.

- I.** If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion. If the predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the predicate exclusion had not been issued. If multiple exclusions issued to a single person for a single pedestrian plaza are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.
- J.** No person shall enter or remain in any pedestrian plaza at any time during which there is in effect a notice of exclusion issued under this Section excluding that person from that pedestrian plaza.



**FIGURE 6 - CHAPTER 17.102**

(Figure replaced by Ordinance No. 188398,  
effective July 1, 2017.)

**Residential Solid Waste and Recycling Rates**

**As used in Figure 6 the following terms have the meanings described below:**

"Excess distance" is applicable to any collection beyond seventy-five (75) feet from the curb. This charge is in addition to the "non-curb surcharge."

"Clean up containers" include hauler-provided containers which are provided as requested by the customer for occasional or temporary use.

"Small multiplex" refers to any multidwelling building or a combination of buildings on a single tax lot in the residential franchise territory that contains 2-4 dwelling units.

"Non-curb surcharge" is the charge for collection service provided at a location more distant than curbside.

"Terrain differential" is applicable to services within the territory designated on Figure 6-1.

<b>Residential Curbside Collection Service Rates and Charges</b>				
<b>Single Family Service Level</b>	<b>Monthly Rate Curbside Pickup</b>	<b>Per Unit or Per Pickup</b>	<b>Non-Curb Surcharge</b>	<b>Excess Distance</b>
<b>Standard Service - Service includes weekly collection of composting &amp; recycling, every-other-week garbage</b>				
20-gallon Can*	24.60		1.70	0.55
32-gallon Can*	28.60		1.70	0.55
20-gallon Rollcart	24.60			
35-gallon Rollcart	29.25			
60-gallon Rollcart	35.10			
90-gallon Rollcart	41.60			
1.0 Cubic Yard Container	83.70			
1.5 Cubic Yard Container	114.75			
2.0 Cubic Yard Container	145.80			
<b>Every-four-weeks Service - Service includes weekly collection of composting &amp; recycling, every-four-weeks garbage</b>				
32-gallon Can*	21.70		0.85	0.30
35-gallon Rollcart	21.70			

\*Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

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Single Family Service Level	Monthly Rate Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
<b>Special Services</b>				
Recycling Only, Weekly Collection	8.50			
Composting & Recycling Only, Weekly Collection	18.20			
On Call Yard Debris Collection (32 gallon Can, Bag or Bundle--Yard Debris Only)		7.20		
On Call Garbage (32-Gallon Can or Bag)		9.40	0.85	0.30
Yard Debris, Extra Can, Bag or Bundle--Yard Debris Only		3.75		
Garbage, Extra Can or Bag		5.00	0.85	0.30
Courtesy Callback (Garbage or Composting)		8.15		
Rollcart Delivery**		12.25		
Extra Composting Rollcart	12.35			
Extra Recycling Rollcart	3.75			
<b>Multiple Cans/Rollcarts- Service includes weekly collection of composting &amp; recycling, every-other-week garbage</b>				
32-Gallon Cans, Two*	38.85		3.40	1.10
32-Gallon Cans, Three*	44.90		5.10	1.65
32-Gallon Cans, Four*	49.40		6.80	2.20
20-Gallon Rollcart, Two	30.70			
20-Gallon Rollcart, Three	36.70			
20-Gallon Rollcart, Four	42.80			
35-Gallon Rollcart, Two	38.40			
35-Gallon Rollcart, Three	45.90			
35-Gallon Rollcart, Four	53.40			
60-Gallon Rollcart, Two	44.95			
60-Gallon Rollcart, Three	54.85			
60-Gallon Rollcart, Four	64.75			
90-Gallon Rollcart, Two	53.40			
90-Gallon Rollcart, Three	65.25			
90-Gallon Rollcart, Four	77.10			

\*Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

\*\*Rollcart delivery fees may be charged in the following scenarios:

1. For composting and recycling, if it is the customer's second (or greater) rollcart delivery.
2. For garbage, if it is the customer's second (or greater) rollcart delivery within a one year period.
3. Any time the customer requests a clean rollcart.

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Service Level	Monthly Rate Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
<b>Clean-Up Containers</b>				
One 1.0 Cubic Yard		87.50		
One 1.5 Cubic Yard		96.00		
One 2.0 Cubic Yard		104.35		
<b>Terrain Differential</b>				
Every-Other-Week Garbage (Single Can/Rollcart)	4.20			
Every-Other-Week Garbage (Multiple Cans/Rollcars)	4.35			
Every-Four-Weeks Garbage	2.90			
Recycling Only	1.45			
Composting & Recycling Only	2.75			
32-Gallon Can Garbage On-Call	0.80			
On Call Yard Debris Collection (32 gallon Can, Bag, or Bundle –Yard Debris Only	0.50			

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**Curbside Collection Service Rates and Charges  
for Small Multiplexes**

<b>Weekly Composting &amp; Recycling, Every-Other-Week Garbage</b>			
<b>Collection for:</b>	<b>Duplex</b>	<b>Tri-Plex</b>	<b>Four-Plex</b>
<b>Single Container Service, where rollcart / container is shared by residents of 2, 3 or 4 units</b>			
One shared 60-Gallon Rollcart	39.25	46.35	N / A
One shared 90-Gallon Rollcart	42.95	50.05	57.15
One shared 1.0 Cubic Yard Container	67.90	75.00	82.10
One shared 1.5 Cubic Yard Container	85.10	92.20	99.30
One shared 2.0 Cubic Yard Container	102.25	109.35	116.45
<b>Multiple Containers, where all cans / rollcarts are placed together in a single location at curbside for pickup. Where unshared cans / rollcarts are located separately at curbside for pickup then each is considered a separate account, charged at single-family rate.</b>			
Two 32-Gallon Cans*	39.80	46.90	N / A
Three 32-Gallon Cans*	43.95	51.05	58.15
Four 32-Gallon Cans*	48.05	55.15	62.25
Two 20-Gallon Rollcarts	37.75	N / A	N / A
Three 20-Gallon Rollcarts	40.85	47.95	N / A
Four 20-Gallon Rollcarts	43.95	51.05	58.15
Two 35-Gallon Rollcarts	41.05	48.15	55.25
Three 35-Gallon Rollcarts	45.80	52.90	60.00
Four 35-Gallon Rollcarts	50.50	57.60	64.70
Two 60-Gallon Rollcarts	46.90	54.00	61.10
Three 60-Gallon Rollcarts	54.55	61.65	68.75
Four 60-Gallon Rollcarts	62.20	69.30	76.40
Two 90-Gallon Rollcarts	54.35	61.45	68.55
Three 90-Gallon Rollcarts	65.75	72.85	79.95
Four 90 Gallon Rollcarts	77.10	84.20	91.30

--N/A services are not available.

--Non-curbside service is available at small multiplexes for garbage cans and rollcarts at an additional monthly charge of \$1.70 per can and \$3.60 per rollcart. Excess distance charge for a can is \$0.55. Excess distance charge for a rollcart is \$1.20.

--For composting services, extra cans, bags, or bundles of yard debris only are \$3.75 each and accrue on a per account, rather than per unit, basis.

--Recycling labor surcharge is \$7.10 per additional dwelling unit.

\*Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

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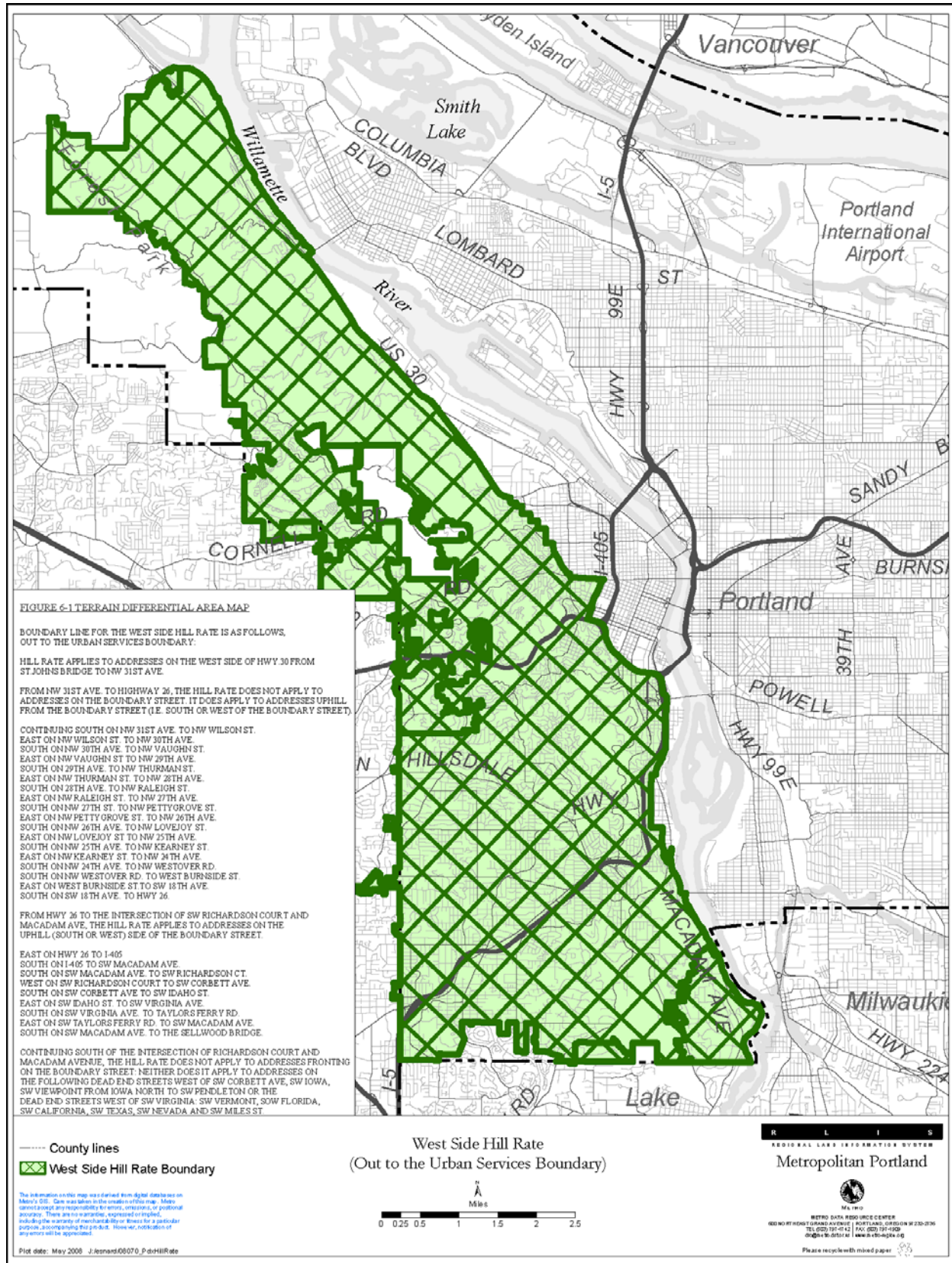


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**30.01.085      Portland Renter Additional Protections.**

(Added by Ordinance No. 187380; amended by Ordinance Nos. 188219, 188519 and 188558, effective August 16, 2017.)

- A.** In addition to the protections set forth in the Residential Landlord and Tenant Act, the following additional protections apply to Tenants that have a Rental Agreement for a Dwelling Unit covered by the Act. For purposes of this chapter, capitalized terms have the meaning set forth in the Act.
- B.** A Landlord may terminate a Rental Agreement without a cause specified in the Act only by delivering a written notice of termination (the “Termination Notice”) to the Tenant of (a) not less than 90 days before the termination date designated in that notice as calculated under the Act; or (b) the time period designated in the Rental Agreement, whichever is longer. Not less than 45 days prior to the termination date provided in the Termination Notice, a Landlord shall pay to the Tenant, as relocation assistance, a payment (“Relocation Assistance”) in the amount that follows: \$2,900 for a studio or single room occupancy (“SRO”) Dwelling Unit, \$3,300 for a one-bedroom Dwelling Unit, \$4,200 for a two-bedroom Dwelling Unit and \$4,500 for a three-bedroom or larger Dwelling Unit. The requirements of this Subsection do not apply to Rental Agreements for week-to-week tenancies or to Tenants that occupy the same Dwelling Unit as the Landlord. The requirements of this Subsection that pertain to Relocation Assistance do not apply to a Landlord that has an ownership interest, regardless of form, in only one Dwelling Unit that is subject to the Act in the City of Portland, or to a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years. A Landlord that authorizes a property manager that is subject to, and manages property in accordance with ORS 696, to manage only one Dwelling Unit, does not waive the foregoing exemption as a result of the collective number of Dwelling Units managed by such a property manager. For purposes of the exception provided in this Subsection, “Dwelling Unit” is defined by PCC 33.910, and not by ORS 90.100. For purposes of this Subsection, a Landlord that declines to renew or replace an expiring Rental Agreement on substantially the same terms except for the amount of Rent or Associated Housing Costs terminates the Rental Agreement and is subject to the provisions of this Subsection. The requirements of this Subsection are intended to apply per Dwelling Unit, not per individual Tenant.
- C.** A Landlord may not increase a Tenant's Rent or Associated Housing Costs by 5 percent or more over a rolling 12 month period unless the Landlord gives notice in writing (the “Increase Notice”) to each affected Tenant: (a) at least 90 days prior to the effective date of the rent increase; or (b) the time period designated in the Rental Agreement, whichever is longer. Such notice must specify the amount of the increase, the amount of the new Rent or Associated Housing Costs and the date, as calculated under the Act, when the increase becomes effective. If, within 45 calendar days after a Tenant receives an Increase Notice indicating a Rent increase of 10 percent or more within a rolling 12 month period and a Tenant provides

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written notice to the Landlord of the Tenant's request for Relocation Assistance (the "Tenant's Notice"), then, within 31 calendar days of receiving the Tenant's Notice, the Landlord shall pay to the Tenant Relocation Assistance in the amount that follows: \$2,900 for a studio or SRO Dwelling Unit, \$3,300 for a one-bedroom Dwelling Unit, \$4,200 for a two-bedroom Dwelling Unit and \$4,500 for a three-bedroom or larger dwelling unit. After the Tenant receives the Relocation Assistance from the Landlord, the Tenant shall have 6 months from the effective date of the Rent increase (the "Relocation Period") to either: (i) pay back the Relocation Assistance and remain in the Dwelling Unit and, subject to the Act, shall be obligated to pay the increased Rent in accordance with the Increase Notice for the duration of the Tenant's occupancy of the Dwelling Unit; or (ii) provide the Landlord with a notice to terminate the Rental Agreement in accordance with the Act (the "Termination Notice"). In the event that the Tenant has not repaid the Relocation Assistance to the Landlord or provided the Landlord with the Termination Notice on or before the expiration of the Relocation Period, the Tenant shall be in violation of this Subsection. The foregoing terms and conditions regarding the Tenant's rights and obligations regarding the Relocation Assistance shall be included with the Landlord's payment of Relocation Assistance to the Tenant. For purposes of this Subsection, a Landlord that conditions the renewal or replacement of an expiring Rental Agreement on the Tenant's agreement to pay a Rent increase of 10 percent or more within a rolling 12 month period is subject to the provisions of this Subsection. The requirements of this Subsection do not apply to Rental Agreements for week-to-week tenancies or to Tenants that occupy the same Dwelling Unit, as defined in Subsection B. of this Section, as the Landlord. The requirements of this Subsection that pertain to Relocation Assistance do not apply to a Landlord that has an ownership interest, regardless of form, in only one Dwelling Unit that is subject to the Act in the City of Portland, or to a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years. A Landlord that authorizes a property manager that is subject to, and manages property in accordance with ORS 696, to manage only one Dwelling Unit, does not waive the foregoing exemptions a result of the collective number of Dwelling Units managed by such a property manager. The requirements of this Subsection are intended to apply per Dwelling Unit, not per individual Tenant. For purposes of this Subsection, a Tenant may only receive and retain Relocation Assistance once per tenancy.

- D.** A Landlord that fails to comply with any of the requirements set forth in this Section 30.01.085 shall be liable to the Tenant for an amount up to 3 months Rent as well as actual damages, Relocation Assistance, reasonable attorney fees and costs (collectively, "Damages"). Any Tenant claiming to be aggrieved by a Landlord's noncompliance with the foregoing has a cause of action in any court of competent jurisdiction for Damages and such other remedies as may be appropriate.
- E.** The provisions of this Section 30.01.085 concerning Relocation Assistance shall be in effect for the duration of the Housing Emergency declared by Council on October

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7, 2015 by Ordinance 187371 and extended for a period of 1 year to October 6, 2017 by Ordinance 187973, and shall apply to all notices of termination and to all notices of increases of a Tenant's Rent or Associated Housing Costs pending as of the effective date of those provisions, subject to the following provisions:

1. If, as of the effective date of the Relocation Assistance provisions of this Section, a Landlord has given notice of termination, but the termination has not yet occurred, the Landlord, within 30 days of the effective date of these provisions, either shall notify the Tenant in writing that the Landlord has rescinded the notice of termination, or shall pay the Relocation Assistance provided for in Subsection B. of this Section.
2. If, as of the effective date of the Relocation Assistance provisions of this Section, a Landlord has given notice of an increase of a Tenant's Rent or Associated Housing Costs that triggers the obligation to pay Relocation Assistance under Subsection C. of this Section, the Tenant shall have the right, within 14 days of the effective date, to notify the Landlord that the Tenant is terminating the Rental Agreement, and the Landlord shall have 14 days thereafter within which to give written notice to the Tenant either that the Landlord has rescinded the increase or has reduced it below the level that triggers the obligation to pay Relocation Assistance, or, in the alternative, to pay the Relocation Assistance.

**30.01.090 City Subsidy Projects - Long-Term Affordability Requirements.**

(Amended by Ordinance Nos. 186028, 187380 and 188440, effective July 8, 2017.)

- A. City Subsidy Projects that in the future request and receive a City Subsidy from PDC, PHB or other City bureau or agency for the purpose of creating or preserving rental housing affordable to households below 80 percent of MFI, will be subject to a minimum of 60 year affordability contract requirements developed by PHB consistent with the implementing charge in Subsection 30.01.090 B. Notwithstanding the foregoing, City Subsidy Projects that receive a Rental Rehabilitation Conditional Grant will be subject to a minimum of 10 year affordability contract requirement in accordance with the Rental Rehabilitation Conditional Grant Product Guidelines.
- B. All City Bureaus and agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the City to negotiate and confer affordable housing subsidies, PHB will develop implementing strategies consistent with the 60 year affordability principles contained in this section, the Administrative Procedures Implementing Title 30.01 and the approved 1998/99 Consolidated Plan, Principle III (Ordinance No. 172259).

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#### **30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.**

(Added by Ordinance No. 183448; Amended by Ordinance Nos. 186712, 186744, 187380 and 187975, effective September 7, 2016.)

- A.** The purpose of this Section is to reduce the costs of developing permanent affordable housing by exempting system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B.** The City will exempt qualified affordable housing developments from paying all or part of system development charges required by Code. The Applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more of the uses described in this Section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The Applicant has the burden to prove entitlement to exemptions so requested.
- C.** The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section. Exemptions are applicable to the portions of residential properties that are directly used in providing housing for its low-income residents such as on-site manager units and shared space including but not limited to restrooms, community rooms and laundry facilities.
- D.** To obtain the exemption, the applicant must present to the City, at the time of Application, documentation from PHB that the development qualifies for the exemption pursuant to this Chapter. Applicant must also pay an administration fee per unit on rental and/or owner-occupied units as determined by PHB.
- E.** The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by PHB in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.
- F.** Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of system development charges based on the type of housing provided:

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**1. Rental Units.**

- a.** For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30 percent of the gross household income at the level of the rent restrictions.
- b.** The units receiving an exemption shall be affordable to households earning 60 percent or less of MFI at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, except as provided for below. Such units shall remain affordable for a period of 60 years.
- c.** Effective July 1, 2014, developments of new buildings in Old Town/Chinatown shall be eligible for exemption subject to the following conditions:
  - (1)** Units must be located in the Old Town/Chinatown Action Plan Focus Area;
  - (2)** Financial need must be verified through project pro forma underwriting conducted by the PDC;
  - (3)** All units shall remain affordable for a period of not less than 10 years, to persons or households whose incomes are 100 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, and for not less than 5 years thereafter shall continue to remain affordable to persons or households whose incomes are 120 percent or less of MFI, as so described; and
  - (4)** The exemption granted by this Subsection shall not be available to developments for which a building permit application is filed on or after July 1, 2019, or after permit applications have been filed for development of 500 qualifying units, in the aggregate, whichever occurs first.

**2. Owner-Occupied Units.**

- a.** For the purposes of this Section, "Affordable" means that ownership units are sold to persons or households whose incomes are at or below 100 percent of MFI for a family of four as determined annually for the Portland Metropolitan Area by HUD, which income

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may be adjusted upward for households with more than four persons; and

- b.** The ownership units sell at or below the price limit as provided by Subsection 3.102.090 D.

**3. Mass Shelters.**

- a.** For the purposes of this Section, “affordable” means that shelter is provided on a daily basis without a fee.
- b.** A mass shelter is a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.
- c.** Mass shelters shall provide shelter for a minimum of 10 years.

- G.** Pursuant to Section 30.01.040, the PHB is responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section. PHB may adopt, amend and appeal administrative rules, establish procedures, and prepare forms for implementation, administration and compliance monitoring consistent with the provisions of this Section.

In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, or the owner of the property wants to remove the affordability covenants of Subsection 30.01.095 F., the City shall terminate the exemption and make due and payable all previously exempt portions of system development charges based on rates in effect on the date of the submittal of a complete building permit application, plus accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption calculated with the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140, and a processing fee of \$250 due to each City bureau exempting system development charges and to PHB as the administrator. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

**30.01.100 Compliance and Enforcement.**

(Amended by Ordinance No. 186028, effective May 15, 2013.)

- A.** PHB shall develop and implement procedures to enforce the provisions of this code. Such procedures should include, where feasible, record notice of the applicability of this code to affected properties, filing a lien to enforce the provisions of this code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this code.
- B.** The City Attorney's Office may enforce the provisions of this code on behalf of the City in any court of competent jurisdiction or City administrative body.

**30.01.110 No Restriction of Powers of Eminent Domain; Severability.**

- A.** This Chapter shall not be construed to restrict the City's existing authority to exercise powers of eminent domain through condemnation as outlined in state law.
- B.** If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

**30.01.120 Inclusionary Housing.**

(Added by Ordinance No. 188163, effective February 1, 2017.)

- A. Purpose Statement.** The purposes of the Inclusionary Housing ("IH") Program are:
  - 1.** Increase the number of units available to households earning 80 percent or less of MFI, with an emphasis on households earning 60 percent or less of MFI;
  - 2.** Responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities;
  - 3.** Create affordable housing options in high opportunity neighborhoods, those with superior access to quality schools, services, amenities and transportation; and
  - 4.** Promote a wide range of affordable housing options with regard to size, amenities and location.
- B. Administration.**

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1. PHB will certify whether the applicant's proposed development meets the standards and any administrative requirements set forth in this Section.
2. PHB may adopt, amend and repeal Administrative Rules and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section. The Director of PHB, or a designee, has authority to make changes to the Administrative Rules as is necessary to meet current program requirements. PHB Administrative Rules will set forth clear and objective criteria for determining whether a development meets the minimum standard of affordable units ("IH Units").
3. PHB will review the Inclusionary Housing outcomes periodically in order to determine if the IH Program options and incentives in Subsection 30.01.120 C. are consistent with City goals and market conditions.

**C. Financial Incentives.** The following financial incentives are provided for the respective options of IH Program compliance:

1. When the proposed development will include 20 percent of the units or total number of bedrooms configured into IH Units at or below 80 percent MFI, or for developments outside of the Central City Plan District, 15 percent of the units or total bedrooms configured into IH units at or below 80 percent MFI for applications filed on or before December 31, 2018:
  - a. Ten-year property tax exemption in accordance with City Code Chapter 3.103 for the IH Units. If the development is in the Central City Plan district, as designated in City Code Chapter 33.510, and has maximum base 5:1 FAR or greater, before including density bonus granted through City Code Chapter 33.510, the tax exemption applies to all residential units; and
  - b. Construction Excise Tax exemption for the IH Units in accordance with Subsection 6.08.060 A.2.
2. When the proposed development will include 10 percent of the units or total number of bedrooms configured into IH units at or below 60 percent MFI, or for developments outside the Central City Plan District, 8 percent of the units or total number of bedrooms configured into IH units at or below 60 percent MFI for applications filed on or before December 31, 2018:
  - a. Ten-year property tax exemption according to City Code Chapter 3.103 for the IH units. If the development is in the Central City Plan District, as designated in City Code Chapter 33.510, and has maximum base 5:1 FAR or greater, before including density bonus



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granted through City Code Chapter 33.510, the tax exemption applies to all residential units; and

- b.** Construction Excise Tax exemption for the IH Units in accordance with Subsection 6.08.060 A.2.; and
  - c.** SDC exemption for the IH Units in accordance with Section 30.01.095.
- 3.** When the proposed development elects to construct IH Units offsite:
  - a.** Construction Excise Tax exemption for the Receiving Site's IH Units in accordance with Subsection 6.08.060 A.2.; and
  - b.** SDC exemption for the Receiving Site's IH Units in accordance with Section 30.01.095.
- 4.** When the applicant elects to dedicate IH Units in an existing development, there are no financial incentives provided under Section 30.01.120.
- 5.** When the applicant elects the fee-in-lieu option, there are no financial incentives provided under Section 30.01.120.

**D. Standards.** Developments providing IH Units must satisfy the following standards:

- 1.** The IH Units must meet clear and objective administrative criteria that ensure a reasonable equivalency between the IH Units and the market-rate units in the development;
- 2.** The IH Units shall remain affordable for a period of 99 years;
- 3.** Owners of property subject to the IH Program are required to sign a Regulatory Agreement to be recorded with the property where the IH Units are located;
- 4.** The owner or a representative shall submit annual documentation of tenant income and rents for the IH Units to PHB;
- 5.** The City may inspect the IH Units for fire, life and safety hazards and for compliance with IH Program requirements and may inspect files documenting tenant income and rents of the IH Units; and
- 6.** Subsequent failure to meet the requirements of the IH Program previously determined at the time the permit is reviewed will result in a penalty equal to the amount of the current fee-in-lieu calculation plus accrued interest, and could result in legal action if unpaid.

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7. When the IH Units are configured based on a percentage of the total number of bedrooms within the proposed development, the IH Units must be provided in 2 or more bedrooms per unit.

**E.** To the extent that a financial incentive as set forth in this Section is not available to a development that otherwise complies with City Code Chapter 33.245, the IH Program will not be applicable to the development. If the IH Program is not applicable to the development, PHB will provide a letter certifying that the development is not subject to any IH Program requirements.

**F. Fee-In-Lieu.** When the applicant elects the fee-in-lieu option, they fee-in-lieu per gross square foot of the proposed development is:

- a.** For developments in zones outside the Central City Plan District

<b>Zone/FAR</b>	<b>Fee per GSF on or before December 31, 2018</b>
CN1, CO1, CO2, CM, CS, CG, CX plus EG1, EG2, EX and R3, R2, R1, RH and RX zones	\$19.50

<b>Zone/FAR</b>	<b>Fee per GSF after December 31, 2018</b>
CM1 at Base FAR	\$23.83
CM1 with Bonus FAR	\$25.79
CM2 at Base FAR	\$25.79
CM2 with Bonus FAR	\$26.50
CM3 at Base FAR	\$26.03
CM3 with Bonus FAR	\$28.58

- b.** For developments in zones within the Central City Plan District

<b>Zone/FAR</b>	<b>Fee per GSF</b>
3:1/4:1 FAR	\$27.39
3:1/4:1 Base with Bonus FAR	\$28.57
5:1/6:1 FAR	\$28.57
5:1/6:1 Base with Bonus FAR	\$28.99
8:1 FAR	\$28.99
8:1 Base with Bonus FAR	\$29.81
9:1 FAR	\$29.81
9:1 Base with Bonus FAR	\$29.42
12:1 FAR	\$29.42
12:1 Base with Bonus FAR	\$29.85

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15:1 FAR	\$27.39
15:1 Base with Bonus FAR	\$28.57

- c. For Bonus FAR in non-residential developments

<b>Fee Schedule for Bonus FAR for non-residential occupancy/use</b>
\$24 per square foot of Bonus FAR

