

UPDATE INFORMATION

Vols. I & II – Portland City Code

September 30, 2018 – Quarterly Update

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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, 2018

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Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
3rd Quarter 2018 (September 30, 2018)

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TITLE 2
LEGISLATION AND ELECTIONS

CHAPTER 2.10 – CAMPAIGN FINANCE
FUND

(Chapter repealed by Ordinance No.
185552, effective September 21, 2012.)

TITLE 2 LEGISLATION AND ELECTIONS

CHAPTER 2.12 - REGULATION OF LOBBYING ENTITIES

(Chapter added by Ordinance No. 179843, effective
April 1, 2006.)

Sections:

- 2.12.010 Purpose.
- 2.12.020 Definitions.
- 2.12.030 Registration for Lobbying Entities.
- 2.12.040 Quarterly Reporting Requirements for Lobbying Entities.
- 2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.
- 2.12.060 Declaration Required by Lobbyists
- 2.12.070 Reporting Requirements for City Officials.
- 2.12.080 Prohibited Conduct.
- 2.12.090 Verification of Reports, Registrations and Statements.
- 2.12.100 Public Nature of Reports, Registrations and Statements.
- 2.12.110 Auditor's Duties.
- 2.12.120 Penalties.
- 2.12.130 Severability.

2.12.010 Purpose.

The City finds that, to preserve the integrity of its decision making processes, lobbying entities that engage in efforts to influence City officials, should report their lobbying efforts to the public.

2.12.020 Definitions.

(Amended by Ordinance Nos. 180205, 180620, 180917, 181204, 182389, 182671, 184046, 184882, 185304, 186028, 186176 and 189078, effective July 18, 2018.) As used in this Chapter unless the context requires otherwise:

- A. "Calendar quarter" means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. "Calendar year" means the period of January 1 through December 31.
- C. "City director" means the director or individual in charge of the following or its successors: the Bureau of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Community & Civic Life, the Bureau of Planning and Sustainability, the Portland Bureau of Emergency Management, the Bureau of Emergency Communications, Portland Fire & Rescue, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of Environmental Services, the Portland Water Bureau, the Bureau of Development Services, the Portland Housing Bureau, the Bureau of Revenue, the City Budget

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quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.

- G.** A lobbying entity may amend a quarterly report without penalty if it files the amended report within 25 days after the end of the calendar quarter.

2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.

(Amended by Ordinance Nos. 180620, 181204, 188286 and 189078, effective July 18, 2018.) In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Any lobbying entity that satisfies all three of the following requirements:
- 1.** Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
 - 2.** Is classified as a non-profit organization, registered with the Oregon Secretary of State Corporation Division; and
 - 3.** Is formally recognized by the Office of Community & Civic Life or through City Council resolution or ordinance.

2.12.060 Declaration Required by Lobbyists.

(Amended by Ordinance No. 180205, effective June 7, 2006.) Prior to offering public testimony before City officials, at the beginning of any meetings or phone calls with City officials, or in emails and letters to City officials, a lobbyist must declare which lobbying entity he or she is authorized to represent for that communication.

2.12.070 Reporting Requirements for City Officials.

(Amended by Ordinance Nos. 180205, 180620, 187854 and 187961, effective September 1, 2016.)

- A.** City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25 received from a lobbying entity, regardless of the entity's registration status, or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
- 1.** Name of lobbying entity, and if applicable, name of lobbyist;
 - 2.** Subject of lobbying;

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3. Value of gift, meal or entertainment; and
 4. Date of receipt.
- B.** City officials shall file written reports after a lobbyist or lobbying entity, regardless of the entity's registration status, has agreed to make a donation of personal or real property to the City. Such reports shall include:
1. Name of lobbying entity, and if applicable, name of lobbyist;
 2. Gift or donation requested;
 3. Purpose of donation; and
 4. Date of request.
- C.** The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials, other than elected officials, are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25 or if no gifts or donations have been requested in the calendar quarter.
- D.** City Elected officials and City directors shall post their calendars of activities that reflect official City business 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.
1. Unless otherwise exempted, calendars required by this Section shall note the date and length of scheduled official business that includes other City Elected officials, City directors or outside parties. Calendar items must list primary participants or organizations in attendance.
 2. Elected officials' and City directors' quarterly calendars required by this Section shall be retained in accordance with City Administrative Rules and posted publicly on the originating office's website for a period of at least one calendar year.
- E.** A City Official may amend a quarterly report without penalty if he or she files the amended report within 25 days after the end of the calendar quarter.

2.12.080 Prohibited Conduct.

(Amended by Ordinance No. 187854, effective September 1, 2016.)

- A.** No former City elected official shall, for a period of 2 years after the termination of the official's term of office, lobby for money or other consideration a City elected official or their salaried at-will staff.

2.16.120 Participating and Certified Candidate Restrictions.

A participating or certified candidate must not:

- A.** Accept a contribution, other than seed money or in-kind contributions as permitted by this Chapter, from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;
- B.** Accept one or more contributions from an individual totaling more than \$250 during the primary election period and \$250 during the general election period, other than seed money or in-kind contributions as permitted by this Chapter, except as provided in Section 2.16.150;
- C.** Make an allowable contribution from the candidate's personal funds to the candidate's principal campaign committee.
- D.** Accept seed money or in-kind contributions in excess of the amounts established in Section 2.16.040.
- E.** Expend funds to benefit or advocate for another candidate;
- F.** Accept a loan from anyone for campaign purposes, other than a loan from the candidate or candidate's spouse within seed money limitations; or
- G.** Transfer funds:
 - 1.** To the candidate's publicly funded campaign account from any other campaign finance entity established for the candidate; and
 - 2.** From the candidate's publicly funded campaign account to any other campaign finance entity.
- H.** Solicit for or direct contributions to other campaign finance entities to support their own election.

2.16.130 Public Campaign Finance Commission.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- A. Duties.** The Public Campaign Finance Commission is hereby created. The Commission shall:
 - 1.** Provide assistance to the Director and Council in the development and implementation of the Public Election Fund. The Commission may make recommendations to the Director regarding administrative rules necessary to the effective administration of the code.

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2. Make recommendations on adjustments to matching ratios, adjustments to contribution limits and other regulations to improve operation of public campaign finance.
 3. At the request of the Director, advise the Director on administrative judgments, recommended policy changes, administrative rule development, and operation of the Public Election Fund.
 4. Recommend to the Director for appointment hearings officers to review cases and make determinations under Section 2.16.160.
 5. Adopt such operating policies and procedures as necessary to carry out its duties.
 6. Prepare and submit to the Council a biennial report which shall contain an overview and evaluation of the Campaign Finance Fund during the previous election period.
- B. Membership.** The Public Campaign Finance Commission shall consist of seven members who have demonstrated an interest in campaign finance funding and, insofar as possible, represent diverse interests and diverse communities. The Director shall solicit applications from the Office of Community & Civic Life and the general public in order to recommend nominees to Council for appointment.
- C. Appointments and Terms.** Public Campaign Finance Commission members shall be appointed by Council and serve 4 year terms starting January 1 of odd-numbered years, except that three of the initial appointments shall be for 2 year terms. Upon expiration of the term, a Commission member shall serve until reappointed or replaced. Members of the Commission are limited to a maximum of two full terms, except that members serving an initial term of less than 4 years may serve two subsequent 4 year terms. If a position is vacated during a term, it shall be filled for the unexpired term. Council may replace any member of the Commission for due cause, including but not limited to malfeasance, incapacity, conflict of interest or neglect of duties.
- D. Meetings, Officers and Subcommittees.**
1. The Public Campaign Finance Commission shall meet at least four times per year and may meet more often as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with rules of procedure adopted by the Commission. Four members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Commission and to conduct any other Commission responsibilities. The election of officers shall take place at the first meeting of each calendar year.

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POLICE ARREST DOCKET AND MUNICIPAL COURT TRANSCRIPT City of Portland, Oregon DEPARTMENT OF FINANCE AND ADMINISTRATION Bureau of Police						
<u>Name of Defendant</u>	<u>Address of Defendant</u>	<u>Arresting Officer</u>	<u>Complainant</u>	<u>Charge</u>	<u>Where</u>	<u>Age</u>
<u>Nativity</u>	<u>Occupation</u>	<u>Bail</u>	<u>Plea</u>	<u>Fine</u>	<u>Days</u>	<u>Remarks</u>

The arrest docket may be printed in any size as may be determined by the Chief of Police and shall be a part of the original record of the Bureau of Police and shall be preserved and kept in the custody of the Bureau of Police.

3.20.140 Police Review Board.

(Replaced by Ordinance No. 183657; Amended by Ordinance Nos. 183995, 186416 and 189159, effective September 5, 2018.)

- A.** Purpose. The Police Review Board (“Board”) is an advisory body to the Chief of Police (“Chief”). The Review Board will make recommendations as to findings and proposed officer discipline to the Chief of Police.
- B.** Powers of the Board:
- 1.** Review incidents and investigations. Except as provided in Code Section 3.20.140 J., the Board shall review incidents and investigated complaints of alleged misconduct by non-probationary sworn officers (“officers”) who are employed by the Portland Police Bureau (“Bureau”) in the following cases:
 - a.** The supervising Assistant Chief, the Director of the Independent Police Review Division of the Auditor (“IPR”) or the Captain of the Internal Affairs Division of the Bureau (“IAD”) controverts the findings or proposed discipline of the Reporting Unit (“RU”) manager pursuant to Code Section 3.21.120.
 - b.** Investigations resulting in a recommended sustained finding and the recommended discipline is suspension without pay or greater.
 - c.** The following incidents involving use of force:
 - (1)** All officer involved shootings.
 - (2)** Physical injury caused by an officer that requires hospitalization.

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- (3) All in custody deaths.
 - (4) Any use of force where the recommended finding is “out of policy”.
 - d. All investigations regarding alleged violations of Human Resources Administrative Rules regarding complaints of discrimination resulting in a recommended sustained finding.
 - e. Discretionary cases referred by the Chief, Branch Chief, or the IPR Director.
2. Probationary sworn officers. The Board shall review incidents and investigated complaints of alleged misconduct by Portland Police Bureau probationary officers when referred by the Chief, Branch Chief or the IPR Director. However, nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section.
 3. Recommendations to Chief. The Board shall make recommendations to the Chief regarding findings and discipline. The Board may make recommendations regarding the adequacy and completeness of an investigation. The Board may also make policy or training recommendations to the Chief. The Board shall make recommendations as to discipline based on discipline guidelines. The guidelines shall be developed by the Bureau in consultation with IPR
 4. On September 1, 2010, the Board shall replace the Use of Force and Performance Review Boards set forth in the Bureau’s 2009 Manual of Policy and Procedure. Before September 1, 2010, the Use of Force and Performance Review Board shall review incidents and investigated cases pursuant to the existing Bureau directives.

C. Composition of Board

- 1.** The Board shall be composed of five voting members and eight advisory members. All Board members will be advised of every case presented to the Board. A quorum of four Voting Members, including the Citizen member and the RU Manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
 - a.** Voting members
 - (1)** One citizen member from a pool of citizen volunteers recommended by the Auditor and confirmed by the City Council.

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- (a)** Citizens shall be appointed for a term of no more than three years. Citizens may serve two full terms plus the remainder of any unexpired vacancy they may be appointed to fill.
- (b)** All citizen members must meet at least the following qualifications to participate on the PRB:
 - (i)** Pass a background check performed by the Bureau.
 - (ii)** Participate in Bureau training to become familiar with police training and policies.
 - (iii)** Sign a confidentiality agreement.
 - (iv)** Participate in ride alongs to maintain sufficient knowledge of police patrol procedures.
- (c)** The Chief or the City Auditor may recommend that City Council remove a citizen member from the pool for the following reasons:
 - (i)** Failure to attend training
 - (ii)** Failure to read case files
 - (iii)** Objective demonstration of disrespectful or unprofessional conduct
 - (iv)** Repeated and excessive unavailability for service when requested.
 - (v)** Breach of confidentiality
 - (vi)** Objective demonstration of bias for or against the police
 - (vii)** Objective demonstration of conflict of interest
- (2)** One peer member of the same rank/classification as the involved officer; peer member will be selected from a pool of Bureau representatives pre-approved by the Chief.

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- (3) The Assistant Branch Chief who is the supervisor of the involved officer.
 - (4) The Director of IPR (or designee).
 - (5) A Commander or Captain who is the supervisor of the involved officer (RU Manager).
 - b. Advisory members
 - (1) The Office of Accountability and Professional Standards manager.
 - (2) Representative from Bureau of Human Resources.
 - (3) Representative from City Attorney's Office.
 - (4) The Internal Affairs Division Manager.
 - (5) Review Board Coordinator.
 - (6) Representative of Commissioner in Charge of the Bureau ("Commissioner in Charge").
 - (7) Representative of the Training Division.
 - (8) The Assistant Chief(s) that are not the supervisor of the involved member.
 - c. Representatives/Individuals that may also be present during the presentation of the case include:
 - (1) Bargaining Units
 - (2) Involved Member
- 2. However, when the incident to be reviewed by the board involves the following use of force incidents, one additional citizen member drawn on a rotating basis from the pool of current Citizen Review Committee members, as those members are described in Code Section 3.21.080, and one additional peer member shall serve on the Board, for a total of seven voting members. A quorum of six voting members, including two citizen members, and the RU manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
 - a. All officer involved shootings.

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- b.** Physical injury caused by an officer that requires hospitalization.
 - c.** All in custody deaths.
 - d.** Any use of force where the recommended finding is “out of policy”.
- 3.** Citizen Review Committee members serving on the Board shall be subject to the same qualification and removal standards as other citizen members of the Board.
- 4.** A Citizen Review Committee member who participates in a Board review of an incident cannot participate in a later appeal to the Committee of the same allegation(s).
- 5.** Removal from participation on the Board shall not affect Citizen Review Committee membership.

D. Access to information

- 1.** All members of the Board shall have access to necessary and relevant documents and an equal opportunity to participate in Board deliberations.
 - a.** The Bureau and IPR shall develop a Bureau Directive establishing confidentiality provisions and distribution timeline provisions of Board materials.
- 2.** The RU manager or designee will provide a written recommendation of the findings, reasoning for the recommendation and disposition recommendation.

E. Board Facilitator

- 1.** The Board shall be facilitated by a person who is not employed by the Bureau and who is not a member of the Board.
 - a.** The Bureau and IPR shall develop a Bureau Directive establishing selection criteria and confidentiality provisions for the Facilitator(s).
 - b.** The voting members of the Board shall schedule a meeting to recommend a pool of facilitators based the Bureau Directive for approval of the Commissioner in Charge in accordance with City contract rules.
- 2.** The Board facilitator shall write the statement of recommended findings and discipline and a summary of any training and/or investigation issues or

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concerns on behalf of the Board and submit the statement to the Chief within two weeks of the Board meeting date.

F. Board Recommendations

- 1.** The Board shall prepare a statement of its recommended findings and proposed discipline, if any, in every case for submission to the Chief. Such statement shall include:
 - a.** The Board's recommended findings and a brief explanation of the Board's rationale for its recommendation, and a record of the Board's vote.
 - b.** In the event that the Board is not unanimous, the statement shall contain a portion detailing the minority's recommendation.
- 2.** The Board facilitator shall write the Board's statement of recommended findings and proposed discipline and a summary of any policy training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief.
 - a.** IPR and the Bureau will develop a Bureau Directive setting forth the timeliness provisions of the statement.

G. Appeal of Board Recommendation.

- 1.** As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the complainant or involved officer may have the opportunity to appeal the recommended findings to the Citizen Review Committee.
- 2.** Until the appeal period allowed by Code Chapter 3.21 has expired, and if an appeal is filed, until there is a final decision by the Citizen Review Committee or Council, the Chief may not issue proposed discipline or make recommendations to the Commissioner in Charge.
- 3.** The Director of IPR, the Chief of Police, or Commissioner in Charge may request an expedited hearing by the Citizen Review Committee of an appeal when deemed necessary due to the nature of the underlying complaint.

H. Action by Chief of Police and Commissioner in Charge. After receiving the Board's statement described above and after the appeal period allowed by Code Chapter 3.21 has expired, or if an appeal is filed, after the Chief receives the Citizen Review Committee or the Council's recommendation in accordance with Code Chapter 3.21:

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1. In the following cases, the Chief shall make a recommendation regarding the appropriate findings and level of discipline to the Commissioner in Charge:
 - a. Investigations resulting in a sustained finding and the proposed discipline is suspension without pay or greater.
 - b. The following incidents involving use of force:
 - (1) All officer involved shootings.
 - (2) Physical injury caused by an officer that requires hospitalization.
 - (3) All in custody deaths.
 - (4) Any use of force where the recommended finding “out of policy”.
 2. In the cases described in Subsection 1 above, the Commissioner in Charge shall make the final decision on findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
 3. In all other cases, unless the Commissioner in Charge exercises authority over the case, the Chief shall make the final decision on proposed findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
 4. In all cases where the Chief’s and Police Commissioner’s final discipline is outside of the range recommended by the discipline guide, the Chief and Police Commissioner shall provide an explanation in the final discipline letter of the reason or reasons for imposing discipline outside of the recommended range. The Chief and Police Commissioner shall not be required to disclose information that is confidential or otherwise protected against disclosure. The cumulative report of discipline imposed outside of the recommended range shall be included in the PPB semi-annual report.
- I. Public reports. As often as deemed necessary by the Board, but at least twice each calendar year, the Board shall publish public reports summarizing its statements of findings and a summary of any training and/or investigation issues or concerns. Except as provided otherwise in this Subsection, the reports shall keep confidential and not include involved officers’ names, the names of witnesses, or the name of any complainants. The reports shall be written by the Board facilitator. The reports

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may not be released before a final decision, including discipline if any, is made by the Chief or Commissioner in Charge.

1. The public reports shall include the following for each case brought before the Board:
 - a. Allegation(s) heard by the Board.
 - b. A factual summary of the case.
 - c. Summary of the Board's discussion.
 - d. Record of the Board's vote, including recommended findings and discipline.
 - e. Training and policy recommendations, including whether the recommendations were accepted by the Chief.
 - f. The final decision of the Chief or Commissioner in Charge.
2. The public reports shall include the names of involved officers and witnesses in cases of officer involved shootings or in custody deaths where the names of such persons have previously been publicly released in connection with the incident, unless confidentiality or non-disclosure is required by statute, a court order, an administrative order, or a collective bargaining agreement. Where the names have not been previously released, the report may include the names if the public interest requires disclosure or if nondisclosure would undermine the public's confidence.
3. The public reports shall include any stipulated agreements where a final decision has been reached.

J. Stipulated Findings and Discipline

1. The following categories of cases are not eligible for stipulated findings and recommended discipline: cases involving alleged use of excessive force; those categories of cases listed under Subsection 3.20.140 B.1.c.; cases involving alleged discrimination, disparate treatment or retaliation; reviews of officer involved shootings and in-custody deaths; and cases in which the Chief or the Commissioner in Charge does not agree to accept the member's proposed stipulation to findings and recommended discipline. These categories of cases, if they otherwise meet the criteria for review by the Board, shall go through Board review and recommendations.
2. The following categories of investigations are eligible for stipulated findings and recommended discipline without review by the Board when

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the involved member elects, with the concurrence of the Chief and the Commissioner in Charge, to accept the proposed findings and recommended discipline of the RU Manager following a full investigation of the alleged misconduct, issuance of investigative findings and concurrence with the findings by the Independent Police Review, the Professional Standards Division and the member's Branch Chief:

- a. First time offenses that fall under Category A through Category D of the Police Bureau Discipline Guide.
- b. Second time offenses that fall under Category A of the Police Bureau Discipline Guide.
- c. First time off-duty driving while under the influence offenses that fall under Category E of the Police Bureau Discipline Guide. To be eligible for stipulated discipline for an off-duty driving under the influence offense, there can be no other driving-related violations or charges and the member must comply with all court ordered conditions of a diversion or delayed prosecution.
- d. In an investigation involving multiple sustained violations, the violation with the highest category from the Police Bureau Discipline Guide will be used to determine whether the case qualifies for stipulated discipline.
- e. With the exception of the categories of cases listed in Subsection 3.20.140 J.1., the categories or types of cases from the Police Bureau Discipline Guide eligible for stipulated discipline may be expanded upon mutual agreement of the Chief, bargaining unit representatives, and City Council.

3.20.150 Fingerprints, Photographs and Records of Identification.

The Chief of Police shall maintain at police headquarters suitable means and appliances for taking and preserving fingerprints, photographs, and descriptions of persons. He shall take or cause to be taken, recorded, and preserved one or more fingerprints and photographs, and a description of each person arrested and booked for the commission of a felony. Of each person arrested and booked for the commission of a misdemeanor or violation of a penal ordinance or Charter provision, he may, but is not required to, take and preserve one or more fingerprints, photographs, and a description. Such prints, photographs, and description shall be made a matter of permanent record when evidence showing previous conviction or convictions of any crime, misdemeanor, or violation of a penal ordinance or Charter provision shall have been obtained.

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3.20.160 Police Chief to Make Rules and Regulations.

The Chief of Police shall have authority, subject to the approval of the Commissioner In Charge, to issue such administrative rules and regulations in addition to those embodied in the Charter and this Code, as are necessary to govern the conduct of the members of the Bureau of Police, and to provide for the adequate functioning of the Bureau.

3.20.170 Uniforms.

The following rules shall apply to uniforms for employees appointed to the Bureau of Police who are members of the Fire and Police Disability and Retirement System:

- A.** The Chief of Police shall, subject to the approval of the Commissioner In Charge, prescribe specifications for police uniforms and establish rules, regulations and conditions of wearing thereof;
- B.** Upon report from the Commissioner In Charge of the Bureau of Police, the Council shall designate which items of the uniform specified by the Chief of Police under subdivision (1) above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual police duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Chief of Police. Items furnished by the City shall remain property of the City; and the Chief of Police shall establish rules, regulations, and conditions for issuance and control thereof;
- C.** The Chief of Police shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

3.20.180 Appointment and Removal of Police Reserves.

(Amended by Ordinance No. 143623, effective June 13, 1977.) The Chief of Police is authorized, subject to the approval of the Commissioner In Charge, to appoint new members to the police reserve from time to time as need therefore arises and to accept the resignations and discontinue appointments from time to time in accordance with his judgment concerning the public welfare and safety subject to the approval of the Commissioner In Charge; provided that the total number of such reserves at any time shall not exceed 200.

- A.** Within the ranks of the police reserve the Chief of Police shall designate which members of the reserve shall serve as a special duty reserve unit. Members of the special duty reserve unit shall assist the Bureau in performing Sunshine Division, charitable, search and rescue and other non-law enforcement related functions.

3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.

(Amended by Ordinance Nos. 143623 and 164223, effective May 29, 1991.) Each new member of the police reserve shall make an application on a blank form provided by the Chief of Police, giving such data concerning his age, weight, identification, residence, occupation, previous experience in police work, if any, citizenship, and other data as the Chief of Police may find necessary or convenient, including fingerprinting for better identification. Members of such police reserve shall be entitled to no compensation unless specifically authorized and provided by the Council. Upon appointment each member shall take an oath of office similar to the oath required of regular members of the Bureau of Police, and such oath shall be filed with the City Auditor. Regular members of the reserve shall serve during the pleasure of the Chief and shall wear a uniform prescribed by the Chief of Police. They shall perform the duties and take training as directed by the Chief of Police. They shall observe the rules of deportment and conduct applicable to regular police officers. They shall, in the performance of their duties, be subject to the orders of commanding officers of the regular and reserve police force of the City. They shall, at all times, cooperate with regular police officers in the performance of their duties. While on any authorized assignment they shall be covered by the City's self-insurance as authorized under the provisions of the Oregon State Workers' Compensation Act. The insurance shall be in a form approved by the City Attorney. It is unlawful for any person whose appointment has been terminated, to retain possession or refuse to return any badge, identification or equipment issued to such person after demand for the return has been made by the Mayor, Chief of Police or anyone acting under and by the authority of the Mayor or Chief of Police. Members of the special duty police reserve shall be subject to police duty only when special occasion therefor arises. Each member shall provide his own equipment, subject to the approval of the Chief of Police, and shall make such reports as the Chief of Police may require.

3.20.200 Membership Card and Star of Police Reserves.

The Chief of Police is authorized to furnish each member of the police reserve with a membership card signed by the Chief of Police and signed by the member for identification purposes, and shall also furnish each member with a police star.

3.20.210 Police Reserves Exempt from Civil Service.

No member of the police reserve shall be regarded as a City employee or subject to civil service regulations.

3.20.230 Medical Examinations.

(Amended by Ordinance No. 134934, effective July 20, 1972.) Whenever the Chief of Police is in doubt concerning the physical or mental ability of a member of the Bureau of Police to perform full police duties, the Chief shall require that member, upon written notice, to submit to a medical examination. The examination shall be conducted without expense to the member. Unexcused failure to take an examination required by this Section, after reasonable notice, shall be cause for the member's dismissal.

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3.20.240 Membership.

(Amended by Ordinance No. 136679, effective July 1, 1973.) The Bureau of Police shall consist of: a Chief of Police and all other full time members of the regular police force, and shall include all members of the women's protective division, and police matrons; and all such members shall be classed and considered as regular members of the Bureau of Police. All members of the Women's Protective Division, and all police matrons, are hereby required to comply with the rules and regulations of the Civil Service Board respecting physical examinations. The present police matrons shall (if they have not already done so) take and file with the City Auditor the oath of office required of members of the Bureau of Police, before they shall have full status as such members.

3.20.250 Badges.

(Repealed by Ordinance No. 176585, effective July 5, 2002.)

3.20.260 Block Home Applicants, Background Investigation Required.

(Repealed by Ordinance No. 176585, effective July 5, 2002.)

3.20.270 Maintenance of Property Room.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.280 Receipts for Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.290 Records.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.300 Prisoner's Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.310 Evidence Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.320 Miscellaneous Property and Storage Charges.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.330 Storage Charge on Prisoner's Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.340 Storage Charge on Evidence Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.350 Lien and Foreclosure.

(Repealed by Ordinance No. 176585, effective July 5, 2002.)

3.20.360 Fees for Report on Police Records.

(Amended by Ordinance No. 153909, effective November 22, 1982.) The Bureau of Police shall establish a schedule of fees and procedures for obtaining copies of reports, searching arrest records, accident photographs, fingerprinting, and all similar records services it performs. Except upon court subpoena, reasonable limitations may be placed upon the amount of information made available, the use for which it may be requested, and the persons entitled to receive it. The schedule of fees and procedures established under this Section shall not be effective until approved by the Commissioner In Charge of the Bureau of Police. No fee shall be charged to those agencies (or their representatives) who request such services for official use and who have as a primary organizational responsibility the apprehension, prosecution, or the direct supervision of the parole or probation, of criminal offenders.

3.20.370 Accountability and Disposition of Fees.

(Amended Ordinance No. 153909, effective November 22, 1982.) The Chief of the Bureau of Police shall ensure that a full and complete record of all fees collected under that authority of this Chapter is kept and that all fees so collected are remitted to the City Treasurer as provided by Section 3.08.140. The City Treasurer shall credit the amounts so received to the General Fund.

3.20.380 Conveyances Seized for Drug Transport.

(Repealed by Ordinance No. 176585, effective July 5, 2002.)

3.20.390 Multnomah County Deputy Sheriffs Authorized the Arrest or Cite for Violations of City Code Provisions.

(Repealed by Ordinance No. 176585, effective July 5, 2002.)

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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:

- 3.21.010 Purpose.
- 3.21.020 Definitions.
- 3.21.030 Independent Police Review.
- 3.21.040 Director Selection.
- 3.21.050 Staff and Delegation.
- 3.21.060 Office Facilities and Administration.
- 3.21.070 Powers and Duties of IPR.
- 3.21.080 Citizen Review Committee.
- 3.21.090 Powers and Duties of the Committee.
- 3.21.100 Council Role.
- 3.21.110 Intake.
- 3.21.120 Handling Complaints.
- 3.21.130 Communications.
- 3.21.140 Filing Requests for Review.
- 3.21.150 Case File Review.
- 3.21.160 Hearing Appeals.
- 3.21.170 Monitoring and Reporting.
- 3.21.180 Increasing Public Access.
- 3.21.190 Response of Chief.
- 3.21.200 Limitation on Power.
- 3.21.210 Subpoenas.
- 3.21.220 Bureau Witnesses.

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 Nos. 186416 and 188842, effective March 30, 2018.) The City Auditor shall select the Director of IPR in accordance with the Auditor’s human resource policies and rules and any other applicable 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.

3.21.060 Office Facilities and Administration.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- 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 the Auditor's 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, 188547 and 188842, effective March 30, 2018.) 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.

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2. The Bureau shall notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation.
- 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 information. 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 information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases, subject to any applicable state or federal laws. The Director shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or 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

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Director and the Citizen Review Committee shall address any policy-related or quality of investigation issues that would warrant further review.

- 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 retain or employ independent legal counsel.

3.21.080 Citizen Review Committee.

(Amended by Ordinance Nos. 177688, 185076, 186416, 188331 and 189078, effective July 18, 2018.)

- 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 Community & Civic Life, 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.

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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.
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.

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2. Gather community concerns. To participate in various community meetings to hear concerns about police services.
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, 188331 and 188842, effective March 30, 2018.)

- 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.

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- a.** All complaints regardless of intake point will be forwarded to IPR or Internal Affairs and entered into the Administrative Investigation Management database.
 - 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 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 their 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

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acting in an official capacity or a community member. These complaints may be filed with the Bureau or with IPR.

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:

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a. Recommend that the Bureau/IAD conduct an investigation

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

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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 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

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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 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

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maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

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.

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

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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 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

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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 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.

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- 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.)

- 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.

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- (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

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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.
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

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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

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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.

- 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.

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CHAPTER 3.22 - PORTLAND FIRE & RESCUE

(Chapter amended by Ordinance No. 180917,
effective May 26, 2007.)

Sections:

- 3.22.010 General Organization.
- 3.22.020 Organized by Council - Subject to Civil Service.
- 3.22.030 Council Powers.
- 3.22.040 Care of Property by Council.
- 3.22.050 Duties of Chief Engineer.
- 3.22.060 Destroying Buildings to Check Fire.
- 3.22.070 Appointment of Temporary Employees.
- 3.22.080 Assignment of Disabled Members.
- 3.22.090 Rules and Regulations and Administrative Orders.
- 3.22.100 Uniforms.
- 3.22.110 Fire Suppression and/or Prevention Contracts.
- 3.22.120 Renewal Notices.
- 3.22.130 Contract Form to be Approved by City Attorney.
- 3.22.140 Mutual Assistance Agreements.
- 3.22.150 Use of Fire Boats for Pumping Water Out of Boats and Barges.
- 3.22.160 Fees for Pumping Water from Imperiled Vessels.
- 3.22.170 Distribution of Awards Earned by Members of Portland Fire & Rescue.
- 3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

3.22.010 General Organization.

(Amended by Ordinance Nos. 136677, 149110, 150993, 158149, 160883 and 182105, effective September 12, 2008.) Portland Fire & Rescue shall consist of the Chief Engineer (generally referred to as the Chief of the Bureau) and such other employees as the Council may provide. The mission of Portland Fire & Rescue shall be to safely protect life, property, and the environment by providing excellence in emergency services, training and prevention. Portland Fire & Rescue shall be comprised of the following divisions:

- A. The Emergency Operations Division, which shall be responsible for the saving of life and property from fire or other disaster, emergency medical services, hazardous materials incidents, conducting a fire loss control program, training and other miscellaneous public services;
- B. The Fire Prevention Division, which shall be responsible for fire prevention inspections and Code enforcement (Title 31), fire and life safety plans review, fire and arson investigation, enforcement of harbor regulations (Title 19), and conducting an educational fire prevention program;

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- C. The Management Services Division, which shall be responsible for budget and finance, long range capital planning and program development, special projects, manual and automated management information systems, planning and administrative support services, and supplying logistical support which shall include facility and vehicle maintenance, operational supplies and services;
- D. The Training and Safety Division, which shall be responsible for initial training of all newly hired firefighters, on-going training to maintain and improve the skills of all personnel, safety and risk management programs, accident and injury investigation and analysis, researching and developing new technologies and practices, and promoting training and educational opportunities for career development of all Bureau personnel.

3.22.020 Organized by Council - Subject to Civil Service.

(Amended by Ordinance No. 160883, effective June 9, 1988.) Portland Fire & Rescue of the City shall be organized by the Council and the members appointed as provided by the Charter, subject to the Civil Service rules of the Charter, and thereafter, subject to the restrictions contained in the Charter. All the powers of the City connected with and incident to the appointment, discipline, and government of its Portland Fire & Rescue shall be vested in the Commissioner In Charge of Portland Fire & Rescue .

3.22.030 Council Powers.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Council shall have the power and it is hereby made its duty to organize, govern, and conduct a Portland Fire & Rescue for effective service within the City, and to that end may authorize the appointment of a Chief Engineer (Fire Chief) and as many other officers and employees as in its opinion are necessary. It shall have the power to make, or power to delegate authority to the Commissioner In Charge of Portland Fire & Rescue to make, all necessary or convenient rules and regulations for the organization and conduct of the Bureau, for receiving and hearing complaints against any members, and for the removal or suspension of any member of the Bureau. The Civil Service rules prescribed in the Charter shall apply to every officer and member of the Bureau and shall govern the actions of the Council in its organization and government of the Bureau.

3.22.040 Care of Property by Council.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Council shall have the custody and management of all the public property, including the fire alarm telegraph, pertaining to Portland Fire & Rescue. It shall have power and authority, subject to the limitations and appropriations made and expenditures authorized by the Council, to purchase and acquire all necessary apparatus, including fireboats, engines, hose, hose carriages, and all other personal property which the exigencies of an efficient Portland Fire & Rescue may require. It shall have power and authority to sell and dispose at public sale under the provisions of the Charter relating to sales of public property of any portion of said personal property whenever the same is not required, or when it may be considered by the Council unfit for service in the Bureau. The proceeds of any such sale shall be paid by

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the purchaser to the Treasurer of the City, who shall issue a proper receipt therefor, and all such monies shall be credited to the General Fund of the City.

3.22.050 Duties of Chief Engineer.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Chief Engineer (Fire Chief) shall diligently observe the condition of the apparatus and property and workings of the Bureau and make an annual report in writing to the Commissioner In Charge of Portland Fire & Rescue. The Chief Engineer (Fire Chief) shall also make recommendations from time to time with regard to the needs of the Bureau as he may deem proper.

3.22.060 Destroying Buildings to Check Fire.

The Chief Engineer, or, in his absence, any Assistant Chief Engineer, may during a conflagration, cause to be cut down, or otherwise removed, any buildings or structures for the purpose of checking the progress of such conflagration.

3.22.070 Appointment of Temporary Employees.

The Council, in case of any general conflagration or great emergency, may appoint such temporary employees as it may deem necessary and to whom Civil Service rules shall not apply.

3.22.080 Assignments of Disabled Members.

Members and officers of a higher grade who have done faithful service and have been disabled so as to unfit them for serving in the position occupied when so disabled may be assigned to other duties suitable to their physical abilities and shall always have preference in such assignments.

3.22.090 Rules and Regulations and Administrative Orders.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The rules and regulations of Portland Fire & Rescue shall be promulgated by the Chief Engineer, subject to approval by the Commissioner In Charge of the Bureau, and the Chief Engineer shall have authority to issue general and special orders which shall be administrative in nature and shall be in addition to or supplemental to the rules and regulations as promulgated by the Chief Engineer and approved by the Commissioner In Charge. The rules and regulations and the general or special orders shall govern the conduct of the members of Portland Fire & Rescue and shall be designed for the efficient and effective functioning of the Bureau.

3.22.100 Uniforms.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The following rules shall apply to uniforms for employees appointed to Portland Fire & Rescue who are members of the Fire and Police Disability and Retirement System:

- A. The Chief of the Bureau shall, subject to the approval of the Commissioner In Charge, prescribe specifications for fire uniforms and establish rules, regulations and conditions of wearing thereof.

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- B.** Upon report of the Commissioner In Charge of Portland Fire & Rescue, the Council shall designate which items of the uniform specified by the Chief of the Bureau under subdivision A above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual fire duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Fire Chief. Items furnished by the City shall remain property of the City. The Fire Chief shall establish the rules, regulations and conditions for issuance and control thereof;
- C.** The Chief of the Bureau shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of the items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

3.22.110 Fire Prevention and Suppression Contracts.

(Amended by Ordinance Nos. 132356, 160840, and 160883, effective June 9, 1988.) The Commissioner In Charge of Portland Fire & Rescue and the City Auditor hereby are authorized to enter into contracts under the provisions of the State Rural Fire Protection District Act. Contracts authorized by this Section are subject to the following conditions:

- A.** The City shall provide both fire prevention and fire suppression services and will not provide fire suppression services only.
- B.** Payment for services by individuals and private organizations, having no tax levying authority under State law, shall be in advance, excepting those contracts in excess of \$25,000, which may be paid on a quarterly basis in advance. The Auditor shall execute such contracts only upon receipt of such payment;
- C.** Contracts with political subdivisions of the State shall be entered into only upon certification to the Auditor by the governing body of such political subdivision that there will be assessed upon the taxpayers of such political subdivision an amount not less than:

 - 1.** The contract price.
 - 2.** Unpaid balances, if any, owing the City on previous fire prevention and suppression contracts.
 - 3.** An estimated amount sufficient to compensate for the delinquencies, based upon previous experience.

The Auditor shall execute such contracts only upon receipt of such certification, unless specially authorized by ordinance. Payment upon such contracts shall be

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due in equal semi-annual installments on or before January 1 and June 1 of the year in which the contract is in effect;

D. As used in this Section:

1. **“Effective year”** means the fiscal year in which the contract is operative,
2. **“Previous year”** means the fiscal year first preceding the effective year.
3. **“Property owner’s assessed value”** means the assessed value in the previous year of land, improvements and personal property of the individual, organization or political subdivision contracting for City fire prevention and suppression, provided, however, that for political subdivisions, the City Auditor shall decrease such assessed value to adjust for changes in boundaries which become effective during the previous year as the result of annexations to the City. If property or a portion thereof, which is included in the determination of property owner’s assessed valuation, be outside Multnomah County, the assessed value shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
4. **“Assessed value of City property”** means the assessed value, in the previous year, of land, improvements and personal property in the City. The assessed value of those portions of the City lying outside Multnomah County shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
5. **“Cost to City taxpayers”** means the sum, to the nearest dollar, of:
 - a. Portland Fire & Rescue General Fund budget of the previous year,
 - b. A portion of the budget for Fire and Police Disability and Retirement Fund based upon the ratio of the number of firemen to the number of policemen employed on January 1 of the previous year, and;
 - c. Ten percent of the total of a. and b. to allow for payroll taxes and other expenditures outside the Portland Fire & Rescue General Fund budget;

E. The charge for City fire suppression and fire prevention services by contract authorized under this Section shall be computed by the following formula:

(Cost To City Taxpayers)
Multiplied by
(Property Owner's Assessed Value)
Divided by
(Assessed Value of City Property)

- F.** Each application for a fire suppression and/or fire prevention contract under this Section, and for renewal of a previous contract under this Section, shall be forwarded to the Chief of Portland Fire & Rescue. The Chief shall attach thereto his report upon the accessibility, water supply, distance from the City fire equipment, and other conditions pertaining to the area to be protected. The Chief shall then submit the application to the Commissioner In Charge of Portland Fire & Rescue for approval or disapproval before a contract is entered into.

3.22.120 Renewal Notices.

(Amended by Ordinance No. 132356, effective April 1, 1971.) On or near February 15 of each year the Auditor shall mail to each individual, organization and political subdivision then under contract with the City for fire suppression and/or fire prevention, letter stating the dollar amount the City will charge for renewal of the contract in the next succeeding fiscal year. This amount will be computed by the formula in Section 3.22.110. The letter, if directed to a political subdivision contracting under Section 3.22.110 B, will also state the amount owed the City and then in arrears, if any, under preceding contracts or the contract then in effect. Such letter shall not operate as a waiver or estoppel of the right of the City to refuse renewal of any contract under Section 3.22.110 B because of delinquencies or other good cause.

3.22.130 Contract Form to be Approved by City Attorney.

All contracts executed in accordance with the provisions of this Chapter shall be approved as to form by the City Attorney.

3.22.140 Mutual Assistance Agreements.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Mayor and the Commissioner In Charge of Portland Fire & Rescue may enter in agreements with agencies of the federal government and with political subdivisions of a state in which each party agrees to provide mutual assistance, in the form of men and equipment, in combating large fires within the boundaries of the other party or parties to such agreements.

3.22.150 Use of Fire Boats for Pumping Water Out of Boats and Barges.

(Amended by Ordinance No. 160883, effective June 9, 1988.) Upon the approval of the Chief of Portland Fire & Rescue and of the Commissioner In Charge, the fire boats of Portland Fire & Rescue may be used for the purpose of pumping out water from boats and barges which ply the Willamette or Columbia rivers.

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3.22.160 Fees for Pumping Water from Imperiled Vessels.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The fees for the emergency pumping services permitted by Section 3.22.150 shall be \$200 per hour. The owner, owner's agent, or master of the vessel requesting the nonfire emergency pumping service shall be advised that the pumping fee shall be \$200 per hour before a fire boat is dispatched to the emergency location. The fire boat officer, on arrival, shall obtain written agreement from the owner, owner's agent or master of the vessel in peril to pay the City \$200 per hour for salvage pumping before beginning operations. When the service of the fire boat is completed, the Chief of Portland Fire & Rescue shall certify to the Commissioner In Charge the exact time employed by the fire boat, and the Commissioner shall thereupon make a final charge for such service and require payment of such charge by the applicant. In the event salvage efforts fail, and if so recommended by the Chief Engineer (Fire Chief), the Commissioner In Charge of Portland Fire & Rescue may reduce or omit the pumping fee.

3.22.170 Distribution of Awards Earned by Members of Portland Fire & Rescue.

(Amended by Ordinance No. 160883, effective June 9, 1988.) All awards earned by members of Portland Fire & Rescue participating in Rose Festival activities shall go to the personnel and improvements of the fire engine quarters where such companies are housed.

3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

(Amended by Ordinance Nos. 160127, 160883, 168127 and 182389, effective January 2, 2009.)

A. General Provisions.

1. Title. This plan shall be known as the Forested and Wildland Interface Areas Protection Plan of the City.
2. Scope. This plan is primarily designed for the detection and suppression of forest and brush fires in forested, rural and urban areas of the City, and in all areas with which the City has contracted to furnish fire protection. Additionally, the fire suppression provisions of this plan may be activated when a fire outside the City becomes a threat to areas within.
3. Purpose. The purpose of this plan is to establish operational responsibilities of departments and bureaus of the Portland municipal government and supporting agencies within the scope of this plan.
4. Participation required. Participation is required of the Bureaus of Parks, Portland Fire & Rescue, Police, Waterworks, General Services and Maintenance Operations.
5. Participation voluntary. Voluntary participation by nongovernmental agencies, having emergency capabilities in areas of disaster relief, is

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authorized and encouraged; provided, however, that each voluntary agency shall submit an operational program to this plan as hereinafter provided.

B. Plan Coordination.

1. Coordinator. The Chief of Portland Fire & Rescue is known as the coordinator of this plan. He shall see that the operational programs of departments, bureaus and supporting agencies are submitted and made a part of this plan and kept current from year to year.
2. Operational Programs. The head of each participating bureau, office and/or agency shall submit an operation program to the Coordinator and keep him/her informed of changes at all times. Such operational programs shall be a part of this plan. They shall include the names and telephone numbers of key alerting personnel, a listing of other personnel by number and job classification, and a listing of all mobile and special equipment. Additionally, operational programs of Portland Fire & Rescue and the Bureau of Parks shall contain descriptive details of routine maintenance and regulatory responsibilities. The operational programs shall be respectively identified as follows:

PROGRAM I:	Bureau of Parks
PROGRAM II:	Portland Fire & Rescue
PROGRAM III:	Bureau of Police
PROGRAM IV:	Portland Water Bureau
PROGRAM V:	General Services
PROGRAM VIII:	Maintenance Operations
PROGRAM IX:	Reserved for Nongovernmental
PROGRAM X:	Reserved for Nongovernmental

C. Command Responsibility for Fire Fighting.

1. In all forested and rural areas lying within the City, and in all areas for which the City has a contract to furnish fire protection, overall command of fire fighting operations shall be the responsibility of the Chief of Portland Fire & Rescue.
2. Operating units will in all cases be under the direct control of their own commanders or foremen, superintendents, etc. However, such units will function in conformity with the tactical fire-fighting plan established by the sector commander to whom they are assigned.

D. Activation and Response.

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1. All participants and resources listed in the plan will be activated in accordance with the plan at the request of the Incident Commander.
2. All participants in the plan will send liaison personnel to the field headquarters, support command headquarters, and the Emergency Operations Center as requested by the Incident Commander.

E. Personnel alerting.

1. The Bureau of Emergency Communications will initiate the alerting of participating services as outlined in the plan. The person contacted is then to complete the calls required by his/her bureau, office or agency.
2. For the purpose of alerting as required in 1 above, the head of each participating service shall establish and maintain master-call lists or a key-alerting system.

**CHAPTER 3.24 - PORTLAND WATER
BUREAU**

(Chapter replaced by Ordinance No. 182053,
effective August 15, 2008.)

Sections:

- 3.24.010 Organization.
- 3.24.020 Administration.
- 3.24.030 Customer Service Group.
- 3.24.040 Engineering Services Group.
- 3.24.050 Finance and Support Services Group.
- 3.24.060 Maintenance and Construction Group.
- 3.24.070 Operations Group.
- 3.24.080 Resources Protection and Planning Group.

3.24.010 Organization.

The Portland Water Bureau will be under the direction and control of the Administrator of the Portland Water Bureau. The Bureau will be charged with the responsibility for the finance, operation, maintenance and improvement of the City's water distribution system and will be made up of the work groups set forth in this Chapter. The Administrator shall coordinate and manage the Bureau's work groups in a manner that achieves the Bureau's mission and meets the goals established by the City Council.

3.24.020 Administration.

The Administrator's Office is responsible for policy planning, leadership, direction, and operation of the Bureau. The Administrator's Office also manages security for the distribution system, property management, organization development, Bureau human resources management, public information/involvement, long-range planning, government and community relations, legislative activities, and liaison with the Commissioner-in-Charge and City Council.

The Administrator of the Portland Water Bureau is authorized to enforce the provisions of Portland City Code Chapters 17.36 Sewer User Charges and 21.16 Rates and Charges addressing delinquent water, sewer and stormwater management charges, collections, adjustments and refunds.

The Administrator of the Portland Water Bureau may issue administrative rules and regulations pursuant to Section 21.24.080 Administrative Rules, Procedures and Forms.

3.24.030 Customer Service Group.

The Customer Service Group manages billing and collection services for the Portland Water Bureau including but not limited to, establishment of new accounts, close out of terminated accounts, meter reading, meter inspection services, leak repair notification, bill generation, payment application, remittance processing, approval of adjustments and refunds, delinquent account notification, collection of delinquent accounts by all legal means, termination of service for delinquency, resumption of water service and such other

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duties as requested by the Administrator. The Group will also be responsible for responding to ratepayer inquiries, hearing appeals of the matters for which the Group is responsible and managing financial assistance programs.

When performing these responsibilities for the Bureau of Environmental Services, the Group's authority may be defined by written agreement and Administrative Rules.

3.24.040 Engineering Services Group.

The Engineering Services Group is responsible for planning, design, and construction of the Water System. In addition, this group serves as customer liaison for new service installation, drafting (including geographic information system), surveying, inspecting, and maintaining records on distribution system improvements. This group manages the Bureau's emergency management program. This group also has responsibility for developing facility standards, asset management, contract management, and developing and managing the Bureau's Capital Improvement Projects (CIP). Administrative oversight of the Hydroelectric Power function is conducted within this group.

3.24.050 Finance and Support Services Group.

The Finance and Support Services Group provides financial planning, rate setting, budgeting, accounting, payroll, auditing, financial analyses, and fiscal monitoring functions for the Bureau. It also provides clerical support for Bureau staff in the Portland Building. This includes the interfaces to City financial and personnel systems, and other Bureau-specific software systems.

3.24.060 Maintenance and Construction Group.

The Maintenance and Construction Group is responsible for repair, operation, and maintenance of the distribution system. Installation, operation, and maintenance functions related to mains, services, valves, hydrants, and leak detection are performed by this group. This work includes direct services and related support for control valves, carpentry, purchasing and stores operation, and loss control programs. This group manages the Bureau's two apprentice programs. The emergency crew provides response for outside normal work hour requirements, including main breaks and other emergency responses.

3.24.070 Operations Group.

The Operations Group is responsible for the operation and maintenance of water supply and treatment from the Watershed and the Columbia South Shore Well Field (CSSWF). This group operates and maintains the conduits, terminal storage reservoirs, tanks, pump stations, water treatment facilities, pressure regulators, an accredited Laboratory, and the Water Control Center. Work responsibilities include water quality protection, regulatory compliance, laboratory services, system metering, and addressing water quality customer complaints. This group is also responsible for the operation and maintenance of the decorative fountains.

3.24.080 Resources Protection and Planning Group.

The Resource Protection and Planning Group is responsible for Watershed and Columbia South Shore Well Field (CSSWF) management and coordination with federal, state and

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local partners to protect the quality of both of Portland's drinking water sources. This responsibility includes addressing legislative and regulatory issues and performing integrated resource planning, comprehensive planning on major issues, supply and demand analysis, and coordination of the Regional Water Providers Consortium. This Bureau work group is also responsible for the Bureau's business, residential and multifamily water conservation programs and Bureau sustainability efforts.

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CHAPTER 3.26 - BUREAU OF PARKS

Sections:

- 3.26.010 Organization Generally.
- 3.26.020 Executive and Clerical Division.
- 3.26.030 Park Maintenance and Operation Division.
- 3.26.040 Nursery and Planting Division.
- 3.26.050 Public Recreation Division.
- 3.26.080 Sale or Exchange of Surplus Animals, Birds or Reptiles.

3.26.010 Organization Generally.

The Bureau of Parks shall consist of the Superintendent of Parks who shall be in charge, and such other employees as the Council may provide. The Bureau of Parks shall be made up of the divisions set forth in this Chapter.

3.26.020 Executive and Clerical Division.

The Executive and Clerical Division, supervised by a Principal Clerk or other competent person, shall maintain the necessary records with regard to payrolls, requisitions, and cost accounting for the Bureau of Parks, and in addition shall have control over the women's comfort stations maintained by the Bureau of Parks.

3.26.030 Park Maintenance and Operation Division.

The Park Maintenance and Operation Division, supervised by an Assistant Superintendent of Parks or other competent person, shall have charge of the care, upkeep, and repair of park property in the Zoo, parks, and playgrounds of the City including all swimming tanks. This Division shall also have control over the trucks owned by the Bureau of Parks.

3.26.040 Nursery and Planting Division.

(Amended by Ordinance No. 184522; Amended by Ordinance Nos. 185448 and 186053, effective January 1, 2015.) The Nursery and Planting Division, supervised by a Director of Park Plantings or other competent person, shall have control over the gardening and nursery functions and properties of the Bureau of Parks, including the greenhouse, nursery, golf courses, and floral displays.

Removal of trees, permits for removal of trees, removal of limbs of trees and reports in regard to trees shall be subject to the rules and requirements of Title 11. The City Forester shall be responsible for the application and enforcement of provisions of the Tree Regulations in Title 11, as further specified within that Title.

3.26.050 Public Recreation Division.

The Public Recreation Division, supervised by a Director of Recreation, shall have charge of the public recreational program and property of the Bureau of Parks, including activities at community houses, summer playgrounds, swimming tanks and summer camps.

3.26.060 Municipal Stadium Division.

(Repealed by Ordinance No. 185569, effective September 28, 2012.)

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3.26.080 Sale or Exchange of Surplus Animals, Birds or Reptiles.

The Superintendent of Parks, with the approval of the Commissioner In Charge, hereby is authorized to trade, sell or exchange surplus animals, birds or reptiles, with public or private zoos throughout the United States or Canada, provided that the value of such animal, bird or reptile so traded, sold, or exchanged does not exceed the sum of \$1,000. The Superintendent of Parks, in connection with such transaction, hereby is authorized to pay necessary handling charges incident to such trade, sale or exchange.

3.26.090 Solar Friendly Trees.

(Repealed by Ordinance No. 184522; Amended by Ordinance Nos. 185448 and 186053, effective January 1, 2015.)

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CHAPTER 3.27 - PORTLAND PARKS AND RECREATION BOARD

(Chapter added by Ordinance No. 176002, effective
October 10, 2001.)

Sections:

- 3.27.010 Purpose.
- 3.27.020 Definitions.
- 3.27.030 Members and Terms.
- 3.27.040 Organization and Meetings.
- 3.27.050 Duties.
- 3.27.060 Staff Liaison and Support.

3.27.010 Purpose.

The Portland Parks and Recreation Board is hereby established, for the following purposes: to ensure that the vision and recommendations of the Parks 2020 Vision are at the forefront of discussions about park and recreation issues and trends over time, in all areas of the city; to advocate for parks on a city and regional basis to ensure that parks, natural areas, open spaces and recreation facilities are advanced in city and regional planning and design; to provide continuity when transitions occur in the leadership of Portland Parks and Recreation and on the City Council; and to provide a forum for public discussion and decision-making about park issues, bringing a city-wide and long-term perspective to neighborhood-based issues.

3.27.020 Definitions.

As used in this Chapter, unless the context requires otherwise, the following definitions apply:

- A. “Board” means the Portland Parks and Recreation Board.
- B. “Bureau” or “Portland Parks and Recreation” means the Bureau of Parks and Recreation of the City of Portland, or whatever agency is given responsibility for the City’s system of parks and recreation.
- C. “Commissioner” means the Commissioner in Charge of Portland Parks and Recreation.
- D. “Council” means the City Council of the City of Portland, Oregon.
- E. “Director” means the Director of Portland Parks and Recreation, or the Bureau head, however designated.

3.27.030 Members and Terms.

(Amended by Ordinance No. 184647, effective June 8, 2011.)

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- A.** Voting Members. The Portland Parks Board shall consist of a minimum of nine (9) and a maximum of fifteen (15) voting members appointed by the Mayor in consultation with the Commissioner, and confirmed by the Council. Members shall serve without compensation for terms of three years. No member shall be appointed to more than two full consecutive terms. A member appointed initially to a term of less than three years may thereafter be re-appointed to two consecutive three-year terms. A member otherwise may be re-appointed after at least one full year following completion of the member's two consecutive terms. The initial appointments shall be staggered in order to provide for a proportional turnover of terms each year. Members shall be appointed who demonstrate a commitment to Portland Parks and Recreation and to the mission of the Board. Members are expected to bring a system-wide perspective to the Board, and shall not represent individual interests or areas of the City. However, the membership of the Board shall strive to reflect the demographic and geographic diversity of the City.
- B.** Ex Officio Members. The Board may, in its discretion, appoint such ex officio members as, in the judgment of the Board, will assist it in carrying out its functions. Such ex officio members shall be appointed in a manner to be determined by the Board. Ex officio members shall not have the right to vote. Ex officio members shall not be subject to the term limitations of Subsection A. of this Section, but the Board may, by rule or regulation, provide for terms and other conditions of service of ex officio members as it may deem necessary or desirable.

3.27.040 Organization and Meetings.

The Board shall adopt such rules of procedure as it deems necessary to the conduct of its duties. The Board shall elect each year a Chair and such other officers as the Board may from time to time establish. The Board shall meet at least quarterly, and may meet more often. The Board Chair, in consultation with the Commissioner and the Director, shall set the agenda for Board meetings.

3.27.050 Duties.

The Board shall:

- A.** Advise the Council, the Commissioner and the Director on policy matters pertaining to Portland Parks and Recreation, using the Parks 2020 Vision as its guide.
- B.** Advise the Council, the Commissioner and the Director on the preparation and contents of the annual Portland Parks and Recreation budget request.
- C.** Review plans and policies, either existing or being developed, by other City bureaus, boards and commissions or by other government agencies, that affect parks and recreation in the City of Portland, and advocate for the advancement of parks, natural areas, open spaces and recreation facilities and services in City and regional planning and design.

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- D.** Engage in such public outreach, education and advocacy, to the extent permitted by law, as the Board determines necessary or advisable in order to provide a forum for public discussion and decision-making about park and recreation issues.
- E.** Prepare and submit to the Council an annual report which shall summarize the Board's activities during the year and which shall identify the major issues facing Portland Parks and Recreation and the Board's recommendations for addressing them in the coming year.

3.27.060 Staff Liaison and Support.

The Director shall be the staff liaison to the Board, and shall, to the extent budgeted funds are available therefor, provide the Board with staff assistance necessary to the discharge of its duties.

CHAPTER 3.28 - BUREAU OF HEALTH

Sections:

- 3.28.010 Transfer of Functions.
- 3.28.020 Executive and Clerical Division.
- 3.28.030 Communicable Disease Control Division.
- 3.28.040 Tuberculosis Control Division.
- 3.28.050 Venereal Disease Control Division.
- 3.28.060 Laboratory Division.
- 3.28.070 School Hygiene Division.
- 3.28.080 Emergency Hospital Division.
- 3.28.090 Pure Food Sanitation Division.
- 3.28.100 Division of Mental Health.
- 3.28.110 Division of Home Health Care.

3.28.010 Transfer of Functions.

During the term of a contract presently existing between the City and Multnomah County whereby functions of the City's Bureau of Health are being performed by the County, and the County Health Officer is acting as the City Health Officer, and all Bureau of Health Employees, are now County employees, the Multnomah County Department of Medical Services shall perform the functions heretofore performed by divisions of the City Health Bureau, as set forth in this Chapter.

3.28.020 Executive and Clerical Division.

The Executive and Clerical Division shall maintain the central office and all necessary records thereof, including all statistics relating to births and deaths as required by law.

3.28.030 Communicable Disease Control Division.

The Communicable Disease Control Division shall exercise the power of quarantine and detention and shall adopt such other measures as will prevent the spreading or aid in the prevention of communicable diseases such as typhoid fever, smallpox, tuberculosis, scarlet fever and others.

3.28.040 Tuberculosis Control Division.

The Tuberculosis Control Division shall provide clinical services for diagnosis and a visiting nurse service to make sure that the lessons of prevention are carried out by the patients under actual home conditions.

3.28.050 Venereal Disease Control Division.

The Venereal Disease Control Division shall provide clinical services for diagnosis, control, and prevention of venereal disease.

3.28.060 Laboratory Division.

The Laboratory Division shall conduct tests and examinations for bacteria content and such other laboratory services as the other divisions request.

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3.28.070 School Hygiene Division.

The School Hygiene Division shall be responsible for the prevention of communicable diseases in the schools through promoting vaccination against smallpox and the use of toxoid against diphtheria, and through ascertaining that children sick with communicable diseases are excluded. This Division shall also conduct examinations of school children at regular intervals for the purpose of discovering defects which may be remedied and shall notify the parents regarding the need for attention to vision, infections, nutrition, and postural defects and diseases.

3.28.080 Emergency Hospital Division.

The Emergency Hospital Division is designed to take care of those who are injured or who are taken sick suddenly, and have no means of providing for themselves the medical and hospital care they need, or who are ineligible for care by Multnomah County because they are not residents.

3.28.090 Pure Food Sanitation Division.

The Pure Food and Sanitation Division shall be divided into the following Sections:

- A.** The Milk Inspection Section, which shall provide inspection of the milk supply, including the source, transportation, handling, and preparation for distribution;
- B.** The Meat Inspection Section, which shall provide inspection of meat in an effort to keep unwholesome meats and meat products from the market;
- C.** The Sanitation Inspection Section, which shall provide general sanitation inspection services, such as restaurant inspection, food inspection, market inspection, food handler's examinations, inspections of hospitals and certain manufacturing plants, and the inspection of housing conditions, including ventilation, lighting and sanitation fixtures.

3.28.100 Division of Mental Health.

The Division of Mental Health shall provide psychiatric consultation with school children and adults, assist the emergency hospital in the handling of persons with mental health problems, act as liaison between the Bureau of Health and mental health institutions and organizations, and generally provide a mental health service for the City.

3.28.110 Division of Home Health Care.

The Division of Home Health Care shall provide the limited nursing services such as but not limited to prescribed treatment, application of dressings, irrigations, exercises and baths and home health aide services including but not limited to nonprofessional care of ill or injured persons, food marketing or other needed shopping or errand, preparation and serving of meals and light housekeeping.

**CHAPTER 3.30 - BUREAU OF
DEVELOPMENT SERVICES**

(Chapter replaced by Ordinance No. 175237,
amended by Ordinance No. 176955, effective
October 9, 2002.)

Sections:

- 3.30.005 Organization.
- 3.30.010 Duties of the Bureau of Development Services.
- 3.30.020 Responsibility for the Development Services Center and Development Review.
- 3.30.030 Development Review Advisory Committee.
- 3.30.040 Administration and Enforcement.
- 3.30.045 Administrative Rulemaking Procedures.
- 3.30.050 Special Jurisdiction.
- 3.30.060 Nuisance Abatement Contracts.
- 3.30.070 Inspections.
- 3.30.080 Stop Work Orders.

3.30.005 Organization.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Bureau of Development Services shall be under the supervision of the Director. The Director shall be directly responsible to the Commissioner in Charge.

3.30.010 Duties of the Bureau of Development Services.

(Amended by Ordinance Nos. 176955, 180330, 182671, 182962, 186216, 184522, 185448 and 186053, effective January 1, 2015.) The Bureau of Development Services shall be responsible for:

- A.** The administration and enforcement of provisions of the Tree Regulations, Title 11, as further specified in that Title.
- B.** The administration and enforcement of:
 - 1.** Building Regulations, Title 24.
 - 2.** Plumbing Regulations, Title 25.
 - 3.** Electrical Regulations, Title 26.
 - 4.** Heating and Ventilating Regulations, Title 27.
 - 5.** Floating Structures, Title 28.
 - 6.** Property Maintenance Regulations, Title 29.

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7. Signs and Related Regulations, Title 32.
 8. Original Art Murals, Title 4.
 9. State of Oregon Regulations regarding manufactured dwellings.
 10. Other regulations enacted by the State of Oregon and adopted by the City Council and assigned to the Bureau.
- C. The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of the Bureau of Planning and Sustainability.
- D. The examination and checking of applications, plans, specifications and supporting documentation required as a prerequisite to the approval of land use actions and permits for development.
- E. The coordination of related permits with other bureaus and offices as required to manage the Development Services Center.
- F. The issuance of approvals and permits required for the construction, installation, repair, or alteration of land, buildings or equipment.
- G. The inspection of sites, buildings or other structures and equipment for compliance with plans and specifications and with applicable Code provisions and laws; and
- H. Other duties as assigned to the Bureau.

3.30.020 Responsibility for the Development Services Center and Development Review. (Amended by Ordinance No. 176955, effective October 9, 2002.)

- A. The Bureau of Development Services shall be responsible for the operation and management of the City's Development Services Center.
- B. The Bureau of Development Services has management responsibility for assigned personnel through direct assignment or through interagency agreements, and manages the daily operation of the Center.

3.30.030 Development Review Advisory Committee. (Amended by Ordinance Nos. 176955, 178954, 184046 and 184183, effective November 26, 2010.)

- A. **Purpose.** The Development Review Advisory Committee is a citizen advisory body, representing those with interests in the outcome of policies, budgets, regulations, and procedures that affect development review processes. The purpose of the Committee is to foster a timely, predictable and accountable development

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review process that implements the City's goals for land use, transportation, housing, economic development, neighborhood livability and the environment. The Committee advocates for and supports consistent and fair application and implementation of regulations. The Committee provides public input into the development review process by:

1. Providing leadership and expertise on issues affecting development;
2. Providing feedback to Bureaus, Review Bodies, and City Council on the impact of potential regulations and administrative rules on the development review process, taking into consideration the full range of City goals and objectives;
3. Providing recommendations for regulatory, code, and administrative rule changes affecting the development review process;
4. Monitoring the application and enforcement of regulations for their effectiveness in achieving the City's development goals;
5. Recommending customer service, permitting, process, and compliance improvements to Bureaus, Review Bodies, and/or City Council;
6. Serving as an advisory board to Development Review Directors and Bureaus on development review processes and procedures;
7. Providing input to ensure budgets of development review agencies are adequate to meet service goals and desired system outcomes.

B. Membership. The Development Review Advisory Committee shall consist of seventeen members. The members shall be appointed by the Commissioner-in-Charge of the Bureau of Development Services and confirmed by the City Council. The members shall be selected to provide representation of those persons concerned about planning, design and development. The areas of interest of members shall include, but not be limited to, development, planning, construction contracting, public works, design professions, neighborhood interests, business interests, historic preservation, environmental organizations, and institutional properties. Members shall be appointed so that the Committee consists of one member from organizations representing each of the following groups, or if organizations do not exist, an individual advocate for the representative group will be appointed:

1. Frequent development review customers
2. Citywide neighborhood interests
3. Design professionals

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4. Environmental conservation and green building
5. Historic preservation
6. Home builders
7. Home remodelers
8. Land use planning professions
9. Large developers
10. Large construction contractors
11. Low-income housing developers
12. Major facilities landowners
13. Minority construction contractors and development professionals
14. Neighborhood Coalition Land Use Committees
15. Small businesses
16. Planning and Sustainability Commission, as designated by the Planning and Sustainability Commission President, and serves as an ex officio member of the Committee.
17. Public works permit customers

C. Appointments and Terms. Appointment to the Development Review Advisory Committee shall be for a three-year term. If a position is vacated during a term, it shall be filled for the unexpired term. Members of the Development Review Advisory Committee shall serve no more than two, complete three-year terms.

D. Meetings, Officers, and Subcommittees.

1. The Development Review Advisory Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with adopted rules of procedure. Seven members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Development Review Advisory Committee and to conduct any other Committee responsibilities. The election of officers shall take place at the first meeting of each calendar year.

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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 Development Review Advisory Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.
- E. Attendance.** Members of the Development Review 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.
- F. Compensation.** Development Review Advisory Committee members shall serve without compensation.

3.30.040 Administration and Enforcement.

(Amended by Ordinance Nos. 175327, 176955, 183793, 186564 and 186736, effective August 29, 2014.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

- A.** Adopt, amend and repeal administrative rules, policies, procedures and forms for the enforcement of applicable Code provisions and laws.
- B.** Establish enforcement fees or penalties for non-compliance.
- C.** Establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by City Council.
- D.** Gain compliance by:
 1. Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code.
 2. Causing appropriate action to be instituted in a court of competent jurisdiction.
 3. Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.

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- 4.** Taking other lawful action.
- 5.** Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:
 - a.** If the Director determines that cause for revocation of a permit exists, the Director shall provide written notice thereof to the permittee. The notice shall contain a brief description of the facts supporting the revocation, the date the revocation shall become final and a notice of the permittee's right to appeal the revocation.
 - b.** The notice shall be mailed by certified mail, return receipt requested, and regular mail to the permittee. The notice shall be effective upon three days after mailing.
 - c.** The revocation shall become final and effective ten days after the notice is effective, unless an appeal is filed.
 - d.** Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of City Code Chapter 22.10. The filing of an appeal shall stay the effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.
- E.** Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:
 - 1.** Initiating the notification procedures provided in Section 29.60.050.
 - 2.** Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
 - a.** The property is the subject of a notice of violation by the Bureau of Development Services; and
 - b.** A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - c.** The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
 - 3.** Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.

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4. Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
5. All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties may be updated annually or on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
6. When a property meets the conditions for charging any Council approved fee or penalty for noncompliance, the Director shall file a statement with the City Auditor identifying the property, the amount of the fee or penalty and the date upon which the charge should be assessed. The City Auditor shall notify the property owner of the amount of the assessed fees and penalties, and a 10 percent City Auditor charge. The City Auditor shall record the total amount as a lien in the Docket of City Liens. The City Auditor shall maintain the lien record until the lien and all associated interest and costs are paid in full, and the Director certifies that all violations listed in the original or subsequent notice of violation have been corrected.
7. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.
8. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.010.
9. Allowing exceptions as provided in Section 29.60.100.

3.30.045 Administrative Rulemaking Procedures.

(Added by Ordinance No. 186564; amended by Ordinance No. 189078, effective July 18, 2018.)

- A. The Director has been delegated the authority to adopt and administer administrative rules appropriate to perform the duties set forth in Section 3.30.010 of this Title. Such administrative rules shall be adopted according to the procedures in this Section.
- B. Permanent rules.
 1. Prior to the adoption of a permanent rule, the Director shall:
 - a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before

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adoption of the administrative rule. The notice shall include the place and time of a proposed public 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 Community & Civic Life at least thirty days before adoption. The Director is only required to hold the public hearing if a written request is filed seeking a hearing.

- b.** During the public review process, the Director shall hear testimony and receive written comments regarding the proposed rules.
- c.** The Director will review the testimony and comments and may either adopt the proposed rule, modify it or reject it.
- d.** If the Director makes a substantial modification to the proposed rule, the Director may provide additional time for public review and comment prior to adoption.

- 2.** Unless otherwise stated, all rules will be effective upon adoption by the Director.

C. Interim rules.

- 1.** The Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the public interest.
- 2.** Interim rules will be effective for a period of not longer than 180 days.
- 3.** The Bureau of Development Services shall post public notice of the interim rule not more than 30 days after adoption by posting on its website and shall send notice to the Office of Community & Civic Life. Such notice shall identify the location at which copies of the full set of the interim rules may be obtained.

- D.** All final and interim rules shall be filed in the office of the Director. Copies of all final and interim rules will be made available to the public at the Development Services Center.

3.30.050 Special Jurisdiction.

(Amended by Ordinance Nos. 176585, 176955 and 182456, effective December 24, 2008). The Bureau of Development Services shall have authority to enforce Section 14A.20.070, and Subsections 16.10.200 L., 16.20.120 H., and 16.20.130 I., 16.20.160 and Sections 16.20.170, 16.70.450 and 16.70.800. The Bureau shall have authority to issue parking citations and order the towing and storage and/or removal of such vehicles and objects. In

addition, violations of Section 16.20.160 are also subject to the Bureau of Development Services enforcement remedies as described in Subsection 3.30.040 C.

3.30.060 Nuisance Abatement Contracts.

(Amended by Ordinance No. 176955, effective October 9, 2002.) When authorized elsewhere in this Code to abate a nuisance, the Bureau of Development Services may either abate the nuisance with City personnel as may be provided by this Code, or when necessary, the Bureau of Development Services, acting through its Director, may contract with eligible contractors for the performance of nuisance abatement services pursuant to the procedures established in Sections 3.30.040 through 3.30.060 of this Code.

3.30.070 Inspections.

- A.** Definitions. The terms used in this Section shall be defined as provided in this subsection, unless the context requires otherwise:
 - 1.** Building Regulations means any city code title listed in 3.30.010, or any other safety or health statute, ordinance, regulation, rule, standard or order the Director is authorized to enforce.
 - 2.** Property means real property and all improvements or structures on real property, from property line to property line.
- B.** Warrants. Whenever an inspection is necessary to enforce any of the provisions authorized by this Title, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any condition which makes such property substandard as defined in any building regulations, the Director may request any Circuit Court judge to issue an inspection warrant for the inspection or investigation of any building or upon any property as required or authorized by city code or by statute. The inspection warrant is an order authorizing a safety or health inspection or investigation to be conducted at a designated building or property.
- C.** Grounds for Issuance of Inspection Warrants; Affidavit.
 - 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 building or property to be inspected or investigated, and the purpose for which the inspection or investigation is to be made including 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.

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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 cause to believe that a condition of nonconformity with any building regulations 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 with any building regulations.

D. Procedure for Issuance of Inspection Warrant.

1. Examination. Before issuing an inspection warrant, the judge may examine the applicant and any other witness under oath 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 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 8:00 a.m. and 6:00 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 other time of the day or night.

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 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 on unoccupied property, 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 designated 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 search warrant shall be conspicuously posted on the property.
3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the

described property to remove any person or obstacle and assist the building inspector or representative of the bureau inspecting the property in any way necessary to complete the inspection.

4. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 5 working days from its date of execution, unless such judge before the expiration of such time extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

3.30.080 Stop Work Orders.

(Amended by Ordinance Nos. 176955, 186564 and 187432, effective December 4, 2015.)

- A. When it is necessary to obtain compliance with this Title, or any violations of provisions administered by the Bureau of Development Services, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, activity subject to the order may not resume until such time as the Director give specific approval in writing. The stop work order will be in writing and will include:
 1. The date of the order is issued;
 2. Permit or registration number, where applicable;
 3. Site address, legal description or project location that is subject to the stop work order;
 4. A description of violations observed; and
 5. The conditions under which the work may resume.
- B. The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy of the order will either be personally delivered or sent to the property owner (and any person authorized to act on the owner's behalf, if identified) by regular first-class mail.
- C. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D. A stop work order is effective upon posting.
- E. When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written notice as provided under Section A., above, within one working day.

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- F.** The Director may issue a stop work order for work commenced without a required permit.
- G.** The Director may impose a penalty as set forth in the Enforcement Fee and Penalty Schedule adopted by the City Council when a stop work order is issued. The stop work order penalty may be assessed daily for each day the violation or condition giving rise to the order continues.
- H.** Review of Stop Work Order by the Director.
 - 1.** If a property owner (and any person authorized to act on the owner's behalf) has received a stop work order as described in this Section and the property owner (and any person authorized to act on the owner's behalf) believes the order has been issued in error, the property owner (and any person authorized to act on the owner's behalf) may request that the order be reviewed by the Director. The property owner (and any person authorized to act on the owner's behalf) must submit a written request to the Director within 15 calendar days of the date of the order. The written request shall be submitted together with all evidence that supports the request. Work subject to a stop work order may not be resumed until approved according to Subsection A. of this Section. Following review, the Director will issue a written determination. The Director's determination will be served on the property owner (and any person authorized to act on the owner's behalf) by regular mail.
 - 2.** A property owner (and any person authorized to act on the owner's behalf) may appeal the Director's written determination to the Code Hearings Officer in accordance with Portland City Code Chapter 22.10.
 - 3.** Nothing in this Chapter limits the authority of the Director to initiate a code enforcement proceeding under Title 22.

CHAPTER 3.32 - BUREAU OF LICENSES

(Chapter repealed by Ordinance No. 179566,
effective October 1, 2005.)

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CHAPTER 3.33 - BUREAU OF PLANNING AND SUSTAINABILITY

(Chapter added by Ordinance No. 182671, effective
May 15, 2009.)

Sections:

- 3.33.010 Purpose.
- 3.33.020 Organization.
- 3.33.030 Functions.

3.33.010 Purpose.

The purpose of this Chapter is to describe the organization and functions of the Bureau of Planning and Sustainability.

3.33.020 Organization.

The Bureau is administered by the Commissioner in charge and led by the Director of Planning and Sustainability. The organizational structure of the Bureau shall be determined by the Director of the Bureau after consultation with the Commissioner in charge.

3.33.030 Functions.

(Amended by Ordinance Nos. 184046 and 188177, effective January 1, 2018.) The Bureau of Planning and Sustainability is responsible for planning, implementing, and managing complex programs and projects related to sustainability, urban design, land use, and long range planning.

The Bureau of Planning and Sustainability:

- A.** Works with the City Council, Planning and Sustainability Commission, and the community to define shared values and develop a cohesive vision for the future of Portland;
- B.** Maintains, modifies, and updates a Comprehensive Plan to guide the development and redevelopment of the city;
- C.** Ensures that City policies, implementation tools, and zoning designations are consistent with the Comprehensive Plan, the Metro Functional Plan, Statewide Planning Goals, and other requirements. Implementation tools include Title 33, Planning and Zoning, portions of other City Titles, and a range of programs and policies;
- D.** Maintains, modifies, and updates Title 33, Planning and Zoning, and the City Zoning Map;
- E.** Develops, modifies and updates city sustainability principles, climate protection strategies, and green building and other sustainability policies and programs

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including sustainable government, renewable energy, energy efficiency, sustainable industries, and sustainable food systems; and evaluates the implementation and effectiveness of these policies and programs;

- F.** Develops, modifies and updates economic, environmental, housing, historic preservation, and community development policies and programs; updates demographic data; advocates for and advances quality sustainable urban design; works to ensure natural resource enhancement; and supports thriving neighborhoods and business communities; and evaluates the implementation and effectiveness of these policies and programs;
- G.** Convenes meetings of the Planning and Development Directors to coordinate planning and development activities of the City of Portland;
- H.** Provides City input into and coordination with regional and statewide planning and development activities;
- I.** Administers the City's solid waste and recycling rules and programs;
- J.** Provides support for:
 - 1.** The activities of the Planning and Sustainability Commission;
 - 2.** The legislative activities of the Portland Historic Landmarks Commission and the Portland Design Commission.
 - 3.** The activities of the Community Involvement Committee.
- K.** Carries out other tasks and functions as required by the City Council or Commissioner in Charge.

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**CHAPTER 3.34 - BUREAU OF PURCHASES
AND STORES**

(Chapter repealed by Ordinance No. 174410,
effective May 3, 2000.)

**CHAPTER 3.36 - PORTLAND HOUSING
BUREAU**

(Chapter added by Ordinance No. 186028, effective
May 15, 2013.)

Sections:

- 3.36.010 Purpose.
- 3.36.020 Organization.
- 3.36.030 Functions.

3.36.010 Purpose.

The purpose of this Chapter is to describe the duties and responsibilities of the Portland Housing Bureau.

3.36.020 Organization.

The Portland Housing Bureau is administered by the Commissioner-in-Charge and led by the Director of the Portland Housing Bureau. The organization is structured to carry out its functions.

3.36.030 Functions.

The Portland Housing Bureau is responsible for housing policy, its implementation, and the distribution and oversight of public and other funds that address the housing interests of the City, and related programs and services.

A. The Portland Housing Bureau:

1. Works with the City Council, other bureaus, and the community to develop a vision for housing in the City of Portland;
2. Convenes government, community and stakeholders to coordinate planning for addressing homelessness, housing, and related activities;
3. Develops, modifies, evaluates and updates City policy in accordance with planning priorities;
4. Develops, modifies and updates community programs related to housing;
5. Distributes funds in accordance with planning, policy and program priorities to advance the City's interests in housing;
6. Monitors the City's investment in Portland's affordable housing infrastructure for compliance with funding goals and the proactive management of the assets;

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7. Monitors programs funded through the Bureau for compliance with funding goals;
8. Identifies the resources required to support the City's housing policies, programs, and priorities;
9. Provides support for the Portland Housing Advisory Commission (Chapter 3.38);
10. Carries out other tasks and functions as required by the City Council or Commissioner-in -Charge.

**CHAPTER 3.38 - PORTLAND HOUSING
ADVISORY COMMISSION (PHAC)**

(Chapter replaced by Ordinance No. 184329,
effective December 15, 2010.)

Sections:

- 3.38.010 PHAC Established.
- 3.38.020 PHAC Mission.
- 3.38.030 Duties.
- 3.38.040 Membership.
- 3.38.050 Staffing.
- 3.38.060 Consolidated Plan Consortium.
- 3.38.070 Cooperation.

3.38.010 PHAC Established.

Upon adoption of this ordinance by the City of Portland, the Portland Housing Advisory Commission (PHAC) is established. The PHAC is designated as the primary public forum for discussion of housing policy, strategy, and resources in the City of Portland.

3.38.020 PHAC Mission.

The mission of the PHAC is to advise the Director of the Portland Housing Bureau (PHB), the Housing Commissioner, and the Portland City Council on housing and homelessness policy, strategy, and resource issues, promote improvements within the Portland Housing Bureau and the larger housing system, highlight opportunities for influence between the City housing system and other systems, as well as provide a forum for public input on housing and homelessness issues.

3.38.030 Duties.

The PHAC is delegated to carry out the following functions:

A. Housing Policy and Planning.

1. Provide a sounding board on Portland housing policy issues.
2. Promote improvements within PHB.
3. Identify opportunities where PHB might influence the larger housing system to become more streamlined and to better align system resources, to support PHB's mission.
4. Advise PHB on City priorities for affordable housing development.
5. Monitor and periodically recommend updates to PHB's Strategic Plan.

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6. Monitor and annually recommend updates to the Consolidated Plan Priorities for allocation of federal housing and community development resources.
 7. Recommend annual production and performance goals to carry out PHB's Strategic Plan and the Consolidated Plan.
 8. Press PHB to implement its commitment to equity in all facets of its work.
- B. Budget Review and Recommendations.**
1. Function as the Budget Advisory Committee for the Portland Housing Bureau.
 2. Assist PHB to align its resources from all sources to its mission and priorities.
 3. Identify opportunities for PHB to influence other public agency budgets and proposed work programs in furtherance of its mission.
- C. Resource Development.** Assist PHB to identify and recommend ways to increase the resources available to maintain and expand the supply and availability of affordable housing and necessary support services through new initiatives and programs.
- D. Program Development and Evaluation.**
1. Advise PHB on the effectiveness of housing programs at meeting PHB's mission.
 2. Advise on strategies for investment of public resources in furtherance of the PHB's mission.
- E. Public-Private Partnerships.**
1. Advise PHB on strategies to improve access to public and private sources of financing for affordable housing initiatives. Sources of financing include banks, philanthropic institutions and other socially-motivated investors, the State Housing Trust Fund, Block Grant and entitlement funders, and bond issuing agencies.
 2. Foster housing production by identifying opportunities to streamline the regulatory process.

3. Actively encourage the support, personal commitment, and participation of highly respected community leaders in furthering the City's affordable housing agenda.

F. Community and Intergovernmental Relations.

1. Provide a forum for members of the community to provide comment about community needs and priorities.
2. Advise PHB on its legislative agenda to increase federal and state support for housing and supportive services.
3. Advise PHB on opportunities to coordinate regional housing policy with the Metropolitan Service District and other local governments.
4. Advise PHB on opportunities to coordinate policy development with local housing and social service groups.
5. Assist PHB to extend and deepen its community partnerships.
6. Assist PHB to integrate the perspectives of Urban Renewal Advisory Committees (URACs), and advise it on other ways it can engage the URACs to inform its broader agenda.
7. Periodically review PHB's broader public involvement strategy and implementation to make sure that community members and stakeholders have many opportunities to participate in PHB's work.
8. Advise PHB on its external communications strategy to make sure that it supports PHB's mission.
9. Periodically review PHB's information and referral strategy to make sure that it operates effectively and recommend changes.

3.38.040 Membership.

- A. The PHAC shall consist of at least twelve and no more than fifteen members.
- B. The City of Portland shall appoint all members.
- C. Membership appointment shall achieve a balanced citizen-based perspective embracing a high level of knowledge of and expertise in market-rate and rent-restricted housing development and finance, asset management, homeownership, and housing access and stabilization services.

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- D.** Membership appointment shall take into account the income, racial, ethnic, cultural, and geographic diversity of the community.
- E.** Members will be expected to transcend their individual interests and affiliations to focus on the big picture.
- F.** For the initial appointments to PHAC, the following terms will apply: six members shall be appointed for a term of two years; and six for a term of three years.
- G.** All subsequent appointments to the PHAC shall be for terms of two years.
- H.** Members appointed for one two-year term shall be eligible to renew for one additional two-year term.
- I.** Members shall serve without compensation. However, the City may authorize reimbursement of the reasonable expenses of the members for carrying out the work of the PHAC.
- J.** The PHAC shall adopt rules of procedure (bylaws) as necessary for the governance of its proceedings.

3.38.050 Staffing.

PHB staff shall be provided for the ongoing functions of the PHAC. The Bureau shall provide notice of PHAC meetings to liaison staff representing the other key implementing and policy agencies in the local housing delivery system.

3.38.060 Consolidated Plan Consortium.

The Portland Housing Bureau shall continue to lead the Portland Consortium that includes the City of Gresham and Multnomah County, for the purpose of applying for federal housing and community development entitlement funds, and funding for homeless programs and services. PHB shall also continue to lead the same Consortium in preparing the Analysis of Impediments to Fair Housing and its periodic updates. PHB shall continue to provide staffing for these efforts, according to funding agreements reached among the participating jurisdictions.

3.38.070 Cooperation.

All city boards, bureaus, and agencies of any kind shall cooperate with the PHAC and shall provide information at the Commission's request.

**CHAPTER 3.40 - BUREAU OF GENERAL
SERVICES**

(Chapter repealed by Ordinance No. 174410,
effective May 3, 2000.)

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**CHAPTER 3.44 - BUREAU OF CIVIC
AUDITORIUM**

(Chapter repealed by Ordinance No. 173369,
effective May 12, 1999.)

**CHAPTER 3.46 - BUREAU OF INSECT
CONTROL**

Section:

3.46.010 County to Perform Duties.

3.46.010 County to Perform Duties.

During the terms of a contract presently existing between the City and Multnomah County whereby functions of the City's Bureau of Insect Control are being performed by the County and all Bureau of Insect Control employees are now County employees, the Multnomah County Department of Medical Services shall perform the functions heretofore performed by the Bureau of Insect Control.

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**CHAPTER 3.52 - BUREAU OF COMPUTER
SERVICES**

(Chapter repealed by Ordinance No. 174410,
effective May 3, 2000.)

**CHAPTER 3.53 - BUREAU OF RISK
MANAGEMENT**

(Chapter repealed by Ordinance No. 174410,
effective May 3, 2000.)

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**CHAPTER 3.54 - LOSS CONTROL AND
PREVENTION**

(Chapter added by Ordinance No. 156028, effective
May 31, 1984.)

Sections:

- 3.54.010 Definitions.
- 3.54.020 OMF Risk Management Division Responsibility and Authority.
- 3.54.030 Bureau Responsibility and Authority.
- 3.54.040 Loss Control and Prevention Advisory Committee - Responsibility and Authority.

3.54.010 Definitions.

(Amended by Ordinance No. 158966, effective October 6, 1986.) Unless the context indicates otherwise, words used in this Chapter shall have the following meanings:

- A. **“Bureau”** means any City bureau, office, commission, or committee.
- B. **“Committee”** means the Loss Control Advisory Committee, consisting of the Risk Manager as Chairperson, the Mayor and each Commissioner, the City Auditor, the City Attorney, the Director of the Office of Fiscal Administration, and the Personnel Director, or their designees.
- C. **“Loss Control Program”** and **“Program”** mean a Citywide program consisting the loss control components of the City’s bureaus. “Loss control component” and “component” mean the written rules, regulations, and plan developed by each bureau and reviewed by the Committee, providing for both procedural and physical risk identification, measurement, and control in the bureau’s activities. Components may address any methods for loss prevention and control, including without limitation, accident reporting, accident review, hearing conservation, eye safety, respiratory protection, vehicular safety, industrial injuries and return to work, personal protective equipment, volunteer coverage, property loss management, and tort early warning.

3.54.020 OMF Risk Management Division Responsibility and Authority.

(Amended by Ordinance Nos. 158966 and 181483, effective January 18, 2008.) The OMF Risk Management Division shall have the following responsibility and authority in the area of City loss control and prevention:

- A. Develop guidelines, instructions, and a model plan to assist bureaus in developing loss prevention and control components;
- B. On final review by the Committee of components submitted by the bureaus, file the City-wide program with the City Auditor and issue the program for implementation by affected bureaus;

- C. Advise and assist affected bureaus in the implementation of components or parts thereof;
- D. Monitor the effectiveness of components, and collect, analyze, and report annually to the Committee and City Council data showing the status of the components and the performance of bureaus implementing the components.

3.54.030 Bureau Responsibility and Authority.

(Amended by Ordinance Nos. 158966 and 181483, effective January 18, 2008.) Each City bureau shall have the following responsibility and authority:

- A. Develop a written loss control component which shall include detailed and specific objectives, methods, and techniques for preventing injuries, illnesses, and other events leading to workers' compensation, liability, and property loss claims;
- B. Include in the component specific performance objectives to permit monitoring and reporting on the Bureau's performance in reducing claims;
- C. Submit the proposed component to the Committee for review;
- D. On completion of review by the Committee and approval by the OMF Risk Management Division, implement the component;
- E. Annually review its component, make any appropriate revisions, and submit any revisions of the component to the Committee for its review.

3.54.040 Loss Control and Prevention Advisory Committee - Responsibility and Authority.

(Added by Ordinance Nos. 158966 and 181483, effective January 18, 2008.) The Loss Control and Prevention Advisory Committee shall have the following responsibility and authority:

- A. In conjunction with bureau managers, develop and propose for approval by the City Council goals for each bureau or appropriate groups of bureaus for the frequency and severity of workers' compensation and liability losses.
- B. Obtain from each bureau its proposed written loss control component;
- C. Review each component to ensure that it is appropriate, adequate, thorough, and consistent with components developed by other bureaus;
- D. Suggest revisions, if appropriate, and return the component to the bureau for consideration or revisions;
- E. Upon final review of components, provide them to the OMF Risk Management Division for approval and implementation by bureaus.

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CHAPTER 3.57 - INDUSTRIAL INJURY
RETURN TO WORK POLICY

(Chapter repealed by Ordinance No. 176302,
effective April 5, 2002.)

**CHAPTER 3.58 - VEHICLE LOSS CONTROL
POLICY**

(Chapter repealed by Ordinance No. 176302,
effective April 5, 2002.)

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CHAPTER 3.60 - ZOO COMMISSION

(Chapter repealed by Ordinance No. 173369,
effective May 12, 1999.)

CHAPTER 3.62 - BOXING COMMISSION

Section:

3.62.010 Certain City Officials to Render Certain Services.

3.62.010 Certain City Officials to Render Certain Services.

(Amended by Ordinance No. 173369, effective May 12, 1999.) The Council finds that by the provisions of ORS Chapter 463 certain functions are to be performed by the Council and certain City officers; now, therefore, the City officials are hereby permitted and authorized to exercise the functions therein stated for and on behalf of the State as herein provided.

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CHAPTER 3.64 - ART COMMISSION

(Chapter repealed by Ordinance No. 136980,
effective July 13, 1973.)

**CHAPTER 3.66 - CIVIC AUDITORIUM
ADVISORY COMMITTEE**

(Chapter repealed by Ordinance No. 160034,
effective August 13, 1987.)

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CHAPTER 3.67 - PERFORMING ARTS ADVISORY COMMITTEE

(Chapter added by Ordinance No. 152285, effective
September 17, 1981.)

Sections:

- 3.67.010 Creation and Organization.
- 3.67.020 Procedure and Rules of Committee.
- 3.67.030 Duties.

3.67.010 Creation and Organization.

(Amended by Ordinance No. 153332, effective June 9, 1982.) There hereby is created an Advisory Committee to the Commissioner In Charge of the Portland Center for the Performing Arts to be known as the Performing Arts Center Advisory Committee. The Committee shall consist of 13 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members and shall designate the Chairman. Each member shall serve at the pleasure of the Commissioner In Charge. Upon completion for occupancy of all the facilities composing the Portland Center for the Performing Arts, the Performing Arts Center Advisory Committee shall be disbanded. In case of vacancy by death, incapacity to serve, or resignation, the Commissioner In Charge shall appoint a successor to serve the remainder of the vacant term. The Commissioner In Charge, or that person's representative, shall be an ex officio member of the Committee, but shall not be entitled to vote.

3.67.020 Procedure and Rules of Committee.

The Performing Arts Center Advisory Committee shall establish its own rules, bylaws and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold meetings at the call of the Chairman.

3.67.030 Duties.

The Performing Arts Center Advisory Committee shall be responsible for raising funds and advising the Commissioner In Charge in the planning, programming, design and construction phases of the Portland Center for the Performing Arts.

**CHAPTER 3.68 - FORMAL JAPANESE
GARDEN COMMISSION**

Sections:

- 3.68.010 Created.
- 3.68.020 Powers and Duties.
- 3.68.030 Meetings.
- 3.68.040 Officers.
- 3.68.050 Rules - Quorum.
- 3.68.060 Vacancy - Removal.

3.68.010 Created.

There hereby is created a Formal Japanese Garden Commission for the City. The Commission shall consist of the Mayor, the Commissioner In Charge of the Bureau of Parks, the President of the Japan Society of Oregon, the President of the Japanese Ancestral Society, the Japanese Consul, and 12 persons appointed by the Mayor. All appointments shall be by the Mayor for 3-year terms, provided, when an interim vacancy occurs the appointment shall be to fill the unexpired term of the position vacated. All members shall serve without compensation.

3.68.020 Powers and Duties.

It shall be the duty of the Commission to formulate and submit to the City Council plans for the establishment, maintenance, improvement and promotion of a formal Japanese garden. The Commission shall submit to the Council, not less than every 6 months, a report of its progress and recommendations. The Commission may form subcommittees, appoint unpaid advisors, hold public hearings, encourage the interest of other organizations in its objectives, and engage in similar activities which in its judgment may assist it in making recommendations and promoting the plan, establishment, maintenance and improvement of a formal Japanese garden that will be an attraction enjoyed by the people of Portland and their guests.

3.68.030 Meetings.

Each year an annual meeting shall be held. Each Commission member shall serve until the annual meeting of the year in which his term expires, or thereafter until his successor is appointed and qualified. Not less than three interim meetings shall be held each year in addition to the annual meeting. The Chairman of the Commission shall designate the time and place of the annual and interim meetings and the Secretary of the Commission shall give not less than 5 days advance notice thereof to each Commission member.

3.68.040 Officers.

A Chairman, Vice Chairman and Secretary shall be elected at each annual meeting of the Commission from among its members. All Commission officers shall serve until the annual meeting next following their election, or thereafter until a successor is elected.

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3.68.050 Rules - Quorum.

Rules of procedures may be adopted and amended only upon an affirmative vote of eight or more Commission members. Election of officers, removal of members, and regular business of the Commission shall be passed upon by the majority of a quorum. Not less than eight members shall constitute a quorum. Each member shall be entitled to one vote.

3.68.060 Vacancy - Removal.

Death, resignation, removal or inability to serve shall constitute a vacancy in the Commission. The Commission may remove any member for cause. Unexcused absence from four consecutive Commission meetings shall constitute cause for removal.

**CHAPTER 3.70 - PITTOCK MANSION
ADVISORY COMMISSION**

Sections:

- 3.70.010 Created - Terms.
- 3.70.030 Special Committees and Services.
- 3.70.050 Officers.
- 3.70.060 Rules - Quorum.
- 3.70.070 Vacancy.

3.70.010 Created - Terms.

There hereby is created a Pittock Mansion Advisory Commission for the City, to which the Mayor, Commissioner In Charge of the Bureau of Parks, and Superintendent of Parks shall be ex officio members. The Commission shall otherwise consist of nine members appointed by the Mayor. The Mayor shall initially appoint two members for 1 year, three members for 2 years, two members for 3 years, and two members for 4 years. Thereafter all appointments shall be by the Mayor for 4-year terms, provided, when an interim vacancy occurs the appointment shall be to fill the unexpired term of the position vacated. All members shall serve without compensation. The term of each such appointment shall be extended as necessary so that the term ends November 1.

3.70.020 Powers and Duties.

(Amended by Ordinance No. 154194; repealed by Ordinance No. 167733, effective June 1, 1994.)

3.70.030 Special Committees and Services.

Upon request of the Commission, the Mayor may appoint one or more special committees to serve the Commission in an advisory capacity. Secretarial services and office requirements shall be furnished to the Commission by the Bureau of Parks.

3.70.040 Meetings.

(Amended by Ordinance No. 154194; repealed by Ordinance No. 167733, effective June 1, 1994.)

3.70.050 Officers.

Officers of the Commission shall consist of a Chairman, Vice Chairman, Secretary and Treasurer, elected from its membership at the organizational meeting and at each annual meeting thereafter. All Commission officers shall serve until the annual meeting next following their election or thereafter until a successor is elected.

3.70.060 Rules - Quorum.

Rules of procedure may be adopted and amended only upon an affirmative vote of six or more Commission members. Election of officers, removal of members, and regular business of the Commission shall be passed upon by the majority of a quorum. Not less than five members shall constitute a quorum. Each member shall be entitled to one vote.

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3.70.070 Vacancy.

Death, resignation, removal or inability to serve shall constitute a vacancy in the Commission. The Commission may remove any member for cause. Unexcused absence from four consecutive Commission meetings shall constitute cause for removal.

**CHAPTER 3.71 - ENVIRONMENTAL
COMMISSION**

(Chapter added by Ordinance No. 164432; repealed
by Ordinance No. 167239, effective December 29,
1993.)

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CHAPTER 3.72 - COMMITTEE ON CLAIMS

Sections:

- 3.72.010 Created - Members - Meetings.
- 3.72.020 Presentation of Claims.
- 3.72.030 Consideration of Claims Not Covered by Insurance.

3.72.010 Created - Members - Meetings.

(Amended by Ordinance Nos. 132014 and 163439, effective September 5, 1990.)

- A. Created. A Committee to be known as the “Committee on Claims” is hereby created for the purpose of considering fair and moral claims against the City not covered by insurance and making recommendations concerning the claims to the City Council.
- B. Members. This Committee shall consist of two members of the City Council appointed by the Mayor, one of whom shall be designated Chairman, and the City Auditor. The Risk Manager shall meet with the Committee, without power of vote, and serve as Secretary.
- C. Meetings. The Committee shall meet at times designated by the Chairman.

3.72.020 Presentation of Claims.

(Amended by Ordinance No. 163439, effective September 5, 1990.) All fair and moral claims against the City shall be presented to the Risk Manager. Presentation to the Risk Manager shall for all legal purposes be regarded as presentment to the Council of the City. Nothing contained herein shall be construed as repealing or modifying any of the provisions of Sections 1-106 and 1-107 of the Charter.

3.72.030 Consideration of Claims Not Covered by Insurance.

(Amended by Ordinance No. 163439, effective September 5, 1990.) The Risk Manager shall investigate and process all fair and moral claims against the City. The Risk manager shall present to the meeting of the Committee on Claims all facts and evidence gathered. The Committee shall make a recommendation on all claims presented and the same shall be transmitted to the Council for their consideration and final decision.

3.72.040 Claims Covered by Insurance.

(Repealed by Ordinance No. 163439, effective September 5, 1990.)

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3.74.030 Form of Oath for Other Officer or Employee.

(Amended by Ordinance Nos. 139501 and 168343, effective January 7, 1995.) The form of oath to be taken by appointed City officials shall be substantially as follows:

I, (name), do solemnly affirm I will support the Constitutions of the United States and of the State of Oregon, the Charter of the City of Portland and its laws; I will faithfully, honestly and ethically perform my duties as (office) during my continuance therein.

The wording of the oath may vary, as officials are sworn according to the ceremonies of their own religion or in such manner as each deems binding on his or her conscience.

The oath may be administered by the Auditor, deputy auditor, a notary public, or a magistrate of any court of record in the United States, within their respective jurisdictions. Whenever the oath is administered by a person other than the Auditor or deputy, the credentials of the person administering the oath shall appear thereon, and the oath shall be sent immediately to the Auditor, who shall attest to receipt of the oath.

CHAPTER 3.76 - PUBLIC RECORDS

(Chapter replaced by Ordinance No. 182637,
effective May 1, 2009.)

Sections:

- 3.76.010 Definitions.
- 3.76.020 Purpose.
- 3.76.030 Archives and Records Management Program Creation and Administration.
- 3.76.040 Authority and Duties of the Archives and Records Management Program.
- 3.76.050 Duties of Elected Officials and the Managers of City Agencies.
- 3.76.060 Care of Records.
- 3.76.070 Destruction of Records.
- 3.76.080 Use of Copies.
- 3.76.090 Public Access to Records.

3.76.010 Definitions.

In this Chapter, unless the context otherwise requires:

- A. **“Agency”** means a department, bureau, office, commission, board, public corporation or other organizational unit created by the Council of the City of Portland.
- B. **“Record”** or **“City record”** means any recorded information, regardless of physical form or characteristic, prepared, owned, used or retained in connection with the transaction of official business and preserved or appropriate for preservation by an agency as evidence of the organization, function, policies, decisions, procedures, operations or other activities of the City of Portland or because of the informational value in it. The term does not include library and museum material developed or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved solely for convenience of reference, or stocks of publications. These records are public property, subject to Oregon Public Records Law and to the records management requirements established by this Code.

3.76.020 Purpose.

The purpose of this Chapter is to provide for the orderly management and care of current City records and to preserve non-current City records of permanent value for administrative, legal, and research purposes.

3.76.030 Archives and Records Management Program Creation and Administration.

The City Auditor shall maintain a professional Archives and Records Management Program for the City, and shall be responsible for the maintenance of all City records. The City Auditor shall be the custodian for all permanent records for which an agency has transferred ownership to the Auditor and for all historical records.

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3.76.040 Authority and Duties of the Archives and Records Management Program.

The Archives and Records Management Program shall:

- A.** Operate the program and the Archives and Records Center facility in accordance with currently accepted archives and records management professional standards;
- B.** Acquire, receive, appraise and secure records of permanent value from agencies of the City of Portland when those records are no longer necessary for conducting current business;
- C.** Acquire, receive, appraise, and secure all records for areas annexed by the City from a county or special district or from a defunct agency of the City of Portland;
- D.** Negotiate for the acquisition and return of City records which have been removed from its possession;
- E.** Secure transfer of records to the Archives when it has been determined that the records are stored under conditions that do not meet the standards established by Archives and Records Management;
- F.** Maintain inventories, indexes, catalogs, and other finding aids or guides to facilitate access to the City Archives;
- G.** Analyze, develop and provide written standards and procedures for the care and maintenance of City records, including those created and/or maintained in electronic format;
- H.** Establish minimum recordkeeping requirements for business systems or applications that maintain official City records;
- I.** Provide access, as defined by State law and City policies, to the records within Archives and Records Management's custodianship;
- J.** Establish procedures for City agencies regarding the identification, segregation, and protection of records vital to continuing operations to comply with the City's emergency preparedness policies;
- K.** Establish standards for City agencies with regard to the appropriate use of record media, accounting for cost, access and preservation;
- L.** Establish procedures for the preparation of records inventories and descriptions; develop records retention schedules for review by the City Auditor and City Attorney and which meet the requirements of Oregon Administrative Rules;

- M.** Establish procedures for the prompt and orderly disposition of City records for which the state archivist has granted authority to destroy because they no longer possess administrative, legal, or research value to warrant their retention;
- N.** Provide training to City agencies and employees on all aspects of records management.

3.76.050 Duties of Elected Officials and the Managers of City Agencies.

Each City elected official and agency manager shall:

- A.** Make and preserve records containing adequate documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency which are designed to furnish the information necessary to protect the legal and financial rights of the City and of persons directly affected by the agency's activities;
- B.** Ensure staff compliance with City records policies and procedures established by Archives and Records Management;
- C.** Work with Archives and Records Management to develop and review records retention schedules for records maintained by the agency;
- D.** Inform Archives and Records Management of any regulatory changes affecting record retention, maintenance or access requirements;
- E.** Notify Archives and Records Management of any program changes that may affect the management of City records, including but not limited to: new agency responsibilities; records that are no longer being created; changes to records maintenance practices;
- F.** Follow established procedures to identify, segregate and protect records vital to the continuing operation of an agency in the event of natural or man-made disaster;
- G.** Ensure that at least one copy of each report, document, study, publication or consultant report prepared at City expense be deposited with the Archives;
- H.** Notify the Archives of records older than 25 years in the agency's possession; transfer control of original records upon notification from the Archives;
- I.** Establish safeguards against unauthorized or unlawful removal, loss or destruction of City records;
- J.** Ensure that City records are maintained in a manner that meets guidelines set by Archives and Records Management for security and environment;

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- K.** Designate a management level employee to act as a liaison between the agency and Archives and Records Management on all matters relating to the archives and records management program.

3.76.060 Care of Records.

Records of the City of Portland shall be managed according to the provisions of Oregon Revised Statutes, Oregon Administrative Rules and of this Chapter.

3.76.070 Destruction of Records.

City records covered by a records retention schedule shall be destroyed according to the parameters set forth in the retention schedule. In general, records shall not be retained beyond their prescribed retention.

3.76.080 Use of Copies.

- A.** A public officer performing duties under this Chapter is authorized to copy in any manner which produces a permanent, clear, accurate and durable reproduction of the original record. An original City record which is worn or damaged may be replaced by a reproduction made in accordance with this Chapter. Certification by the City Auditor, City Attorney, Archives and Records Management, or by the agency having custody of the record that the replacement is a true and correct copy of the original shall appear at the end of the reproduction. When original City records are reproduced and placed in conveniently accessible files and provisions are made for preserving and using them for the duration of their legally mandated retention, the originals from which they were made may be destroyed.
- B.** Reproduction or replacement of City records made under this Chapter are admissible in evidence as primary evidence of the original writing.

3.76.090 Public Access to Records.

All City records, except for those exempted by law, are available for inspection and copying by the public. The City may require that records use occur during certain business hours and at specified locations, and may charge fees to recover the cost of retrieval and copying.

**CHAPTER 3.77 - OFFICE OF THE
OMBUDSMAN**

(Chapter added by Ordinance No. 175568, effective
July 1, 2001.)

Sections:

3.77.010	Purpose.
3.77.020	Definitions.
3.77.030	Office of the Ombudsman.
3.77.040	Ombudsman Selection.
3.77.050	Qualifications and Prohibitions.
3.77.060	Reserved.
3.77.070	Removal.
3.77.080	Staff and delegation.
3.77.090	Reserved.
3.77.100	Office Facilities and Administration.
3.77.110	Powers and Duties.
3.77.120	Investigations of Complaints.
3.77.130	Communications with Agency.
3.77.140	Communications with Complainant.
3.77.150	Procedure after Investigation.
3.77.160	Informing Community Members.
3.77.170	Reports.
3.77.180	Reserved.
3.77.190	Duty to Cooperate.
3.77.200	Ombudsman Immunities.
3.77.210	Reprisals Prohibited.
3.77.220	Relationship to Other Laws.
3.77.230	Effective Date.

3.77.010 Purpose.

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Office of the Ombudsman is an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of fairness, competency, efficiency and justice in the provision of city services.

3.77.020 Definitions.

(Amended by Ordinance No. 188842, effective March 30, 2018.) In this chapter:

- A.** "Administrative act" means an action, failure to act, omission, decision, recommendation, practice, policy or procedure.

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- B.** “Agent or agency” includes any department, bureau, office, institution, corporation, authority, board, commission, committee of the city, and any officer, employee, or member of the foregoing entities acting or purporting to act in the exercise of their official duties. EXCEPTING: elected officials and their personal staff.
- C.** “City Auditor” refers to the elected City Auditor.
- D.** “City” refers to the City of Portland.
- E.** “City Council” refers to the City’s legislative body comprised of five elected officials, the Mayor, and four City Commissioners.
- F.** “Ombudsman” means the public official appointed by the City Auditor to receive and investigate the public’s complaints against administrative acts of City government.
- G.** “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them;
- H.** "Record" means all records, documents, books, papers, files, photographs, microfilms, sound recordings, video recordings, magnetic storage media, computer data and all other materials, regardless of physical form or characteristics, created, generated, recorded, received, possessed or controlled by or on behalf of any agency.
- I.** “State” refers to the State of Oregon.

3.77.030 Office of the Ombudsman.

(Amended by Ordinance No. 188842, effective March 30, 2018.) There is established in accordance with City Charter Section 2-509 the Office of the Ombudsman.

3.77.040 Ombudsman Selection.

(Amended by Ordinance No. 188842, effective March 30, 2018.) The City Auditor shall select the Ombudsman in accordance with the Auditor’s human resource policies and rules and other applicable laws.

3.77.050 Qualifications and Prohibitions.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems pertaining to City regulations, administration, and public policy, and shall have a working knowledge in local government commensurate to the powers and duties of the office. The Ombudsman shall be a registered voter of the United States, and shall hold a degree from an accredited college/university, or its equivalent in service to local government.

- B.** No person may serve as Ombudsman while engaged in any other occupation, business, or profession likely to detract from the full-time performance of their duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or partiality. All laws and requirements generally applicable to public employees are applicable to the Ombudsman.

3.77.060 Reserved.

3.77.070 Removal.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman is an at-will employee and may be removed from office by the City Auditor.
- B.** If the position becomes vacant for any reason, the Deputy Ombudsman shall serve as acting Ombudsman until a new Ombudsman has been appointed.

3.77.080 Staff and Delegation.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman may appoint a deputy who is accountable to the Ombudsman and other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the Ombudsman's Office.
- B.** The Ombudsman may delegate to staff members any of the Ombudsman's duties, unless otherwise specified in this chapter.
- C.** The deputy shall succeed to all duties and responsibilities of the Ombudsman, including those specified by ordinance, when serving as the acting Ombudsman.

3.77.090 Reserved.

3.77.100 Office Facilities and Administration.

- A.** The City shall provide suitable office facilities for the Ombudsman and staff in a location convenient for the public.
- B.** The Ombudsman shall annually recommend a budget proposal for submission to the City Auditor, who shall in turn include it in the Auditor's budget submission to the Mayor and City Council.
- C.** The Ombudsman shall be located within the City Auditor's office, and be accountable to the City Auditor. The Ombudsman shall have sole discretion in choosing consultants to assist with investigations, and in hiring staff. All administrators shall retain the authority to deny any request which is otherwise

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contrary to ordinance or which exceeds the city council-adopted budget for the office.

3.77.110 Powers and Duties.

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Ombudsman's powers and duties include, but are not limited to the following:

- A.** To investigate, on complaint or on the Ombudsman's own initiative, any administrative act of an agency, without regard to the finality of the administrative act, if the Ombudsman reasonably believes that it is an appropriate subject for review;
- B.** To undertake, participate in or cooperate with persons and agencies in such general studies, conferences, inquiries, meetings, or studies which might improve the functioning of agencies or lessen the risks that objectionable administrative acts will occur;
- C.** To make such inquiries and obtain such reasonable assistance and information from any agency or person as the Ombudsman shall require for the discharge of the Ombudsman's duties; and may without prior notice enter and inspect the premises of any agency. Agencies shall not restrict the Ombudsman's access to agency employees, subject to collective bargaining obligations to the City's recognized bargaining units;
- D.** In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, to have timely access to and to examine and copy, without payment of a fee, any agency information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, subject to any applicable state or federal laws. The Ombudsman shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure;
- E.** To request any person or agency to give sworn testimony or to timely produce documentary or other evidence that is reasonably relevant to the matters under investigation;
- F.** To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request;
- G.** To take appropriate measures to enforce the provisions of this chapter, including issuing reports, submitting recommendations, or seeking Council authorization for legal recourse if necessary to carry out the duties of the Office of the Ombudsman;

- H.** To adopt, promulgate, amend and rescind rules and regulations required for the discharge of the Ombudsman's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Ombudsman may not levy any fees for the submission or investigation of complaints;
- I.** To insure that a budget for the Office of the Ombudsman is well prepared and administered.

3.77.120 Investigations of Complaints.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman shall receive complaints from any source concerning any administrative act. The Ombudsman may conduct a suitable investigation of a complaint that is an appropriate subject for investigation. An appropriate subject for investigation by the Ombudsman includes any administrative act that the Ombudsman believes might be:
 - 1.** contrary to, law, regulation or agency practice;
 - 2.** unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
 - 3.** based on mistaken facts or irrelevant considerations;
 - 4.** unclear or not adequately explained;
 - 5.** performed in an inefficient or discourteous manner;
 - 6.** otherwise erroneous or objectionable.
- B.** The Ombudsman, at the Ombudsman's discretion, may decide not to investigate a complaint because:
 - 1.** the complainant could reasonably be expected to use, or is using, another remedy or channel, or tort claim, for the grievance stated in the complaint;
 - 2.** the complaint relates to a matter that is outside the jurisdiction of the Ombudsman;
 - 3.** the complaint has been too long delayed to justify present examination;
 - 4.** the complainant does not have a sufficient personal interest in, or is not personally aggrieved by, the subject matter of the complaint;
 - 5.** the complaint is trivial, frivolous, vexatious or not made in good faith;

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- 6. the resources of the Ombudsman's Office are insufficient for adequate investigation;
 - 7. other complaints are more worthy of attention.
- C. The Ombudsman shall not investigate matters currently in litigation; covered by collective bargaining agreement grievance procedures; or, employee or applicant discrimination complaints.
- D. The Ombudsman's declining to investigate a complaint shall not bar the Ombudsman from proceeding on their own initiative to investigate an administrative act whether or not included in the complaint.
- E. The Ombudsman shall protect the confidentiality of complainants or witnesses coming before them consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out their duties or the disclosure of records is directed by the District Attorney. (See Subsection 3.77.110 F.)
- F. The Ombudsman shall have the authority to pursue administrative review of responses to complaints through higher authorities within the City.

3.77.130 Communications with Agency.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A. The Ombudsman may make recommendations to an agency for the resolution of complaints and inquiries in accordance with this Chapter and City Charter.
- B. In seeking a resolution to a complaint or inquiry the Ombudsman may draw the matter to the attention of any agency head or division manager, the City Auditor, Mayor, City Commissioner, or the public.
- C. Before formally issuing a report with a conclusion or recommendation that is significantly critical or adverse to an agency, the Ombudsman shall have consulted with that agency and permitted the agency reasonable opportunity to reply. The Ombudsman may require an agency to notify them within a reasonable specified time of any action taken on a conclusion or recommendation. The Ombudsman will provide the opportunity to include with a final report a brief statement by the agency.

3.77.140 Communications with Complainant.

- A. After the Ombudsman has decided whether or not to investigate a complaint, the Ombudsman shall inform the complainant.

- B.** The Ombudsman shall, if requested by the complainant, report the status of his or her investigation to the complainant.
- C.** After investigation of a complaint, the Ombudsman shall inform the complainant of his or her conclusion or recommendation and, if appropriate, any action taken or to be taken by the agency involved.

3.77.150 Procedure after Investigation.

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** If, after investigation, the Ombudsman is of the opinion that an agency should:
 - 1.** consider the matter further,
 - 2.** modify or cancel an act,
 - 3.** alter a regulation, ruling, practice, policy or procedure;
 - 4.** explain more fully the act in question,
 - 5.** rectify an omission, or take any other action,

the Ombudsman shall state any conclusions, recommendations and reasons therefor to the agency. If the Ombudsman so requests, the agency shall, within the time specified, inform the Ombudsman about the action taken on recommendations or the reasons for not implementing them.

- B.** After a reasonable period of time has elapsed, the Ombudsman may issue final conclusions or recommendations to the Auditor, the Mayor and City Commissioners, a grand jury, the public, or any other appropriate authority. The Ombudsman shall include any brief statement the agency may provide if an opportunity to reply is required by this Chapter.
- C.** If the Ombudsman believes that an action has been dictated by laws whose results are unfair or otherwise objectionable, and could be revised by City Council action, the Ombudsman shall notify the City Council and the agency of a desirable statutory change.
- D.** If the Ombudsman believes that any agency official or employee has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsman shall refer the matter to the appropriate authorities without notice to that person.

3.77.160 Informing Community Members.

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Ombudsman shall post notices or use other appropriate means to inform community members of their rights, protections, and availability of services provided for under this Chapter and City Charter

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Section 2-509. These notices may include posted notices in public areas; or, electronic postings or links through Internet web sites, including the City web site. Nothing in this section is to be construed as repealing any other provisions of contract, ordinance or law.

3.77.170 Reports.

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Ombudsman may from time to time and shall annually report the Office of the Ombudsman's activities to the Auditor and City Council, or any of its committees, to the public and, in the Ombudsman's discretion, to agencies.

3.77.180 Reserved.

3.77.190 Duty to Cooperate.

(Amended by Ordinance No. 188842, effective March 30, 2018.) City employees shall cooperate with the Ombudsman in the exercise of their powers, and shall not mislead or attempt to mislead an Ombudsman's inquiry.

3.77.200 Ombudsman Immunities.

(Amended by Ordinance No. 188842, effective March 30, 2018.) To the extent allowable by law, the Ombudsman and staff shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except as may be necessary to enforce this Chapter and City Charter Section 2-509.

3.77.210 Reprisals Prohibited.

No person who files a complaint or participates in any investigation or proceeding pursuant to this chapter shall be subject to any penalties, sanctions or restrictions in connection with his or her employment or be denied any right, privilege, or benefit because of such action.

3.77.220 Relationship to Other Laws

The provisions of this Chapter are in addition to and do not in any manner limit or affect any other provisions of law under which any remedy or right of appeal is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter. The powers conferred on the Ombudsman may be exercised notwithstanding any provision of law to the effect that any administrative action shall be final or unappealable.

3.77.230 Effective Date

This Act shall take effect on July 1, 2001.

**CHAPTER 3.78 - ACQUISITION OF COUNTY
PROPERTY FOR PARK PURPOSES**

Sections:

- 3.78.010 Authorization for Payment.
- 3.78.020 Title Reports.
- 3.78.030 Clearing of Title.
- 3.78.040 Retaining Property with Cloud on Title.

3.78.010 Authorization for Payment.

(Amended by Ordinance No. 173369, effective May 12, 1999.) In all cases, past, present or future, in which an ordinance provides for the acquisition of park property from Multnomah County and where Multnomah County does not furnish an abstract or title insurance, the City Auditor is hereby authorized to draw and deliver a check in favor of Multnomah County for the amount to be paid for the deed from the county unless such ordinance indicates specifically a purpose to disregard this Chapter and thereupon the Auditor shall submit the matter to the City Attorney.

3.78.020 Title Reports.

The City Attorney hereby is authorized to obtain a policy of title insurance covering any particular parcel or parcels of property purchased in the past or in the future from Multnomah County for park and playground purposes. The expense of such title reports shall be chargeable to the public recreational areas fund.

3.78.030 Clearing of Title.

The City Attorney hereby is authorized to initiate and prosecute whatever legal action is necessary in his opinion to clear the title to any property covered by this Chapter and in any case, past, present or future, where he deems it necessary. Any expense incident thereto shall be chargeable to the public recreational areas fund.

3.78.040 Retaining Property with Cloud on Title.

Authority is hereby granted to accept and retain any property covered by this Chapter that has cloud on the title when and if the City Attorney renders an opinion that such cloud on title is not be deemed in imminent hazard.

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CHAPTER 3.80 - SPECIAL PERMITS

Sections:

3.80.010 Operations to Cease Upon Expiration of Permit.

3.80.020 Use of Park Property for Private Gardening Purposes.

3.80.010 Operations to Cease Upon Expiration of Permit.

It is unlawful for any person, who has been granted a special permit, whether under any special code or not, to continue to operate under the terms of the permit after the date on which the special permit, by its terms, expires. All persons to whom such a special permit has been granted by the Council shall come within the terms of this provision and comply herewith immediately after the expiration of the special permit by ceasing the operations allowed under the terms of the special permit.

3.80.020 Use of Park Property for Private Gardening Purposes.

Park property not needed by the City for development may be used by private parties for gardening purposes by obtaining a special permit. The bureau of parks is authorized to issue revocable permits for such purpose and shall impose such conditions as are necessary and advisable to protect the interests of the City.

**CHAPTER 3.82 - OFFICER AND EMPLOYEE
BONDS**

Sections:

- 3.82.010 Exceptions.
- 3.82.020 Bond of the City Treasurer.
- 3.82.030 City Auditor's Bond.

3.82.010 Exceptions.

All officers and employees, including the City Auditor, but not including the Mayor and City Commissioners, shall furnish a bond or bonds protecting the City against dishonesty, which bond or bonds shall be in the amount of \$10,000 per employee, with a further bond or bonds written as excess in the amount of \$40,000 per employee. Such bond or bonds shall run to the City, and the premium shall be paid by the City.

3.82.020 Bond of the City Treasurer.

The City Treasurer shall furnish a bond conditioned upon the faithful performance of his duties in the sum of \$100,000, which bond shall run to the City and the premium shall be paid by the City.

3.82.030 City Auditor's Bond.

The Auditor of the City shall furnish, in addition to the honesty bond provided above, a faithful performance bond in the sum of \$50,000, conditioned upon the faithful performance of his duties, which bond shall run to the City and the premium shall be paid by the City.

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CHAPTER 3.84 - CITY OWNED MOTOR VEHICLE ACCIDENT REPORTS

Sections:

- 3.84.010 Filing of Accident Report.
- 3.84.020 Form of Report.
- 3.84.030 Repair Shop Report.
- 3.84.040 Repair.
- 3.84.050 Billing of Charges.

3.84.010 Filing of Accident Report.

(Amended by Ordinance No. 165594, effective July 8, 1992.) In addition to the requirements of ORS 813, accident reports shall be filed:

- A. Whenever any motor vehicle belonging to the City, whether being operated by a City employee or not, becomes involved in an accident resulting in injury or death to any person or damage to the City vehicle or property of another, the operator of the City vehicle or the person to whom the vehicle is assigned or chargeable, shall, not later than the next normal day of business following the date of the accident, forward a complete written report of such accident, in triplicate, to the Bureau of Property Control upon forms furnished by the City. The Property Control Officer shall forward one copy of every report so filed, to the office of the City Attorney not later than the next normal day of business following the day of the filing;
- B. Whenever the original report and duplicate is insufficient in the opinion of the Property Control Officer of the City Attorney, supplemental reports of accidents may be required of the person or persons chargeable therefor;
- C. Whenever the driver of a vehicle involved in an accident is injured thereby so as to be incapable of making a required accident report and there was another City employee occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause the report to be made.

3.84.020 Form of Report.

The Bureau of Property Control shall prepare or otherwise provide, and upon request supply to the various departments and bureaus of the City, forms for accident reports required in Section 3.84.010. The report shall call for sufficiently detailed information to disclose with reference to an accident involving a City owned motor vehicle, the cause, conditions then existing, and the persons and property involved.

3.84.030 Repair Shop Report.

The person in charge of the bureau repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident, shall report in writing to the Bureau of Property Control not later than the next normal day of business after such motor vehicle

is received, giving the City property number of such vehicle, department, and a general description of the damage.

3.84.040 Repair.

Every City owned motor vehicle damaged as defined in the subdivision (1) of Section 3.84.010 shall be removed to the municipal shop for repairs as soon as conveniently possible following the accident, but in no event more than 7 days thereafter; provided, however:

- A.** That no vehicle shall be repaired without prior authorization of the Commissioner In Charge of the bureau to which the vehicle is assigned, or his authorized representative, except in the event of emergency whereupon the said Commissioner shall be notified within 72 hours of all such work done; and
- B.** In no event shall any vehicle be repaired by other than a City owned and operated repair shop unless and until the Purchasing Agent of the City shall have first obtained at least three independent estimates of cost of repair, and in such event the repair work shall be awarded to the lowest responsible bidder.

3.84.050 Billing of Charges.

No request for billing of charges for repair of motor vehicles damaged as defined in this Chapter shall be forwarded to the Auditor as in Section 5.48.040 provided, until the validity thereof based upon determination of liability shall have first been approved by the City Attorney.

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CHAPTER 3.86 - GOLF ADVISORY COMMITTEE

(Chapter added by Ordinance No. 133195, effective
September 20, 1971.)

Sections:

- 3.86.010 Created - Organization.
- 3.86.020 Procedure and Rules.
- 3.86.030 Duties.

3.86.010 Created - Organization.

(Amended by Ordinance Nos. 169770, 178253, 178935 and 186275, effective November 1, 2013.) There hereby is created an advisory committee to the Commissioner-in-Charge and Director of Parks to be known as the Golf Advisory Committee, consisting of ten voting members who shall serve without compensation. Members will however be entitled the use of each of the City's golf facilities, up to 4 times per year at no charge. Following each committee member visit to one of the golf facilities on this basis, he/she will be required to document the business purpose of the visit on a GAC Visit Form provided by the City. The Commissioner-in-Charge shall appoint the members of the Committee, the members to serve for a term of three years and may serve two consecutive terms. The Commissioner-in-Charge shall seek, to the extent feasible, to promote socio-economic diversity in appointments to the Committee, and, in order to accomplish or promote such diversity, may authorize, in the Commissioner's sole discretion, complimentary use of the City's golf facilities in addition to that provided to Committee members under this Section. The requirement of this Section that members document the business purpose of their free use of golf facilities shall apply to such additional use authorized by the Commissioner. The Commissioner-in-Charge or his/her representative shall be an ex-officio member of the Committee.

3.86.020 Procedure and Rules.

(Amended by Ordinance No. 169770, effective March 8, 1996.) The Golf Advisory Committee shall establish operating rules, bylaws, and procedures for all matters for consideration or action by the Committee, subject to the approval of the City Attorney. The Committee shall hold meetings at such time as is set by the body and at any other time at the call of the Committee Chair.

3.86.030 Duties.

(Amended by Ordinance Nos. 169770 and 186275, effective November 1, 2013.) The Golf Advisory Committee duties shall include, but not be limited to advising the Commissioner-in-Charge and the Director of Parks regarding the following areas: Golf Program budget review, review of the golf Program's Capital Improvement Program; review of golf concession contracts and proposals; review of the development, and monitoring of, the Golf Program's Strategic Plan, the marketing of the municipal Golf System; maximization

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and use of Golf System revenue. The Golf Advisory Committee shall make an annual written report to the Commissioner-in-Charge, the Director of Parks and to the Council.

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CHAPTER 3.88 - INVESTMENT ADVISORY COMMITTEE

(Chapter added by Ordinance No. 135093; amended
by 143470 and 151419, effective April 16, 1981.)

Sections:

- 3.88.010 Created - Organization.
- 3.88.020 Procedure and Rules.
- 3.88.030 Duties.

3.88.010 Created - Organization.

(Amended by Ordinance Nos. 167877 and 181483, effective January 18, 2008.) There hereby is created an advisory committee to the Commissioner In Charge, the Director of the Office of Management and Finance and the city Treasurer to be known as the Investment Advisory Committee. The Committee shall consist of a minimum of three public members who shall serve without compensation. The Commissioner In Charge, with approval by the Council, shall appoint the public members of the Committee to serve for 2-year terms that are renewable. The Debt Manager shall be an ex officio member of the Committee. In case of the resignation, death or inability to serve of any member, the Commissioner may appoint a successor to serve out the unexpired term subject to approval by the Council.

3.88.020 Procedure and Rules.

(Amended by Ordinance Nos. 167877 and 181483, effective January 18, 2008.) The Investment Advisory Committee shall establish its own rules, bylaws and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold at least three meetings per year at such times as is set by the body and at any other time at the call of the Chair. The Office of Management and Finance shall provide clerical staff.

3.88.030 Duties.

(Amended by Ordinance Nos. 167877 and 181483, effective January 18, 2008.) The Investment Advisory Committee shall advise the Commissioner In Charge, the Director of the Office of Management and Finance, the City Council and the City Treasurer of the City on: investment policies and investment practices of the City; maximum bank balances to be maintained by the City; and such other investment matters as the Commissioner in Charge of the Office of Management and Finance, the City Council or the Director of the Office of Management and Finance may request.

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**CHAPTER 3.90 - OFFICE OF MANAGEMENT
SERVICES**

(Chapter repealed by Ordinance No. 174410,
effective May 3, 2000.)

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**CHAPTER 3.92 - BUREAU OF HUMAN
RESOURCES**

(Chapter repealed by Ordinance No. 174410,
effective May 3, 2000.)

**CHAPTER 3.94 - OFFICE OF PLANNING
AND DEVELOPMENT**

(Chapter amended by Ordinance No. 147789
effective June 23, 1979 through June 30, 1982.)

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**CHAPTER 3.95 - BUREAU OF ECONOMIC
DEVELOPMENT**

(Chapter repealed by Ordinance No. 173369,
effective May 12, 1999.)

**CHAPTER 3.96 - OFFICE OF COMMUNITY
& CIVIC LIFE**

(Chapter replaced by Ordinance No. 179418;
amended by Ordinance No. 189078 effective July
18, 2018.)

Sections:

- 3.96.010 Purpose.
- 3.96.020 Definitions.
- 3.96.030 Neighborhood Associations.
- 3.96.040 Functions of District Coalitions.
- 3.96.050 Responsibility of City Agencies.
- 3.96.060 Responsibilities of the Office of Community & Civic Life.

3.96.010 Purpose.

(Amended by Ordinance No. 189078, effective July 18, 2018.) This chapter creates a framework by which the people of the City of Portland may effectively participate in civic affairs and work to improve the livability and character of their Neighborhoods and the City. This Chapter sets out the basis for City recognition of Neighborhood Associations, District Coalitions, and the responsibilities and benefits accruing thereto. This chapter also sets out the basis for city acknowledgement of Business District Associations and the responsibilities accruing thereto. This chapter also creates the Office of Community & Civic Life and sets out its functions, duties and responsibilities. Nothing in this Chapter shall limit the right of any person or group to participate directly in the decision making processes of the City Council or of any City agency.

3.96.020 Definitions.

(Amended by Ordinance No. 189078, effective July 18, 2018.) As used in this Chapter the following terms have the meanings given them in this Section.

- A. **Neighborhood:** A geographically contiguous self-selected community.
- B. **Neighborhood Association:** An autonomous organization formed by people for the purpose of considering and acting on issues affecting the livability and quality of their Neighborhood, formally recognized by the Office of Community & Civic Life, and subject to Chapter 3.96.
- C. **District Coalition:** An organization which supports participation services for Neighborhood Associations and everyone within a geographically defined area, and is subject to Chapter 3.96.
 - 1. **Non-Profit District Coalition:** An independent non-profit corporation directed by a board which is primarily composed of representatives from its member Neighborhood Associations.

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2. City--Staffed District Coalition: An office partially or fully staffed by City personnel to provide neighborhood services as advised by the participating Neighborhood Associations.
- D. **Business District Association:** An autonomous non-profit organization with membership guidelines in its bylaws formed by people in business within a defined geographic boundary for the purpose of promoting the general well-being of their business community. A Business District Association is subject to Chapter 3.96.
- E. **Office of Community & Civic Life:** An agency of the City of Portland, whose purpose is to facilitate citizen participation and improve communication among citizens, Neighborhood Associations, non-profit District Coalitions/City-staffed District Coalitions, City agencies, and other entities. The Office of Community & Civic Life is subject to these Standards.
- F. **City agency:** Includes all departments, bureaus, offices, boards and commissions of the City of Portland.
- G. **Standards:** Regulations adopted by City Council that govern Neighborhood Associations, District Coalitions, Business District Associations and the Office of Community & Civic Life.

3.96.030 Neighborhood Associations.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- A. **Minimum Standards for Neighborhood Associations.** To receive and maintain formal recognition, Neighborhood Associations shall meet the Standards for neighborhood public involvement.
- B. **Functions of Neighborhood Associations.** A Neighborhood Association may engage in, but is not limited to the following:
 1. Make recommendation(s) concerning a particular action, policy or other matter to any City agency on any topic affecting the livability, safety and economic vitality of the Neighborhood, including but not limited to land use, housing, community facilities, human resources, social and recreational programs, traffic and transportation, environmental quality and public safety; and,
 2. Assist City agencies in determining priority needs of the Neighborhood; and,
 3. Review items for inclusion in the City budget and make recommendations relating to budget items for Neighborhood improvement; and,

4. Undertake projects and activities deemed appropriate by the Neighborhood Association; and,
5. Cooperate with other Neighborhood Associations and Office of Community & Civic Life to create District Coalitions.

C. Responsibilities of Neighborhood Associations.

1. Neighborhood Associations shall abide by the Standards established by the Office of Community & Civic Life.
2. Neighborhood Associations shall make a reasonable effort to include affected City agencies in planning activities which affect Neighborhood livability.

D. Benefits to Neighborhood Associations.

1. Any Neighborhood Association meeting the minimum requirements established by 3.96.030, upon request, is entitled to formal recognition and benefits from the Office of Community & Civic Life pursuant to the adopted Standards.
2. If a Neighborhood Association fails to meet the minimum requirements of 3.96.030, the Office of Community & Civic Life may, pursuant to the adopted Standards, suspend partial or all benefits to that Neighborhood Association and may ultimately revoke formal recognition of that Neighborhood Association.

3.96.040 Functions of District Coalitions.

(Amended by Ordinance No. 189078, effective July 18, 2018.) A District Coalition shall:

- A. Provide training and orientation, information and support services to Neighborhood Associations within the areas of Neighborhood Associations served;
- B. Facilitate communication between people and government;
- C. Promote public participation within the areas of Neighborhoods served on issues of livability, safety and public policy;
- D. Promote, encourage and support the participation of members of diverse communities within the areas of Neighborhoods served;
- E. Administer contracts or memorandums of understanding and operate the District Coalition in accordance with the adopted Standards; and
- F. Abide by the Standards established by the Office of Community & Civic Life.

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3.96.050 Responsibility of City Agencies.

- A.** City agencies shall notify all Neighborhood Associations affected by planning efforts or other actions affecting the livability of the Neighborhood(s).
- B.** City agencies shall include affected Neighborhood Associations and District Coalitions in planning efforts which affect neighborhood livability.
- C.** Notice of pending policy decisions affecting neighborhood livability shall be given to the Neighborhood Association(s) affected at least 30 days prior to final action on the decision by a City agency. If said 30 day period may injure or harm the public health, safety, welfare, or result in a significant financial burden to the City, this notice provision shall not apply.

3.96.060 Responsibilities of the Office of Community & Civic Life.

(Amended by Ordinance Nos. 186216, 187359 and 189078, effective July 18, 2018.) There is hereby established and created an Office of Community & Civic Life which shall consist of a Director and such other employees as the Council may from time to time provide. In order to facilitate participation and improved communication between the public, Neighborhood Associations, Business District Associations, District Coalitions and the City, the Office of Community & Civic Life shall:

- A.** Assist Neighborhood Associations, District Coalitions and others in planning and developing programs for public involvement, crime prevention, dispute resolution and budget review;
- B.** Act as an information clearinghouse and resource to Neighborhood and Business Associations, other groups and the public;
- C.** Notify interested persons of meetings, hearings, elections and other public participation events of the Office of Community & Civic Life neighborhood system;
- D.** Enter into, monitor, administer contracts, and memorandums of understanding for Neighborhood Associations through District Coalitions;
- E.** Promote and facilitate open communication and notification from City agencies to Neighborhood Associations, District Coalitions, and Business District Associations, promote and facilitate communication amongst City agencies about public involvement best practices and policy;
- F.** Support and promote public involvement within the Neighborhood Association framework;
- G.** Adopt and revise such Standards as are deemed necessary for the implementation of this Chapter and for orderly public involvement in City government through

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Neighborhood Associations and District Coalitions. In so doing, the Office of Community & Civic Life shall seek representation from Neighborhood Associations, District Coalitions, Business District Associations, diverse community interests, city agencies that engage in considerable public involvement activities, and other interested people as necessary;

- H.** Pursuant to the adopted Standards, formally recognize a Neighborhood Association and/or acknowledge a Business District Association. If a Neighborhood Association or Business District Association fails to meet the minimum requirements of chapter 3.96, the Office of Community & Civic Life may suspend partial or all benefits and may ultimately revoke formal recognition of a Neighborhood Association or acknowledgement of a Business District Association;
- I.** Promote, encourage and support diverse and multicultural public involvement;
- J.** Establish open and fair grievance procedures for Neighborhood Associations, District Coalitions, and the Office of Community & Civic Life;
- K.** Establish open meetings and public records standards for Neighborhood Associations and District Coalitions;
- L.** Administer and enforce City Code Title 18, Noise Control; and
- M.** Other duties as assigned to the Office by Council.

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CHAPTER 3.98 - TOWING BOARD OF REVIEW

(Chapter added by Ordinance No. 138941, effective
October 10, 1974.)

Sections:

- 3.98.010 Created - Organization.
- 3.98.020 Procedure and Rules.
- 3.98.030 Staff.
- 3.98.040 Contracts - Rates.
- 3.98.050 Eligibility.
- 3.98.060 Powers of Board.
- 3.98.080 Appeals.

3.98.010 Created - Organization.

(Amended by Ordinance Nos. 143364, 149583, 157639, 168911, 172488 and 186746 effective August 6, 2014.)

- A.** There hereby is created a Towing Board of Review, hereinafter referred to as the Board, consisting of eight voting members and two nonvoting members. A quorum of the Board shall consist of five voting members.
- B.** The voting members of the Board shall be: the Director of the Portland Bureau of Transportation or an appropriate designee; the Executive Director of the Port of Portland or appropriate designee; the Chief of Police or an appropriate designee; the Traffic Engineer or appropriate designee; the Sheriff of Multnomah County or an appropriate designee; and three members of the general public with no affiliation with the towing industry, appointed by the Mayor, subject to confirmation by the City Council to serve for a period of 2 years. The Mayor shall designate one of the eight voting members to serve as the Chair, who shall so serve at the Mayor's pleasure.
- C.** The two nonvoting members shall be representatives of the towing industry appointed by the Mayor to serve for 1 year subject to confirmation by the Council.
- D.** All members of the Board shall serve without pay, except that they may receive their regular salary during the time spent on matters of the Board. A vacancy on the board shall be filled in accordance with the appointment procedures described above.
- E.** If any member of the Board is absent from more than three regularly scheduled meetings of the Board during a single calendar year, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned

from the Board and the position shall thereafter be vacant and subject to appointment.

3.98.020 Procedure and Rules.

The Towing Board of Review shall establish its own rules and bylaws, and provide the procedure for all matters for consideration or action by the Board.

3.98.030 Staff.

(Amended by Ordinance Nos. 153508, 157639 and 186746, effective August 6, 2014.) The Portland Bureau of Transportation shall provide staff and appropriate assistance for the Board.

3.98.040 Contracts - Rates.

- A.** The Board shall determine the terms and content of the contracts the City will abide by in contracting for dispatching and towing services.
- B.** The Board is empowered to hold public hearings to establish a fair rate of payment to be received for service performed under the various towing contracts and to determine the payment each towing company shall make to the dispatcher for services rendered.

3.98.050 Eligibility.

(Amended by Ordinance No. 153508, effective August 2, 1982.) The Towing Board of Review shall establish the terms, conditions, and contents of the City towing contracts, and the terms, conditions, and methods of selecting towing companies eligible for such contracts and able and willing to perform in accordance with the terms thereof, and shall certify to the Council the towing companies thereby eligible for a towing contract with the City.

3.98.060 Powers of Board.

The Board shall be responsible for reviewing the performance of the City's towing service contracts and to recommend to the Council any changes it feels necessary to promote the general purpose of establishing fair and equitable arrangements for the performance of tows requested by City personnel and the board shall be empowered to act on behalf of the City to:

- A.** Oversee the operation of and inspect the equipment and personnel qualifications of all parties contracting with the City for towing or dispatching service to determine if they are in compliance with their contracts; and hear and investigate complaints regarding the City's towing contracts and the performance thereof.
- B.** Establish dispatching district boundaries and lists of towing companies within each district eligible to be dispatched for tows:

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- 1.** In establishing district boundaries, the Board shall consider;
 - a.** The number and location of towing companies certified by the board as eligible for City towing contractors, and;
 - b.** That the purpose of establishing districts is to ensure that a tow truck shall be available in the minimum amount of time possible and no later than 30 minutes after request for tow is received; and a motorist whose vehicle is towed shall have to travel the minimum possible distance to recover his vehicle;
 - 2.** The Board is authorized to establish separate district boundaries if necessary for the dispatching of tows to be performed under different forms of contracts.
- C.** Cancel any towing or dispatching contract under the terms thereof.

3.98.080 Appeals.

(Replaced by Ordinance No. 170282, effective June 19, 1996.) Any towing company directly affected by an action of the Board may appeal to the Code Hearings Officer, pursuant to provisions of Chapter 22.10 of this Code under the following circumstances:

- A.** The towing company's contract with the City has been revoked or suspended by the Towing Board of Review;
- B.** The towing company has been directed by the Towing Board of Review to pay a civil penalty; or,
- C.** Against whom the Towing Board of Review has otherwise elected to impose Contract remedies.

CHAPTER 3.99 - FAIR WAGE POLICIES

(Chapter added by Ordinance No. 174839, effective
August 24, 2000.)

Sections:

- 3.99.005 Policy.
- 3.99.010 Covered Services and Agreements.
- 3.99.015 Compliance.
- 3.99.020 Adjustments.
- 3.99.030 Documentation of Fair Wage in Contracts.

3.99.005 Policy.

(Amended by Ordinance No. 187124, effective May 13, 2015.) It is the policy of the City of Portland that employees performing certain categories of work under formal contracts for janitorial services, for security services, and for parking garage attendant services with the City of Portland be guaranteed a minimum fair wage. City bureaus and operating units have the discretion to implement this policy in a reasonable manner.

3.99.010 Covered Services and Agreements.

(Amended by Ordinance No. 187124, effective May 13, 2015.) The Fair Wage Policy applies to formal contracts entered into by the City of Portland, in accordance with Portland City Code 5.33, for janitorial services, for security services, or for parking garage attendant services. No other agreement or contract entered into by the City of Portland shall be covered by this Chapter.

Exceptions to this Section may be approved via ordinance by a vote of the Council.

3.99.015 Compliance.

(Amended by Ordinance No. 187124, effective May 13, 2015.) City of Portland bureaus or operating units entering into contracts for covered services shall include the minimum hourly wage rate established in PCC 3.99 in all procurement announcements and resulting contracts. Contractors' compliance with the minimum wage requirements shall be monitored through submission of monthly certified payroll, mandatory employee notification of minimum wage rates via on-site postings, designation of bureau staff responsible for compliance monitoring and complaint resolution, and other measures deemed appropriate by the City bureau or operating unit. Contracts entered into by the City for covered services shall also include a non-retaliation clause protecting workers who assert wage claims based on this Chapter.

3.99.020 Adjustments.

(Amended by Ordinance No. 187124, effective May 13, 2015.) The fiscal year 2015-16 minimum wage shall be \$15 per hour. The Office of Management and Finance shall provide City bureaus with a yearly minimum hourly wage rate for covered services which is anticipated to be adjusted annually by the change in the Portland-Salem OR WA CPI-W as provided by the City Economist. The adjustment shall be effective for all contracts on

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July 1 of each year. In determining the adjustment amount, the Office of Management and Finance shall take into account the City's overall financial picture, and OMF shall not interpret this Code to require any increase which is inconsistent with the City's financial health and capabilities.

3.99.030 Documentation of Fair Wage in Contracts.

(Added by Ordinance No. 187124, effective May 13, 2015.) Contracts entered into by the City for covered services shall include in the agreement the minimum hourly wage rate at the time the contract becomes effective and at the annual adjustment date of July 1. For agreements and contracts not subject to Section 3.99.010, the City shall not rely upon, nor reference, this Chapter 3.99 in those agreements.

CHAPTER 3.100 - EQUAL OPPORTUNITY

(Chapter replaced by Ordinance No. 144724,
effective November 10, 1977.)

Sections:

- 3.100.005 City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights.
- 3.100.030 Contractor Equal Employment Opportunity Program.
- 3.100.041 Contracts with City.
- 3.100.042 Certification of Contractors.
- 3.100.043 Information Required.
- 3.100.044 Compliance Review.
- 3.100.045 Denial, Suspension, Revocation.
- 3.100.050 Nondiscrimination in Contracting.
- 3.100.051 Policy regarding Benefits.
- 3.100.052 Definitions.
- 3.100.053 Discrimination in the provision of benefits prohibited.
- 3.100.054 Limitations.
- 3.100.055 Power and duties of the Director.
- 3.100.056 Severability of Provisions.
- 3.100.060 Grant Equal Opportunity Compliance Program.
- 3.100.061 Definitions.
- 3.100.062 Purpose.
- 3.100.063 Responsibility.
- 3.100.064 Compliance Monitoring.
- 3.100.065 Rules and Regulations.
- 3.100.080 Minority/Female Purchasing Program.
- 3.100.081 Definitions.
- 3.100.082 Purpose.
- 3.100.083 Liaison Officer.
- 3.100.084 Minority/Female Business Enterprise List.
- 3.100.085 Advertising.
- 3.100.086 Minority/Female Purchasing Associations.
- 3.100.087 Monitoring.
- 3.100.088 Certification.
- 3.100.089 Rules and Regulations.

3.100.005 City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights.

(Substituted by Ordinance No. 165383; amended by Ordinance No. 171993, effective February 11, 1998.) The City of Portland has a compelling governmental interest in prohibiting discrimination in programs, activities, services, benefits and employment whether carried out by the City itself or through a contractor with whom the City arranges to carry out its programs and activities. In addition to provision found elsewhere in this

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Code, provisions relating to equal employment opportunity, affirmative action and civil rights are specifically to be found in Chapter 4.02 and Chapter 23.01. The City of Portland's policies and programs relating to affirmative action are contained in its annual Affirmative Action Plan. Individual City bureaus may have specific programs designed to further the broad goals of equal employment opportunity, affirmative action and civil rights. It is unlawful to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in programs, activities, services, benefits, and employment whether carried out by the City of Portland, directly or through a contractor or any other entity with whom the City of Portland arranges to carry out its programs and activities except as allowed by federal law, rules and regulations.

3.100.010 Affirmative Action Program.

(Repealed by Ordinance No. 165383, effective April 29, 1992.)

3.100.011 Definitions.

(Repealed by Ordinance No. 165383, effective April 29, 1992.)

3.100.012 Policy.

(Repealed by Ordinance No. 165383, effective April 29, 1992.)

3.100.013 Objectives.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.014 Management Commitment.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.015 Regulatory Committee.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.016 Bureau EEO Advisory Committees.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.017 Reports and Audits.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.018 Complaints of Discrimination.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.019 Sanction.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.020 Rules and Regulations.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.021 Identification of Handicapped.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.022 Management Commitment.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.023 Objectives.

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

3.100.030 Contractor Equal Employment Opportunity Program.

3.100.031 Definitions.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.032 Contracts with the City.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.033 Franchises.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.034 Certification of Contractors.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.035 Rules and Regulations.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.036 Compliance by Contractors.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.037 Denial or Revocation of Certification.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.038 Compatibility with Other Rules.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.039 State of Emergency.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.040 Exemptions.

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

3.100.041 Contracts with City.

(Added by Ordinance No. 171418, effective July 23, 1997.)

- A. Equal Opportunity Employer.** An “Equal Employment Opportunity Employer” (“EEO Employer”) is one who does not engage in the discrimination prohibited by

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Section 3.100.005 of this Code and who is certified by the Bureau of Purchases as an EEO Employer.

- B. Contracts with EEO Employers.** The City has a compelling governmental interest to ensure that it is neither an active nor passive participant in legally prohibited discrimination. Therefore, the City will award contracts only to EEO Employers and will require that any subcontract to such contract be awarded to an EEO Employer. Any person, vendor, contractor, or entity of any type must be certified as an EEO Employer in order to be eligible to be awarded any contract from the City, unless the amount of all their contracts with the City total less than \$2,500 in any single fiscal year or unless the contractor has been exempted from such requirements as determined by the Bureau of Purchases. As used in the Code provisions regarding EEO Employers, the term “contractor” shall include all persons, contractors, vendors and entities who are required to obtain certification. In addition, all persons, vendors or entities that wish to be subcontractors on City awarded contracts shall be certified as EEO Employers unless the total of their subcontracts is less than \$2,500 in any single fiscal year or unless the subcontractor has been exempted from such requirements as determined by the Bureau of Purchases.
- C. Contracts Voidable.** Any contract between the City and a contractor who is not EEO certified or exempt from EEO certification requirements is voidable at the option of the City, regardless of whether the contractor was EEO certified when the contract was awarded or executed. Similarly, a contract is voidable if the contractor subcontracts a portion of the work to a subcontractor or supplier that is not EEO certified or exempt from EEO certification requirements.

3.100.042 Certification of Contractors.

(Added by Ordinance No. 171418, effective July 23, 1997.) The Bureau of Purchases is delegated the authority to adopt rules and regulations to establish criteria for certification, conditional certification, decertification, revocation, suspension and denial of EEO status to Contractors and Subcontractors, to administratively implement this program, to investigate complaints of prohibited discrimination, to conduct compliance reviews, and to establish rules of procedure it deems necessary in order to discharge its duties.

3.100.043 Information Required.

(Added by Ordinance No. 171418, effective July 23, 1997.) Contractors and Subcontractors shall provide all information requested by the Bureau to assist it in performing its duties under Section 3.100.042 of this Code.

3.100.044 Compliance Review.

(Added by Ordinance No. 171418, effective July 23, 1997.) If the Bureau of Purchases receives a complaint filed by any person or entity that alleges prohibited discrimination by a Contractor or Subcontractor, or when information comes into its possession indicating that a Contractor or Subcontractor may have engaged in prohibited discrimination, the

Bureau may conduct a Compliance Review to determine whether the complaint or the information is correct. The purpose of the Compliance Review is to determine whether an EEO Certification should be revoked or suspended or whether a request for certification or recertification should be denied.

3.100.045 Denial, Suspension, Revocation.

(Added by Ordinance No. 171418, effective July 23, 1997)

- A.** Actions by Bureau. The Bureau may deny, suspend or revoke an EEO certification of the contractor or subcontractor if:
- 1.** Employs a workforce that shows underutilization of minorities and women, as reflected by their availability in the workforce, and thereafter fails to take positive steps to diversify its workforce after notification from the Bureau that such steps are required to maintain the EEO certification. Underutilization determinations shall be based on federal Title VII standards including the “Four-Fifths Rule” and “Manifest Imbalance” concepts;
 - 2.** Engages in discrimination prohibited by state, federal or local law;
 - 3.** Refuses to provide information to the Bureau of Purchases to determine whether it should be EEO certified or recertified;
 - 4.** Refuses to provide information when the Bureau is conducting a Compliance Review;
 - 5.** Intentionally provides false information to the Bureau in regard to its EEO certification or in response to the Bureau’s request for information; or
 - 6.** Intentionally employs subcontractors that are not EEO certified.
- B.** Appeal. EEO certification that has been denied, suspended or revoked may be appealed to the City Council by filing a written notice with the City Auditor within 10 days after the date of denial, suspension, or revocation. Action on such appeal shall be as directed by the City Council.
- C.** Enforcement. If no appeal to the City Council is filed within the time allowed, or if the appeal is denied by the City Council, the decision of the Bureau immediately shall go into effect.

3.100.050 Nondiscrimination in Contracting.

(Added by Ordinance No. 180077, effective May 19, 2006)

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3.100.051 Policy regarding Benefits.

(Added by Ordinance No. 180077, effective May 19, 2006) It is the City's intent, through its contracting practices outlined herein, to spend public money through its contracts to equalize, to the extent possible, the total benefits between similarly situated employees with spouses and employees with domestic partners.

3.100.052 Definitions.

(Added by Ordinance No. 180077, effective May 19, 2006) As used in this Chapter unless the context requires otherwise:

- A.** "Bureau" means the Bureau of Purchases.
- B.** "Contract" means all formal solicitation contracts for Public Improvements and Construction Services authorized and executed pursuant to PCC Chapter 5.34, and all formal solicitation contracts for Goods and Services authorized and executed pursuant to PCC Chapter 5.33 and all formal solicitation contracts for Professional, Technical and Expert services (PTE) authorized and executed pursuant to PCC Chapter 5.68.
- C.** "Director" or "Purchasing Agent" means the Director of the Bureau of Purchases or that person to whom those duties have been properly delegated.
- D.** "Domestic Partner" means any person who is registered with his or her employer as a domestic partner, or, in the absence of an employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration and who is in fact a current domestic partner with the person with whom that person was registered. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the Bureau.
- E.** "Employee benefits" means any plan, program or policy provided by an employer to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

3.100.053 Discrimination in the provision of benefits prohibited.

(Added by Ordinance No. 180077, effective May 19, 2006)

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- A.** No contractor on a City contract shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following exceptions:
- 1.** In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs.
 - 2.** The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.
- B.** Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:
- 1.** Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
 - 2.** Elect to provide benefits in a manner unrelated to spousal or domestic partner status; or
 - 3.** Provide benefits neither to employees' spouses nor to employees' domestic partners.
- C.** Requirements inapplicable under certain conditions. The Director may waive the requirements of this chapter where it is found not to be in the best interest of the City. Examples of situations that require waiving the requirements of this chapter include but are not limited to:
- 1.** Award of a contract or amendment is necessary to respond to an emergency;
 - 2.** No compliant contractors are capable of providing goods or services that respond to the City's requirements;
 - 3.** The contractor is a public entity;
 - 4.** The requirements are inconsistent with a grant, subvention or agreement with a public agency;

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- 5.** The City is purchasing through a cooperative or joint purchasing agreement;
- D.** Requests for waivers of the terms of this Chapter are to be submitted to the Bureau of Purchases in a manner prescribed by the Bureau. Decisions by the Bureau to issue or deny waivers are final.
- E.** The Director may reject an entity's bid or proposal, or terminate a contract, if the Director determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.
- F.** The City shall not execute a contract with a contractor unless such contractor has agreed not to discriminate in the provision of employee benefits as provided for in this chapter.
- G.** All contracts awarded by the City shall contain provisions developed by the Bureau of Purchases prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by Section 3.100.054, except as exempted by this chapter or rule.

3.100.054 Limitations.

(Added by Ordinance No. 180077, effective May 19, 2006) The requirements of this Chapter only shall apply to those portions of a contractor's operations that occur:

- A.** Within the City;
- B.** On real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and
- C.** Elsewhere in the United States where work related to a City contract is being performed.

The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

3.100.055 Powers and duties of the Director.

(Added by Ordinance No. 180077, effective May 19, 2006) The Director of the Bureau of Purchases shall have the power to:

- A.** Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Portland (PCC 3.02), establishing standards and procedures for effectively carrying out this chapter;
- B.** Examine contractor's benefit programs covered by this chapter;
- C.** Allow for remedial action after a finding of non-compliance, as specified by rule.

- D.** Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but are not limited to:
 - 1.** Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to 3 years; and
 - 2.** Contractual remedies, including, but not limited to, termination of the contract.
- E.** Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- F.** Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.

3.100.056 Severability of Provisions.

(Added by Ordinance No. 180077, effective May 19, 2006) 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.

3.100.060 Grant Equal Opportunity Compliance Program.

3.100.061 Definitions.

(Amended by Ordinance No. 150738, effective December 13, 1980.) As used in this Section:

- A.** “Equal Opportunity” or “EO” means the concepts and practice of nondiscrimination on the basis of race, religion, color, national origin, sex, age or handicap in employment, purchasing, contracting, or utilization of firms or individuals on the basis of demographics as may be prescribed by grants awarded to the City of Portland by other governmental agencies.

3.100.062 Purpose.

(Amended by Ordinance No. 150738, effective December 13, 1980.) The purpose of the Grant Equal Opportunity Compliance Program is:

- A.** To provide a uniform and consistent review of all equal opportunity and labor standard requirements associated with grants from other governmental agencies to the City of Portland.
- B.** To establish guidelines, instructions, uniform reporting formats, related administrative support, and assistance necessary to comply with grant equal opportunity requirements.

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- C. To provide a single, initial contact for grantor agencies and others seeking information about, or contact with, grantee bureaus or offices on EO matters.

3.100.063 Responsibility.

(Amended by Ordinance No. 150738, effective December 13, 1980.) Affected City agencies shall have responsibilities under this Section as follows:

- A. Federal Grants Coordinator shall submit all grant applications to the Contract and Grants Compliance Division for determination of equal opportunity requirements. No grant application shall be submitted to the City Council unless the Contract and Grants Compliance Division has reviewed the applicable equal opportunity requirements and obligations.

Following the award of any grant, the Federal Grants Coordinator shall provide the Contract and Grants Compliance Division with copies of the grant and applicable related documents.

- B. Contract and Grants Compliance Division shall serve as the point of contact for all communications relating to grant equal opportunity compliance, and shall review all grants as follows:

1. Pre-Application. Before any grant application is submitted to the grantor agency, the equal opportunity provisions shall be reviewed to determine compliance requirements. A report of such review shall be submitted to the Federal Grants Coordinator.
2. Post Award. Immediately after the award of any grant, the Contract and Grants Compliance Division shall advise the grantee bureau or office of applicable requirements and provide guidelines, instructions, forms, and assistance, as required to assist the bureau or office to implement compliance.

- C. Grantee Bureaus or Offices. Shall be fully responsible for compliance with all equal opportunity requirements imposed by applicable grants. In the discharge of such responsibility, grantee bureaus or offices shall cooperate fully with the Contract and Grants Compliance Division including, but not limited to, accumulation of applicable data, preparation of suitable records, and submission of such records and forms as may be required.

3.100.064 Compliance Monitoring.

(Amended by Ordinance No. 150738, effective December 13, 1980.) The Contract and Grants Compliance Division shall monitor the program at appropriate intervals to assure compliance with requirements. Where difficulties are noted, recommendations shall be made to the appropriate bureau, office supervisor or project manager.

3.100.065 Rules and Regulations.

(Amended by Ordinance No. 150738, effective December 13, 1980.) The Contract and Grants Compliance Division shall establish and maintain suitable rules and regulations for administration of the Grant Equal Opportunity Compliance Program.

3.100.080 Minority/Female Purchasing Program.

(Amended by Ordinance No. 150738, effective December 13, 1980.)

3.100.081 Definitions.

(Amended by Ordinance No. 150738, effective December 13, 1980.) As used in this Section:

- A. **“Minority” or “minorities”** means Blacks, Hispanic Americans, Pacific Islanders, Asian Americans, American Indians, Aleuts and Eskimos.
- B. **“Members of Other Groups” (MOG)** means members of other groups or other individuals than those specified in A above, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)). These MOGs shall also be eligible to participate in this program.
- C. **“Minority business enterprise” (MBE)** means a business at least 50 percent of which is owned by minorities or, in the case of publicly owned business, at least 51 percent of the stock of which is owned by minorities and whose management and daily business operations are controlled by one or more such individuals.
- D. **“Female business enterprise” (FBE)** means a business at least 50 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females and whose management and daily business operations are controlled by one or more individuals.

3.100.082 Purpose.

(Amended by Ordinance No. 150738, effective December 13, 1980.) The purpose of the Minority/Female Purchasing Program is to encourage and promote the sale of goods and/or services by minority and female business enterprises to the City of Portland. When such services are provided by federal funds encouraging or requiring MBE/FBE participation, the City shall take necessary action to comply with federal laws, regulations and contracting requirements.

3.100.083 Liaison Officer.

(Added by Ordinance No. 150738, effective December 13, 1980.) The designated Liaison Officer shall be the Purchasing Agent, who will be responsible for the day to day management of all elements of the program.

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3.100.084 Minority/Female Business Enterprise List.

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Contract and Grants Compliance Division of the Office of Fiscal Administration shall establish and maintain a current list of minority/female business enterprises, with indications of product and service areas. Such lists shall be consulted when requests for quotations for supply of goods and/or services are received.

3.100.085 Advertising.

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Purchasing Agent shall advertise periodically in local publications (including the Daily Journal of Commerce, female and minority publications) that the City encourages bidding by MBEs and FBEs and that the City will assist such firms to understand and participate in formal bidding process.

3.100.086 Minority/Female Purchasing Associations.

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Purchasing Grants Compliance Division shall develop and implement certification and review criteria for authorization of eligible MBE/FBE participants. Such certification shall be no less often than annually.

3.100.089 Rules and Regulations.

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Purchasing Agent (Bureau of Financial Affairs) shall establish and maintain rules and regulations for administration of the Minority/Female Purchasing Program.

3.100.090 Metropolitan Human Relations Commission Review and Evaluation.

(Repealed by Ordinance No. 173369, effective May 12, 1999.)

**CHAPTER 3.101 - PROPERTY TAX
EXEMPTION FOR LOW INCOME HOUSING
HELD BY CHARITABLE NON-PROFIT
ORGANIZATIONS**

(Chapter added by Ordinance No. 157768, effective
August 29, 1985.)

Sections:

- 3.101.010 Definitions.
- 3.101.020 Eligible Organizations.
- 3.101.030 Eligible Property.
- 3.101.040 Application Procedure.
- 3.101.050 Review of Application.
- 3.101.060 Annual Application Renewal.
- 3.101.070 Assessment Exemption.
- 3.101.080 Termination.
- 3.101.090 Implementation.

3.101.010 Definitions.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.) As used in this Chapter:

A. “Low income” means:

1. For the initial year that persons occupy property for which an application for exemption is filed under ORS 307.545, income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development; and
2. For every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

B. “Eligible property” means land and improvements thereon:

1. Which are either single or multi-family residential units intended for the exclusive occupancy by low-income persons during the tax year for which approval of the application has been granted or properties which are not residential units but which will become residential units through rehabilitation improvements or new construction to be occupied by low-income persons;

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2. Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of Subsections 3.101.030 B. 1.-2. by a charitable organization and non-profit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.540 to 307.548; and
3. Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.

3.101.020 Eligible Organizations.

(Amended by Ordinance No. 185043, effective December 7, 2011.) “Eligible organizations” means only charitable non-profit corporations certified by the Internal Revenue Service of the federal government as a 501 (c) (3) or (4) organization which also provides housing for occupancy by low-income persons as defined by Section 3.101.010 in this Chapter. No other types of non-profit or for-profit organizations are eligible.

3.101.030 Eligible Property.

(Amended by Ordinance Nos. 167356 and 185043, effective December 7, 2011.) As used in this Chapter:

- A. “Eligible property” as defined in Subsections 3.101.010 B. 1.-3. which meets all of the following criteria, pursuant to ORS 307.541, and other conditions of this Chapter shall be exempt from taxation:
 1. The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.541(a);
 2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to the State of Oregon;
 3. The property is occupied by low-income persons as defined by ORS 307.540(2) or held for future development for low income housing pursuant to ORS 307.541(1)(c)(B).
 4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
 5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.

- B.** For the purposes of this Chapter, pursuant to ORS 307.541(2), a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
- 1.** The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
 - 2.** The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.
- C.** Pursuant to ORS 307.541(3), a partnership shall be treated the same as a corporation if the corporation is a general partner of the partnership and responsible for the day-to-day operation of the property that is the subject of the exemption.

3.101.040 Application Procedure.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.)

- A.** To qualify for the exemption the corporation shall file an application for exemption with the Portland Housing Bureau acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application shall be filed on or before March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. The application shall include the following information:
- 1.** The applicant's name, address, and telephone number;
 - 2.** The assessor's property account number for each site;
 - 3.** The number of units and the exempted amount of each property being applied for under this Chapter;
 - 4.** A description of the property for which the exemption is requested;
 - 5.** A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 - 6.** A description of how the tax exemption will benefit project residents; and
 - 7.** A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;
 - 8.** A certification of income levels of low-income occupants;

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9. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984;
 10. A description of the development of the property if the property is being held for future low income housing development; and
 11. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter at the time the application is submitted.
- B.** The application shall include the following statements:
1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
 2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income, will qualify for exemption at the time of application approval or within 30 days of the March 1 application deadline;
 3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.
 4. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.
- C.** The applicant shall verify the information in the application, in accordance with Subsections 3.101.040 B. 1. through 3. above, by oath or affirmation.
- D.** Applicants for an exemption under this Chapter shall pay fees for an initial application and any renewals as set by the Portland Housing Bureau. The Portland Housing Bureau shall pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Portland Housing Bureau or the County Assessor in processing the application. The Portland Housing Bureau shall collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred.

3.101.050 Review of Application.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.)

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- A.** Within 30 days after the March 1 deadline for the application and payment of the application fee, the Portland Housing Bureau shall approve or deny the application. The application shall be approved if the Portland Housing Bureau finds that the property is “eligible property” within the meaning of the paragraphs 1. through 3. of Subsection B. of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter.
- B.** If the application is approved, the Portland Housing Bureau shall send written notice of approval to the applicant.
- C.** The Portland Housing Bureau shall file a certified list of approved properties with the County Assessor on or before April 1.
- D.** If the application is denied, the Portland Housing Bureau shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial. The Portland Housing Bureau shall retain that portion of the application fee which is attributable to its own administrative costs and shall refund the balance to the applicant.
- E.** Upon denial by the Portland Housing Bureau, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the City Council may be taken as provided by law.
- F.** The application shall be assigned an application and receipt number.

3.101.060 Annual Application Renewal.

(Amended by Ordinance Nos. 167356, 178286, 185043 and 187660, effective April 6, 2016.)

- A.** Applicants for property tax exemption must apply each year no later than April 1 in order to be qualified for property tax exemption for the upcoming tax year.
- B.** The annual application renewal fee shall be set by the Portland Housing Bureau.

3.101.070 Assessment Exemption.

(Amended by Ordinance Nos. 167356, 178286 and 185043, effective December 7, 2011.)

- A.** Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning July 1 of the tax year immediately following approval of the exemption, or when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.

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- B.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, 2027.
- C.** The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.101.080 Termination.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)

- A.** If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the Portland Housing Bureau finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the Portland Housing Bureau shall give notice in writing to the owner, mailed to the owner's last-known address and to every known lender, by mailing the notice to the last-known address of every known lender, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of the exemption and require the owner to appear before City Council to show cause at a specified time, not less than 20 days after mailing of the notice, why the exemption should not be terminated.
- B.** If the owner does not appear or if he or she appears and fails to show cause why the exemption should not be terminated, the Portland Housing Bureau shall notify every known lender and shall allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide adequate assurance that all noncompliance shall be remedied.
- C.** If the owner fails to appear and show cause why the exemption should not be terminated and the lender fails to cure or give adequate assurance of the cure of any noncompliance, City Council shall adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution shall be filed with the County Assessor and a copy sent to the owner at the owner's last-known address and to the lender at the last-known address of the lender, within 10 days after its adoption.
- D.** Upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.216 to 311.232, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by City Council or by a court, in accordance with the findings of City Council or the court as the assessment year in which the exemption is to

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terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.216 to 311.232. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.101.090 Implementation.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.) The Portland Housing Bureau shall establish procedures and prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the March 1 filing deadline imposed by ORS 307.545.

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CHAPTER 3.102 - PROPERTY TAX EXEMPTION FOR NEW CONSTRUCTION OF SINGLE-UNIT HOUSING IN HOMEBUYER OPPORTUNITY AREAS

(Chapter replaced by Ordinance No. 185477,
effective August 1, 2012.)

Sections:

- 3.102.010 Purpose.
- 3.102.020 Definitions.
- 3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.
- 3.102.040 Exemption Requirements.
- 3.102.050 Application Review and Approval.
- 3.102.060 Compliance.
- 3.102.080 Termination of the Exemption.
- 3.102.090 Implementation.

3.102.010 Purpose.

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.651 through 307.687, and administers a property tax exemption program for new construction of single-unit housing authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.654, the program also seeks to accomplish the following additional core goals:
 - 1.** Stimulate the construction of affordable housing and other public benefits where such housing or benefits may not otherwise be made available.
 - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
 - 3.** Provide transparent and accountable stewardship of public investments.

3.102.020 Definitions.

(Amended by Ordinance No. 186700, effective July 1, 2014.) As used in this Chapter:

- A.** “**Administrative Rules**” means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes and procedures.
- B.** “**Applicant**” means the individual who or entity which owns the property and is submitting an application for the tax exemption program and is legally bound to the

terms and conditions of an approved tax exemption, including but not limited to any compliance requirements under this Chapter.

- C. **“Single-unit housing”** has the meaning set forth in ORS 307.651(4).

3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.

- A. Single-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.664 and the Administrative Rules.
- B. However, the Portland Housing Bureau may, upon action by City Council on an annual basis, determine a limit on the number of applications accepted under this Chapter.

3.102.040 Exemption Requirements.

(Amended by Ordinance No. 186700, effective July 1, 2014.) In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the proposed construction will meet the following requirements and public benefits upon completion of construction:

- A. Property
1. Single-unit housing must be located within the City of Portland;
 2. Each qualified dwelling unit in the single-unit housing must have a market value at the time of completion of no more than the amount determined annually by Portland Housing Bureau according to ORS 307.651(3) and 307.661;
 3. Construction of the single-unit housing must be completed according to ORS 307.681(1), except as provided in ORS 307.374;
 4. Each qualified dwelling unit must sell to the initial homebuyer within two years of activation of the exemption;
 5. Each qualified dwelling unit must have at least three bedrooms unless built within an approved transit-oriented area as determined by the Portland Bureau of Planning and Sustainability and included on the map defining eligibility areas where two bedroom homes are allowed; and
 6. The single-unit housing must comply with all other requirements under the Code of the City of Portland.
- B. Affordability

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1. Each dwelling unit of the single-unit housing must be sold to a household with an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development, which income may be adjusted upward for households with more than four persons.
2. For the purposes of this program, household income is the annual gross income of the titleholder who will occupy the dwelling unit.

C. Owner-Occupancy

1. Once sold to the initial buyer, the dwelling unit shall remain owner-occupied as the principal residence of the titleholder receiving the tax exemption during the tax exemption period;
2. Hardship exception to the owner-occupancy requirement may be granted by the Portland Housing Bureau in accordance with its policies. Such hardship exceptions may include, but are not limited to, the following circumstances:
 - a. Active military duty outside of the area;
 - b. Temporary relocation to care for an ill or dying family member; or
 - c. Temporary relocation caused by an employer; and
3. The single-unit housing may not be rented at any time during the exemption period.

D. Equity

1. Applicant must acknowledge familiarity with Portland Housing Bureau's Minority, Women, and Emerging Small Businesses (MWESB) guidelines and contracting opportunity goals, and report on past contracting relationships.
2. Applicant must acknowledge awareness and understanding of Portland Housing Bureau's Guiding Principles on Equity and Social Justice and Strategic Priority of Helping Portlanders from Communities of Color buy a home and agree to partner with Portland Housing Bureau to assure that communities of color are aware of properties for sale with exemptions.

- E. Green Building.** The new construction must be built to meet healthy and resource efficient environmental building standards.

- F.** Application Fee. The applicant must pay an application fee determined by the Portland Housing Bureau as described in ORS 307.674 (5).

3.102.050 Application Review and Approval.

- A.** The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.667 through 307.674.
- B.** Applicants must apply for the tax exemption prior to issuance of the building permit for the single-unit housing.
- C.** If construction of the single-unit housing is not completed within the timeframe described in ORS 307.674, Portland Housing Bureau may extend the deadline as consistent with ORS 307.677.
- D.** The issuance of final building permits shall indicate compliance with the Code of the City of Portland and shall be sufficient to meet the design standards as described in ORS 307.651(4)(a)
- E.** Any exemption under this Chapter must be approved by City Council by resolution, and Portland Housing Bureau will deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.674.

3.102.060 Compliance.

(Amended by Ordinance Nos. 186700 and 188932, effective June 8, 2018.)

- A.** Upon approval, Portland Housing Bureau will record a notice on title of the property requiring Portland Housing Bureau verification of homebuyer eligibility and owner-occupancy qualification prior to the sale of each property to an initial homebuyer, as well as to subsequent purchasers throughout the duration of the exemption for any HOLTE applications approved after July 1, 2018.
- B.** Single-unit housing which sells to homebuyers who do not meet the affordability or owner occupancy qualifications, will have the tax exemption removed as of the next tax year.
- C.** Single-unit housing not meeting the exemption requirements by selling over the established sale price at initial sale will have the tax exemption terminated according to Section 3.102.080 and require the applicant to repay any exempted taxes consistent with ORS 307.687.

3.102.070 Designation of Homebuyer Opportunity Areas.

(Repealed by Ordinance No. 186700, effective July 1, 2014.)

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3.102.080 Termination of the Exemption.

If the Portland Housing Bureau determines that the single-unit housing fails to meet any of the provisions of ORS 307.651 to 307.687 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.681 through 307.687.

3.102.090 Implementation.

Portland Housing Bureau may adopt, amend and repeal the administrative rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

**CHAPTER 3.103 - PROPERTY TAX
EXEMPTION FOR MULTIPLE-UNIT
HOUSING DEVELOPMENT**

(Chapter replaced by Ordinance No. 187283,
effective August 5, 2015.)

Sections:

- 3.103.010 Purpose.
- 3.103.020 Definitions.
- 3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.
- 3.103.040 Program Requirements.
- 3.103.050 Application Review.
- 3.103.060 Application Approval.
- 3.103.070 Rental Project Compliance.
- 3.103.080 For-Sale Unit Compliance.
- 3.103.100 Termination of the Exemption.
- 3.103.110 Implementation.

3.103.010 Purpose.

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.600 through 307.637, and administers a property tax exemption program for multiple-unit housing development authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.600, the program also seeks to accomplish the following additional core goals:
 - 1.** Stimulate the inclusion of affordable housing where it may not otherwise be made available.
 - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
 - 3.** Provide transparent and accountable stewardship of public investments.

3.103.020 Definitions.

(Amended by Ordinance No. 188163, effective February 1, 2017.) As used in this Chapter:

- A.** “**Administrative Rules**” means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes, and procedures.

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- B. “Applicant”** means the individual or entity who is either the owner or a representative of the owner who is submitting an application for the tax exemption program.
- C. “Regulatory Agreement”** means a low-income housing assistance contract recorded agreement between the owner and the Portland Housing Bureau stating the approval and compliance criteria of a project’s tax exemption.
- D. "Multiple-unit housing"** has the meaning set forth in ORS 307.603(5).
- E. “Owner”** means the individual or entity holding title to the exempt project and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any Regulatory Agreement and any compliance requirements under this Chapter.
- F. “Project”** means property on which any multiple-unit housing is located, and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed or located upon the property.

3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.

- A.** Multiple-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.612 and the Administrative Rules.
- B.** However, the maximum amount of estimated foregone tax revenue provided as a benefit of the exemption under this Chapter may not exceed the amount approved by Council.

3.103.040 Program Requirements.

(Amended by Ordinance No. 188163, effective February 1, 2017.) In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the project meets the following program requirements as further described in the program Administrative Rules:

- A.** Financial need for the exemption
 - 1.** Rental projects. The project would not include low to moderate-income units because it would not be financially feasible without the benefit provided by the property tax exemption.
 - 2.** For-sale projects. The units receiving tax exemption will be sold to buyers meeting the affordability requirements contained in this Section.
- B.** Property eligibility

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1. Projects must be located within the taxing jurisdictions of the City of Portland and Multnomah County.
2. Projects must conform to City of Portland's zoning and density requirements.
3. Projects must include 20 or more units.

C. Affordability

1. For rental projects, for applications received on or before December 31, 2018, during the term of the exemption, a minimum of 15 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 8 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of the area median family income. For applications received after December 31, 2018, during the term of the exemption, a minimum of 20 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 10 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of the area median family income. The units meeting the affordability requirements must match the unit mix in the project as a whole in terms of number of bedrooms.
2. For projects containing for-sale units, those units receiving the exemption must not exceed the maximum price established under City Code Section 3.102.040 at initial sale and must sell to an initial homebuyer who income qualifies and occupies the unit as established under City Code Section 3.102.040. During the term of the exemption, the unit must be occupied by a homebuyer as established under City Code Section 3.102.040.

- D.** Accessibility. At least 5 percent of the affordable units in the project must be built to be Type A as defined in the Oregon Structural Specialty Code.

3.103.050 Application Review.

- A. The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.621.
- B. Applications for tax exemption must be submitted and approved prior to issuance of the project's building permit.
- C. Applications must include an application processing fee, to be established annually by the Portland Housing Bureau, including the fee to be paid to Multnomah County.

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3.103.060 Application Approval.

(Amended by Ordinance No. 188163, effective February 1, 2017.)

- A.** Applications will be considered based on the Inclusionary Housing Program requirements as per City Code Section 30.01.120.
- B.** Portland Housing Bureau will take applications to City Council for approval in the form of an ordinance and deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.621.
- C.** If construction of an approved project is not completed or an application for exemption is not received within the timeframe described in ORS 307.637, Portland Housing Bureau may extend the deadline consistent with ORS 307.634.

3.103.070 Rental Project Compliance.

(Amended by Ordinance No. 188163, effective February 1, 2017.)

- A.** The owner of a rental project approved for exemption will be required to sign a Regulatory Agreement to be recorded on the title to the property.
- B.** During the exemption period, the owner or a representative shall submit annual documentation of tenant income and rents for the affordable units in the project to the Portland Housing Bureau.

3.103.080 For-Sale Unit Compliance.

- A.** Approved applicants must execute a document to be recorded on title of the project requiring Portland Housing Bureau verification of homebuyer affordability and owner-occupancy qualification prior to the sale of each for-sale unit to an initial homebuyer.
- B.** For-sale units which sell to homebuyers who do not meet the affordability or owner occupancy qualifications at initial sale will have the tax exemption removed as of the next tax year.
- C.** For-sale units which sell over the established sale price at initial sale will have the tax exemption terminated according to Section 3.103.100 and require the owner to repay any exempted taxes consistent with ORS 307.631.

3.103.090 Extension of the Exemption for Low Income Housing Projects.

(Repealed by Ordinance No. 188163, effective February 1, 2017.)

3.103.100 Termination of the Exemption.

If the Portland Housing Bureau determines that the project fails to meet any of the provisions of ORS 307.600 to 307.637 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.627.

3.103.110 Implementation.

Portland Housing Bureau may adopt, amend and repeal the Administrative Rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

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**CHAPTER 3.104 - PROPERTY TAX
EXEMPTION FOR NEW, MULTIPLE-UNIT
HOUSING**

(Chapter repealed by Ordinance No. 185477,
effective August 1, 2012.)

**CHAPTER 3.105 - BULL RUN ADVISORY
COMMITTEE**

(Chapter added by Ordinance No. 143520; repealed
by Ordinance No. 161853, effective May 27, 1989.)

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CHAPTER 3.106 - EXPOSITION-RECREATION COMMISSION

(Chapter added by Ordinance No. 143806, effective
June 15, 1977.)

Sections:

- 3.106.010 Commission Action.
- 3.106.020 Filing Copies of Resolutions with City Auditor.
- 3.106.030 Council Review.
- 3.106.040 Exposition - Recreation Commission Action Not Subject to Council Review.
- 3.106.050 Council Initiation of Exposition - Recreation Commission Action.
- 3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.

3.106.010 Commission Action.

All action by the Exposition - Recreation Commission shall be by resolution adopted in accordance with the Commission's bylaws.

3.106.020 Filing Copies of Resolutions with City Auditor.

Within 5 days after the passage of any resolution, the Exposition - Recreation Commission shall file a copy of the resolution with the City Auditor, who shall maintain a special record of the Exposition - Recreation Commission's resolutions which shall be accessible to the public under like terms as ordinances of the City of Portland. Except as provided in Section 3.106.040, no resolution of the Exposition - Recreation Commission shall become effective until 5:00 p.m. on the 10th day following the filing of a copy thereof with the City Auditor.

3.106.030 Council Review.

Except as provided in Section 3.106.040, resolutions of the Commission shall not become effective, if, within 10 days after the filing by the Exposition - Recreation Commission of a copy of a resolution with the City Auditor, a member of the City Council files a request with the Auditor for City Council review of the Commission action. Upon receipt of a request for City Council review of Commission action, the City Auditor shall forthwith notify the General Manager of the Exposition - Recreation Commission of the request for review and shall deliver to him a copy of the request for review. The Auditor shall place the resolution on the Council agenda for Council review at the next regular Council meeting. In placing the resolution on the Council calendar, the Auditor shall act consistently with the regular filing deadline for Council calendar items established by this Code; provided, the Council may review any Exposition - Recreation Commission resolution as a four-fifths item, or under suspension of Council rules. At the time of requesting Council review of Exposition - Recreation Commission action, the Council member shall state the reason such review is necessary and what action the Council should take on the matters.

3.106.040 Exposition - Recreation Commission Action Not Subject to Council Review.

(Amended by Ordinance No. 170667, effective October 23, 1997.) Resolutions of the Exposition - Recreation Commission which pertain solely to the following matters shall be effective upon adoption or at such other time as specified by the Commission.

- A.** Scheduling the use of the Exposition - Recreation Commission's buildings and facilities.
- B.** Entering into agreements for the use of the Exposition - Recreation Commission's buildings and facilities, including all of the terms and conditions of such agreements, provided such agreements do not transfer operation, management or control of the Memorial Coliseum.
- C.** Personnel policy or matters of employment, dismissal or disciplining of employees.
- D.** Purchasing supplies, consumables, and services and equipment, in accordance with a budget approved by City Council and in accordance with City Council purchasing procedures.

3.106.050 Council Initiation of Exposition - Recreation Commission Action.

The Council may, by regularly adopted ordinance, take action on behalf of the Commission. A Council member introducing an ordinance pertaining to the Exposition - Recreation Commission on the Council calendar shall, at the time of filing the proposed ordinance with the City Auditor, have a copy of the ordinance delivered to the General Manager of the Exposition - Recreation Commission.

3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.

- A.** Contracts and agreements entered into by the Exposition - Recreation Commission or on behalf of the Commission by employees or agents, within the scope of their authority, shall be binding and effective from the times designated in sections 3.106.030 or 3.106.040, whichever is applicable.
- B.** The Council may, by regularly adopted ordinance, repeal, amend or alter any resolution adopted by the Exposition - Recreation Commission. Any such repeal, amendment or alteration may be made retroactive or prospective in effect but shall not be construed to invalidate any contract or agreements made in accordance with Subsection A of this Section.

3.106.070 Special Services Personnel as Special Police.

(Repealed by Ordinance No. 185569, effective September 28, 2012.)

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CHAPTER 3.107 - WATER QUALITY ADVISORY COMMITTEE

(Chapter added by Ordinance No. 161853, effective
May 27, 1989.)

Sections:

- 3.107.010 Created - Appointments.
- 3.107.020 Duties.
- 3.107.030 Meetings.
- 3.107.040 Chairperson.
- 3.107.050 Rules - Quorum.
- 3.107.060 Staff.

3.107.010 Created - Appointment.

(Amended by Ordinance No. 168939, effective June 14, 1995.) There hereby is created the Water Quality Advisory Committee. The Committee shall consist of nine members, appointed by the Commissioner In Charge of the Bureau of Water Works and confirmed by the Council. Appointments shall be for terms of 3 years except that 4 of the initial appointments shall be for terms of 2 years. When a vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill a new 3-year term. The Commissioner In Charge of the Bureau of Water Works may remove a member from the Committee at any time, subject to approval by the Council. The Commissioner In Charge of the Bureau of Water Works shall appoint members to the Committee with expertise or association in areas such as water quality, water treatment, public health policy, the environmental community, civic and business organizations, major industrial or commercial users, neighborhood associations and the public at large of which at least 3 members shall have relevant technical expertise. Committee members may serve a maximum of two 3-year terms, with the 4 appointees serving the initial terms of 2 years to serve a total maximum of 5 years. Within the maximum service limit of 6 years the Council may extend, for a period of less than 3 years, the terms of committee members who were appointed to serve or who have served the balance of a retiring committee member's term. All members shall serve without compensation from the City.

3.107.020 Duties.

The Committee shall act in an advisory capacity to the City Council through the Commissioner In Charge of the Bureau of Water Works as follows:

- A.** The Committee shall have the authority to offer policy advice to the Council and the Bureau of Water Works on issues such as management of the Bull Run Watershed, protection of groundwater quality, and other related water quality issues.
- B.** The Committee shall have the authority to issue periodic reports to the Council and the Bureau of Water Works.

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- C. The Committee shall have the authority to inform the public at large and take public testimony before offering policy advice to the Council and the Bureau of Water Works.

3.107.030 Meetings.

The Committee shall have the authority to conduct public meetings to gather input; the Committee shall provide for notification no less than 5 days prior to the meeting to the general public.

3.107.040 Chairperson.

A chairperson shall be elected annually from among the Committee members by a majority vote of a quorum. The Chairperson shall serve for a period of 1 year. A vacancy in the Chairperson's position shall be filled from among Committee members by majority vote of a quorum as soon as practical after the vacancy occurs.

3.107.050 Rules - Quorum.

The Committee shall establish its own rules and provide procedures for consideration or action on all matters before the Committee. Such rules and procedures may be adopted and amended only upon an affirmative vote of five or more Committee members. Election of officers and regular business shall be passed upon by the majority of a quorum. Not less than five members shall constitute a quorum. Each member shall be entitled to one vote. Provisions shall be made for public participation in Committee meetings.

3.107.060 Staff.

The Committee shall be staffed by personnel from the Bureau of Water Works and such additional staff or consultants as may be deemed necessary by the City Council for the committee to fulfill its responsibilities.

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**CHAPTER 3.110 - BUREAU OF
HYDROELECTRIC POWER**

(Chapter added by Ordinance No. 147822, effective
July 9, 1979.)

Sections:

3.110.010 Creation and Function.

3.110.020 Jurisdiction.

3.110.010 Creation and Function.

(Amended by Ordinance No. 161850, effective May 27, 1989.) There is hereby established a Bureau of Hydroelectric Power. The Bureau shall be administered by a Bureau Manager and shall have such other employees as the Council may provide. The Bureau shall supervise the construction and administer the operation of hydroelectric generating facilities owned by the City. It shall perform the duties and responsibilities required by any Federal Energy Regulatory Commission license and any agreements for the disposition of energy. The Bureau of Hydroelectric Power shall report to the Administrator of the Bureau of Water Works.

3.110.020 Jurisdiction.

The Bureau shall supervise the construction and administer the operation of the City owned hydroelectric power generating facilities.

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**CHAPTER 3.111 - OFFICE OF SUSTAINABLE
DEVELOPMENT**

(Chapter repealed by Ordinance No. 182671,
effective May 15, 2009.)

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**CHAPTER 3.112 - SUSTAINABLE
DEVELOPMENT COMMISSION**

(Chapter repealed by Ordinance No. 184046,
effective September 10, 2010.)

**CHAPTER 3.114 - OFFICE FOR
COMMUNITY TECHNOLOGY**

(Chapter added by Ordinance No. 149053; amended
by Ordinance Nos. 151338, 160424 and 184882,
effective September 21, 2011.)

Sections:

- 3.114.010 Creation.
- 3.114.020 Functions.
- 3.114.030 Jurisdiction.
- 3.114.040 Policy.
- 3.114.050 Administration.

3.114.010 Creation.

(Amended by Ordinance Nos. 185568 and 186746, effective August 6, 2014.) There is hereby established an Office for Community Technology. The Office shall be supervised by a manager who shall report to the Director of the Revenue Division, as provided under Subsection 3.15.040 E., or the Director's designee. As used in this Chapter and elsewhere in the City Code when referring to the Office for Community Technology, the term "Director" shall mean the Director of the Revenue Division or the Director's designee. The Office shall have such other employees as the Council may provide.

3.114.020 Functions.

(Amended by Ordinance No. 181155, effective August 17, 2007.)

- A.** The Office shall be responsible for coordinating Citywide broadband planning, communications policy advocacy, technology grants and related consumer protection activities.
- B.** The Office shall be responsible for supervising and coordinating all franchising processes engaged in by the City, for monitoring the performance of all franchisees for franchise compliance and for performing all other necessary work relating to franchises in the City.
- C.** The Office shall be responsible for promoting the orderly development of City-owned or City-partnered broadband and cable communication systems, for providing staff support needed by the Mt. Hood Cable Regulatory Commission and for performing all other necessary work related to broadband planning, communications policy advocacy, related technology grants and cable communications in the City.
- D.** The Office shall be responsible for overseeing franchise and utility audits and revenues in coordination with the City Auditor's Office, the Office of Management and Finance and other City agencies and bureaus.

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3.114.030 Jurisdiction.

- A.** The Office shall have jurisdiction over all franchisees and utility licensees. The Office shall have jurisdiction over all public or private utilities or other entities seeking similar rights to use City rights-of-way.
- B.** The Office shall have jurisdiction over all cable communications and broadband policy matters affecting the City of Portland.

3.114.040 Policy.

In order to establish and ensure a stable, predictable basis for long-term relations, it is the policy of the City of Portland that public or private utilities and other entities seeking similar rights to utilize City rights-of-way should be subject to franchise agreements with the City.

3.114.050 Administration.

(Added by Ordinance No. 185059, effective December 7, 2011.)

- A.** In exercising the Office's jurisdiction under Subsection 3.114.030 A. over the use of City rights-of-way by franchisees, licensees and permittees, the Director may adopt procedures, forms, written policies, and rules to ensure orderly administration.
 - 1.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify the public and affected franchisees, licensees, and permittees under the jurisdiction of the Office. Such notice, which may be provided by mail or electronic means, must be distributed not less than ten or more than thirty days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
 - 2.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Office. Copies of all current rules will be posted on the Office's website and made available to the public upon request.

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3. Notwithstanding Subsections 3.114.050 A.1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

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CHAPTER 3.115 - MT. HOOD CABLE REGULATORY COMMISSION

(Chapter replaced by Ordinance No. 181155,
effective August 17, 2007.)

Sections:

- 3.115.010 Definitions.
- 3.115.020 Cable Regulatory Commission.
- 3.115.030 General Powers & Duties.
- 3.115.040 Portland Community Media.
- 3.115.060 Annexations.
- 3.115.070 Cable Television Consumer Protection.
- 3.115.080 Definitions.
- 3.115.090 Local Office and Office Hours.
- 3.115.100 Telephone Answering Standard.
- 3.115.110 Installations, Disconnections, Outages And Service Calls.
- 3.115.120 Notice Requirements.
- 3.115.130 Billing.
- 3.115.140 Reporting.

3.115.010 Definitions.

Unless the context indicates otherwise, words used in this Chapter have the following meanings:

- A. "Agreement"** means the Intergovernmental Agreement creating the Mt. Hood Cable Regulatory Commission among and between the various Jurisdictions, dated December 24, 1992, including later amendments approved by the City Council.
- B. "Commission"** means the Mt. Hood Cable Regulatory Commission.
- C. "Franchise"** means an ordinance approved by the City Council authorizing use of the City's public right-of-way for operation of a cable communications system.
- D. "Grantee"** means any person authorized by a franchise agreement to construct, operate and maintain a cable communications system within the City of Portland.

3.115.020 Cable Regulatory Commission.

(Amended by Ordinance No. 184882, effective September 21, 2011.)

- A.** The City is a party to the Intergovernmental Agreement dated December 24, 1992, as modified by subsequent amendments, creating the Mt. Hood Cable Regulatory Commission. The Intergovernmental Agreement establishes the responsibilities and powers of the Commission, as delegated by the various participating

jurisdictions. The City Council approved the City of Portland's participation in the MHCRC by Ordinance No. 166168, enacted on January 20, 1993.

- B.** As provided in the Agreement, the City is represented by three members on the Commission, appointed by the Commissioner in Charge of the Office for Community Technology and confirmed by the Council. Appointments are for staggered terms of 3 years. When an interim vacancy occurs, the Commissioner in Charge appoints, and the Council confirms, a member to fill the balance of the unexpired term. All members representing the City must be residents of the City. The Commissioner in Charge shall appoint members to the Commission so as to provide for an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments shall take into consideration the desirability of diverse representation, including without limitation, of racial and ethnic minorities, gender, different geographic areas, and different socioeconomic groups. All members shall serve without compensation from the City or from any grantee. No member may have an ownership interest in any grantee. The Commissioner in Charge may remove a member appointed by the City from the Commission at any time, subject to approval by the Council.

3.115.030 General Powers & Duties.

(Amended by Ordinance No. 184882, effective September 21, 2011.)

- A.** To the extent provided in the Agreement and in this Chapter, the Commission may exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law or under franchises issued to grantees.
- B.** The Commission shall act in an advisory capacity to the City Council through the Commissioner in Charge of the Office for Community Technology on all other matters pertaining to franchise agreements to construct, maintain and operate cable communications systems or proposed franchise agreements for such systems.
- C.** All powers granted to the Commission by the Agreement shall be subject to the provisions of franchises issued to grantees.. In the event of any conflict between the Agreement and a grantee franchise, the provisions of the franchise shall prevail.
- D.** The Commission may adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under the Agreement and this Chapter.

3.115.040 Portland Community Media.

(Amended by Ordinance No. 184882, effective September 21, 2011.) The Mayor and the Commissioner in Charge of the Office for Community Technology shall each appoint one member of the board of directors of Portland Community Media, for staggered terms of two years. All appointments shall be confirmed by the Council. In appointing these

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directors, consideration shall be given to representation on the board of directors of the fields of arts, education, government, and community media; and of diverse representation including, without limitation, racial and ethnic minorities, non-English speaking people, gender, and low-income people. In addition, the Commission shall appoint one non-voting ex-officio director of the Portland Community Media board of directors.

3.115.060 Annexations.

- A.** In the event the City annexes territory for which another public body having jurisdiction to issue a franchise has issued a franchise to construct, operate and maintain a cable communications system, then franchisee's rights and obligations shall continue after annexation as they existed before annexation until expiration of that franchise, except that:
 - 1.** After annexation the City shall have all rights under the franchise of the issuing public body, including without limitation all rights to regulate, to collect and use franchise fees, regulation of system construction and operation within the annexed area, and rights to insurance, indemnification and other protections; and
 - 2.** After annexation the franchisee's obligations under the franchise regarding system construction and operation and other franchise requirements within the annexed area shall be to the City rather than to the issuing public body.
- B.** Nothing in this Section shall be deemed to modify the rights or obligations of the City or grantees under other franchises.

3.115.070 Cable Television Consumer Protection.

On behalf of the City, the Commission shall enforce the cable television consumer protection standards set forth in Sections 3.115.080 through 3.115.140.

3.115.080 Definitions.

Unless the context indicates otherwise, words used in Sections 3.115.080 through 3.115.140 have the following meanings:

- A. "Normal Business Hours"** means those hours during which most similar businesses in the City are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week and some weekend hours.
- B. "Normal Operating Conditions"** means those service conditions which are within grantee's control. Conditions which are not within grantee's include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the grantee's control include, but are not limited to, special promotions, pay-

per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system. Grantees must adjust staffing and operations to maintain compliance with the service standards in anticipation of events and conditions within grantee's control.

- C. **"Service Interruption"** means the loss of picture or sound on one or more cable channels.

3.115.090 Local Office and Office Hours.

Grantees shall have customer service center and bill payment locations open at least during Normal Business Hours. Grantees shall locate customer service center and bill payment offices at locations that are convenient to subscribers and the public. Grantee customer service centers must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours on weekends excluding legal holidays. As used herein, "adequately staffed" means customer service representatives are available to respond to customers who come to the service center in at least the following ways:

- A. To accept payments;
- B. To exchange or accept returned converters or other company equipment;
- C. To respond to inquiries; and
- D. To schedule and conduct service or repair calls.

3.115.100 Telephone Answering Standard.

- A. Cable system office hours and telephone availability. Grantees shall maintain a local, toll-free or collect call telephone access line which shall be available to its subscribers 24 hours a day, seven days a week. Grantees shall provide, in at least one prominent location, an easily identifiable telephone number for local customer service on all bills, account statements or statements of service to grantee subscribers. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays. Grantee must have trained representatives available to respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received by grantee after Normal Business Hours must be responded to by a trained representative on the next business day.
- B. Telephone Answering Time. Under Normal Operating Conditions, telephone answer time by grantee's customer representatives including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be

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transferred, transfer time shall not exceed thirty (30) seconds. Grantees shall meet these standards no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a calendar quarterly basis.

- C.** Busy Phones. Under Normal Operating Conditions, the customer shall receive a busy signal less than three (3) percent of the time.

3.115.110 Installations, Disconnections, Outages And Service Calls.

Under Normal Operating Conditions, grantees shall meet each of the following standards shall be met no less than ninety five (95) percent of the time measured on a quarterly basis:

- A.** Standard installations shall be performed within seven (7) business days after an order has been placed.
- B.** Under Normal Operating Conditions, grantee shall begin work on Service Interruptions promptly and no later than 24 hours after the interruption becomes known. Grantee must begin working on other service problems the next business day after notification of the service problem. Working on Service Interruptions must be more than merely acknowledging that a service interruption has occurred.
- C.** The appointment alternatives for installations, service calls and other installation activities shall be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.
- D.** Grantee shall be deemed to have honored a scheduled appointment under the provisions of this section when a technician arrives within the agreed upon time and, if the subscriber is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the grantee.
- E.** Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. Rescheduling an appointment is an independent obligation and does not necessarily excuse the missed appointment.
- F.** If grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the customer.

3.115.120 Notice Requirements.

(Amended by Ordinance No. 184882, effective September 21, 2011.)

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- A.** Notifications to subscribers. Grantee shall provide written information on each of the following areas at the time of service installation, at least annually to all subscribers, and at any time upon request:
- 1.** Products and services offered;
 - 2.** Prices and options for programming services and conditions of subscription to programming and other services;
 - 3.** Installation and service maintenance policies;
 - 4.** Instructions on how to use the cable service;
 - 5.** Channel positions programming carried on the system; and,
 - 6.** Billing and complaint procedures, including the address and telephone number of the City's Office for Community Technology.
- B.** Grantee shall notify customers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the grantee. In addition, grantee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this Section. Grantees are not required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

3.115.130 Billing.

- A.** Bill Statements. Grantee bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, grantee must respond to a written complaint from a subscriber within seven (7) calendar days.
- B.** Refunds. Grantee shall issue refund checks promptly to customers, but no later than either the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier. Grantee may withhold a refund pending the customer returning the equipment supplied by grantee if service is terminated.
- C.** Credits. Grantee shall issue credits for service no later than the customer's next billing cycle following the determination that a credit is warranted.

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3.115.140 Reporting.

Grantees shall file reports to the Commission on a quarterly basis showing the performance of grantee customer service standard obligations under Sections 3.115.080 through 3.115.140. The quarterly reports shall cover the periods January 1 through March 31; April 1 through June 31; July 1 through September 31; and October 1 through December 31. The reports shall be due no later than 30 days following the end of a quarter. The reports shall include, at a minimum, figures and narrative indicating performance of the following standards for:

Local office hours

Telephone call center hours

Telephone answering

Busy signal statistics

Standard installations

Service interruptions

Appointment windows: made, cancelled, and rescheduled

Notice requirements

Billing (refunds and credits)

**CHAPTER 3.116 - WATERWAYS ADVISORY
COMMITTEE**

(Chapter added by Ordinance No. 150413, effective
September 17, 1980.)

Sections:

- 3.116.010 Created - Organization.
- 3.116.020 Procedures and Rules.
- 3.116.030 Duties.

3.116.010 Created - Organization.

(Amended by Ordinance Nos. 182671 and 184046, effective September 10, 2010.) There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Planning and Sustainability to be known as the Waterways Advisory Committee, consisting of not less than 7 nor more than 11 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members of the Committee, the members to serve for a term of 2 years at the pleasure of the Commissioner In Charge. The president of the Planning and Sustainability Commission or his or her representative shall be a member of the Committee.

3.116.020 Procedures and Rules.

The Waterways Advisory Committee shall establish its own rules, bylaws, and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold meetings at such time as is set by the body at any other time at the call of the Chairman.

3.116.030 Duties.

(Amended by Ordinance No. 184046, effective September 10, 2010.) Members of the Waterways Advisory Committee shall:

- A.** Review any zoning Code amendment relating to waterways before it is presented to the Planning and Sustainability Commission, make its finds available to the Planning Commission and City Council;
- B.** Review and comment to the Planning and Sustainability Commission and City Council on public or private riverfront development proposals that are potentially in conflict with the City's Greenway Plan.
- C.** Identify opportunities for City encouragement of commercial, residential, recreational, transportation and educational development that fulfills public goals.
- D.** Review the status of plans for publicly constructed segments of the Greenway path and suggest priorities for those segments.

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- E.** Make recommendations to the Planning and Sustainability Commission and City Council for the development of City procedure to facilitate applicants' needs for a speedy and certain regulatory process and City policies consistent with such a goal.
- F.** Make recommendations to the Planning and Sustainability Commission and City Council on City policies governing use and development of the City's waterways.

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CHAPTER 3.120 - METROPOLITAN ARTS
COMMISSION

(Chapter added by Ordinance No. 157240; repealed
by Ordinance No. 168592, effective March 8,
1995.)

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CHAPTER 3.122 - ECONOMIC IMPROVEMENT DISTRICTS

(Chapter replaced by Ordinance No. 164665,
effective September 18, 1991.)

Sections:

- 3.122.010 Purpose.
- 3.122.020 Definitions.
- 3.122.030 Council Control.
- 3.122.040 Statutory Provisions Applicable.
- 3.122.050 Preliminary Institution of Economic Improvement District
- 3.122.060 Final Plan and Ordinance Preparation.
- 3.122.070 Consideration of Final Plan and Ordinance.
- 3.122.080 Notice to Owners.
- 3.122.090 Exemption Process.
- 3.122.100 Hearing and Resolution Establishing District.
- 3.122.110 Preparation and Notice of Assessments.
- 3.122.120 Hearing on Assessments.
- 3.122.130 Amendments to Ordinance.
- 3.122.140 Limitation on Assessments.
- 3.122.150 Limitation on Boundaries.
- 3.122.160 Continuation of Assessments.
- 3.122.170 Expenditure of Moneys.
- 3.122.180 Cost of Administration.
- 3.122.190 Limitation on Expenditures.
- 3.122.200 Administration
- 3.122.210 Early Termination.
- 3.122.220 Surplus.
- 3.122.230 Entry and Collection of Assessments.

3.122.010 Purpose.

The purpose of this Chapter is to establish procedures for the creation of two types of Economic Improvement Districts, one in which the assessment is mandatory and applied to all properties except Exempt Properties, the second type in which the property owner can decide whether to be assessed, a voluntary assessment, as authorized by state law. The City will be ultimately responsible for administering and operating any Economic Improvement District, although the administration and operation may be carried out by others under contract with the City. All costs of administering and operating any Economic Improvement District will be paid entirely from assessments and fees actually received from the District; the City will not pledge its credit on behalf of the District; and the City will not loan funds to the District.

3.122.020 Definitions.

The following words and phrases when used in this Chapter shall have the following meanings, except where the context requires a different meaning:

- A. “Advisory Committee”** means a committee of persons representative of the owners and tenants of property within an Economic Improvement District and may consist of an existing association of property owners or tenants or both.
- B. “Commissioner In Charge”** means the commissioner in charge of the lead bureau.
- C. “Economic Improvement”** means:
 - 1. The planning or management of development or improvement activities.
 - 2. Landscaping, maintenance and provision of security for public areas.
 - 3. The promotion of commercial activity or public events.
 - 4. The conduct of activities in support of business recruitment and development.
 - 5. The provision of improvements in parking systems or parking enforcement.
 - 6. Any other economic improvement activity that specially benefits property. “Economic improvement” does not include any services to be provided on private property.
- D. “Preliminary Economic Improvement Plan”** means a plan prepared by the property owners or tenants within the proposed District or their designees setting out:
 - 1. A description of economic improvements proposed to be carried out;
 - 2. The number of years, to a maximum of three, in which assessments are proposed to be levied;
 - 3. A preliminary estimate of annual cost of the proposed economic improvements;
 - 4. The proposed boundaries designated by map or perimeter description of an Economic Improvement District within which subject properties would be assessed to finance the cost of the economic improvements;
 - 5. The proposed formula for assessing the cost of the economic improvements against subject properties;

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6. A preliminary estimate of the cost of City administration of the proposed Economic Improvement District;
7. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
 - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
8. A statement of why the proposed economic improvements are not likely to be satisfactorily and equitably accomplished except through establishment of an Economic Improvement District.

E. “Final Economic Improvement Plan” means a plan setting out:

1. A description of economic improvements to be carried out;
2. The number of years, to a maximum of three, in which assessments will be levied;
3. The annual cost of the proposed economic improvements;
4. The boundaries designated by map or perimeter description of the Economic Improvement District within which subject properties will be assessed to finance the costs of the Economic Improvement District;
5. The formula for assessing the cost of the economic improvements against subject properties;
6. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
 - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
7. The cost of City administration of the Economic Improvement District.

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- F.** “**Lead bureau**” means the City office, bureau or commission determined by the Mayor to have the principal interest in a proposed Economic Improvement District.
- G.** “**Lot**” means a lot, block, or parcel or land.
- H.** “**Owner**” means the owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment roll in the Office of the County Assessor.
- I.** “**Subject Properties**” means the real property within an Economic Improvement District except for Exempt Property.
- J.** “**Exempt Property**” means:
- 1.** Residential real property and any portion of a structure used for residential purposes. In the event a structure is used for both residential and non-residential purposes, the land on which the structure is located shall not be Exempt Property. For purposes of this subsection, “residential real property” and “residential purposes” shall not include hotels and hotel uses, as defined in Section 33.12.420 of this Code, and motels and motel uses, as defined in Section 33.12.560 of this Code, but shall include hotel and hotel uses if, for the entire hotel or entire hotel use:
 - a.** The average rent per unit is less than \$2 per day, or
 - b.** A majority of the units regularly are occupied by the same tenants for more than 30 consecutive days, or
 - c.** A majority of the units regularly are occupied by occupants who pay for lodging on a monthly basis.
 - 2.** Property owned or being purchased by religious organizations including:
 - a.** All 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, 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 Section shall not be exempt property.
 - b.** Parking lots used for parking or any other use as long as that parking or other use is permitted without charge.

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- c.** Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

K. “**Task Force**” means a committee whose membership consists of representatives of those City offices, bureaus, and commissions that have a significant interest in a proposed Economic Improvement District and a representative appointed by the Advisory Committee. The City Auditor or a representative designated by the City Auditor shall be a member of each Task Force.

3.122.030 Council Control.

Whenever the Council determines that economic improvements would be appropriate and would afford a special benefit to subject properties within a particular District, the Council, subject to the provisions of this Chapter, may establish an Economic Improvement District and provide for payment of all or a portion of the cost by collection of assessments on either a mandatory or voluntary basis. The Council may decline for any reason within its sole discretion to establish a proposed Economic Improvement District. This Chapter shall not give to any person the right to have an Economic Improvement District established.

3.122.040 Statutory Provisions Applicable.

Statutory provisions applicable to Economic Improvement Districts shall be followed by the City and by owners in all cases. The provisions of this Chapter are intended to supplement and to implement the statutory provisions.

3.122.050 Preliminary Institution of Economic Improvement District.

- A.** The Council shall consider creation of an Economic Improvement District whenever owners of Subject Properties file with the Auditor a petition for the establishment of a District containing the signatures of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed District or whenever a City Commissioner or the Mayor files a report recommending the establishment of a District. A petition or report shall contain a Preliminary Economic Improvement Plan.
- B.** The Council may adopt a resolution directing the lead bureau to begin the Economic Improvement District formation process if the Council finds that:
 - 1.** The costs of administering the proposed Economic Improvement District would not be substantial in relationship to the cost of the economic improvements;
 - 2.** It is not likely that the economic improvements would be satisfactorily and equitably accomplished except through establishment of the Economic Improvement District;

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3. Establishment of the Economic Improvement District would be in the public interest;
 4. In the case of a District intended to impose a mandatory assessment, that the assessment can be accommodated within the property tax limitation and City budget; and
 5. The economic improvements would afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public.
- C. The resolution may contain such revisions to the preliminary economic improvement plan as the Council deems appropriate based on the criteria set out in Paragraphs 1 through 5 of this Subsection and shall designate those City offices, bureaus, and commissions to be represented on the task force for the proposed District.
- D. Upon adoption by the Council of a resolution under Subsection B of this Section, the Mayor shall designate a lead bureau for the proposed Economic Improvement District from among those designated to be represented on the task force and shall refer the matter to the Commissioner In Charge.
- E. Immediately following the referral under Subsection D of this Section, the Commissioner In Charge shall appoint an advisory committee to assist the task force in development of the final economic improvement plan. The Commissioner shall strongly consider appointment of owners of property within the Economic Improvement District to the advisory committee. The Commissioner may appoint as the advisory committee an existing association of property owners or tenants or both. The task force shall encourage participation of the advisory committee in the plan development and administration process. The advisory committee shall appoint a representative to the task force.

3.122.060 Final Plan and Ordinance Preparation.

- A. Immediately following Council adoption of a resolution under Section 3.122.050 B, the head of each office, bureau and commission to be represented on the task force shall appoint its representative and the City Auditor shall appoint the city Auditor's representative, by notification to the head of the lead bureau.
- B. The City Auditor's representative shall provide to the task force a report setting out:
1. Whether the petitioners under Section 3.122.050 A are owners of subject property in the proposed District;

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2. Delinquencies in taxes or City liens on subject properties in the proposed District;
 3. The true cash value of all real property located within the proposed District; and
 4. The zoning of land within the District, including verification that only land zoned for commercial or industrial use is included within the District.
- C. The lead bureau shall be responsible for preparing the documents referred to in Subsection D.
- D. The task force shall prepare for the Commissioner In Charge a report recommending whether the owners of property within the proposed Economic Improvement District shall be formally notified of the proposal to establish the District, taking into consideration the criteria set out in Section 3.122.050 B. If the report recommends formal notification, the report shall include a proposed Final Economic Improvement Plan and the report of the City Auditor's representative provided under Subsection B. The report also shall include a proposed ordinance that:
1. States the Council's intention to proceed with formal notification regarding the proposed Economic Improvement District;
 2. States whether the assessments will be mandatory or voluntary;
 3. Contains the information in the Final Economic Improvement Plan, which may be included by attachment of the Plan as an exhibit; and
 4. Directs notice to be given in the manner provided by PCC 3.122.080.

3.122.070 Consideration of Final Plan and Ordinance.

- A. If the Commissioner in Charge deems it appropriate, the Commissioner shall file for Council consideration the report and ordinance prepared under Section 3.122.060 D.
- B. On consideration of the report and ordinance, the Council may approve, modify, or reject the report including any aspect of the Final Economic Improvement Plan, and the ordinance. If the Council determines that the proceedings for the proposed Economic Improvement District should go forward, the Council shall adopt the ordinance including any modifications.

3.122.080 Notice to Owners.

- A.** Following adoption of the ordinance under Section 3.122.070 B, the Auditor shall mail notice to the property owners within the proposed Economic Improvement District which contains the following information:
- 1.** The Council's intent to form an Economic Improvement District.
 - 2.** Benefitted properties will be assessed unless it is a voluntary assessment in which case only property owners who specifically request to be assessed will be assessed. An owner who fails to submit a written objection before or at the public hearing on assessment shall be deemed to have made a specific request to be assessed.
 - 3.** The formula for determining the amount of the assessment.
 - 4.** The scope of the improvements and that the description of the boundaries of the proposed District and the full scope of the project are on file with the Auditor and where the file can be viewed. It should state that:
 - a.** In the case of a voluntary assessment the scope and level of the improvements may be reduced depending on the amount of money collected; or
 - b.** In the case of a mandatory assessment the scope and level of the improvements may be reduced if the amount of the assessment is compressed to fit within the property tax limitation imposed by the Oregon Constitution, Art. XI § 11b.
 - 5.** The estimated cost of the proposal, and that it may be reduced to the amount of money actually received.
 - 6.** The date, time and place of the hearing and that the proposal could be modified as a result of public testimony.
 - 7.** The classification or types of properties which are exempt and that a request for an exemption on an enclosed form must be filed not later than 21 days after the notice is mailed.
 - 8.** In the case of a voluntary assessment that it is an incurred charge and is not a tax and is a charge outside the property tax limitations in the Oregon Constitution, Art. XI, § 11b.

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3.122.090 Exemption Process.

- A.** Property within the proposed District is conclusively presumed subject to assessment unless the owner files with the Auditor a claim for exemption not later than 21 days after the date of mailing or personal delivery of the notice.
- B.** The Auditor, in his or her discretion, may audit a claim or claims for exemption to determine whether property claimed to be exempt from assessment is exempt property. The audit may include review of such evidence as the Auditor deems appropriate and may include a viewing of the property. In the event the Auditor determines that the property for which an exemption is claimed is not exempt, the Auditor shall give the owner written notice of the determination and the reasons , by mail or personal delivery. The notice shall give the owner 10 days time within which to provide written evidence as to why the property is exempt. In the event the owner provides no written evidence within the time allowed, the property conclusively shall be presumed not to be exempt property. In the event the owner submits written evidence, the Auditor shall review the evidence and either approve or disapprove the claim for exemption and provide written notice to the owner, including a statement of the reasons for the Auditor's decision. The Auditor's approval or disapproval following review of the evidence shall be final.

3.122.100 Hearing and Resolution Establishing District.

- A.** The Council shall hold a public hearing on the proposed Economic Improvement District at the time and place stated in the notice to owners of properties. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to such other time and place as it may deem appropriate. At the hearing, persons supporting or objecting to the proposed improvement and assessment shall be entitled to be heard.
- B.** If the Council, at the conclusion of the hearing, finds that the economic improvements will afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public and that the Economic Improvement District should be established, then the Council may adopt a resolution stating those findings and establishing the District.

3.122.110 Preparation and Notice of Assessments.

- A.** Following Council adoption of a resolution establishing an Economic Improvement District based on the final Economic Improvement Plan, the Auditor shall prepare the proposed assessment for each lot in the District that is a subject property and shall file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment shall be based on the

cost of the economic improvements and the cost of City administration of the Economic Improvement District.

- B.** Following preparation of the proposed assessments, the Auditor shall mail to the owner of each lot to be assessed a notice containing the following information:
- 1.** The description of the property being assessed.
 - 2.** The name of the District and whether it is a voluntary or mandatory assessment. In the case of a voluntary assessment a statement that the property will be assessed unless the property owner specifically requests in writing not to be assessed.
 - 3.** The length of the District and the total cost of the project, the assessment formula, and the amount of the assessment on the property.
 - 4.** The assessment will not change unless the Council finds it exceeds the benefit of the improvements, but the total amount and scope of the improvements and level of services could change to correspond to the amount of money collected. Further, the scope of the improvements and level of services could change as a result of the testimony.
 - 5.** The time, date and place of the hearing and that the following forms of objection may be filed:
 - a.** A written objection to being assessed in which case no assessment will be placed on the property if it is a voluntary assessment. An owner who fails to submit a written objection before or at the public hearing shall be deemed to have made a specific request for the economic improvement service to be provided during the time specified in the assessment ordinance;
 - b.** An objection to the amount of the assessment on the grounds it is incorrect or exceeds the amount of benefit; and
 - c.** An objection to the formation of the District.
 - 6.** A written objection may be filed with the Auditor prior to the hearing or made orally at the hearing. An objection to the assessment must explain the reasons the assessment is incorrect or exceeds the amount of benefit.
 - 7.** The assessment is due and payable immediately, and whether it may be paid in installments. The amount of interest if any and the fact there will be billing charges. The unpaid balance will become a lien on the property and failure to pay could result in foreclosure.

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8. A voluntary assessment is an incurred charge and is a charge outside the property tax limitation imposed by the Oregon Constitution, Art. XI, §11b.
9. Property included in the District and assessed cannot be withdrawn from the District and the assessment will continue through the life of the District.
10. The name and phone number of a City staff person who can answer questions.

3.122.120 Hearing on Assessments.

- A. The Council shall hold a public hearing on the proposed assessment ordinance. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to a date and time certain. At the hearing, property owners supporting or objecting to being assessed, to the amount of the assessment or to the formation of the District, shall be entitled to be heard.
- B. Written objections shall be considered to have been received by the Council at the hearing if actually received at the hearing or if received by the Auditor prior to commencement of the hearing. A written objection signed by a person purporting to have authority as agent or attorney to sign an objection on behalf of an owner shall be considered received from the owner only if there is included with the objection a copy in writing of the authority to act on behalf of the owner.
- C. If the Council at the hearing receives written objections to the formation of the District from owners of property upon which more than 33 percent of the total value of assessments are levied, then the Economic Improvement District shall not be established and assessments shall not be made.
- D. At the hearing, the Council shall consider any objections and may adopt, correct, modify, revise the proposed assessment ordinance. In the case of a voluntary assessment, the Council shall exclude from assessment property which the owner has requested be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

3.122.130 Amendments to Ordinance.

- A. At the hearing under Section 3.122.100, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070. The procedures required by Sections 3.122.080 and 3.122.100 shall be repeated if the amendment:
 1. Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment;
 2. Increases the likely assessment upon one or more properties; or

3. Enlarges the Economic Improvement District;

B. At the hearing under Section 3.122.120, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070 as subsequently amended. If the amendment increases the likely assessment upon one or more properties, then the procedures required by Sections 3.122.110 and 3.122.120 shall be repeated. The procedures required by Section 3.122.080 through 3.122.120 shall be repeated if the amendment:

1. Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment; or

2. Enlarges the Economic Improvement District.

3.122.140 Assessments.

A. The Council shall not levy assessments in an Economic Improvement District in any year that exceed one percent of the true cash value of all the real property located within the District.

B. Any new owner of benefitted property or any owner of benefitted property who excluded the property from assessment by submitting written objections may subsequently agree to the assessment of the property. The Council shall apply the assessment formula to the property and apportion the costs to the property for the remaining time in which the assessment is levied.

C. The assessed property may not be relieved from liability for that assessment for any reason including change of ownership.

3.122.150 Limitation on Boundaries.

The Council shall not include within an Economic Improvement District any area of the City that is not zoned for commercial or industrial use.

3.122.160 Continuation of Assessments.

If the Council has established an Economic Improvement District and thereafter determines that it is necessary to levy assessments upon subject property in the District for longer than the period of time specified in the assessment ordinance that created the District, the Council shall enact an ordinance that provides for continued assessments for a specified number of years, to a maximum of three. The assessment of lots under such an ordinance shall be subject to the procedures required by Sections 3.122.110 and 3.122.120.

3.122.170 Expenditure of Moneys.

Money derived from assessments levied under this Chapter and from interest earned on that money shall be spent only for the economic improvements and for the cost of City administration of the Economic Improvement District described in the final Economic

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Improvement Plan. Subject to the requirements of any labor agreements to which the City is a party and to any applicable requirements of state law, the Council in its discretion may authorize an agreement or agreements with the advisory committee appointed under Section 3.122.050 D for the committee to provide all or part of the economic improvements described in the final economic improvement plan.

3.122.180 Cost of Administration.

The cost of City administration of an Economic Improvement District shall include the actual cost of administrative services provided by the City related to the District.

3.122.190 Limitation on Expenditures.

Money spent for carrying out a final Economic Improvement Plan shall be limited to money actually received from assessments or from other public or private contributions to assist in carrying out the Plan.

3.122.200 Administration.

The task force for an Economic Improvement District shall be responsible for administration of the economic improvements to be carried out. With the concurrence of the head of the lead bureau, the task force may designate an employee of the lead bureau as the person responsible for day to day administration of the economic improvements. In the event the task force determines that the economic improvements should be performed by a contractor or contractors, the task force shall prepare for Council consideration contracts for the work. In each case, the contract for work shall include not less than the following:

- A.** A description of the work to be done;
- B.** A description of the method of compensation for the work;
- C.** A description of records to be kept by the contractor to evidence performance of the work and of the documentation to be provided to the City to justify payment for work;
- D.** A description of any liability to be born and insurance to be provided by the contractor; and
- E.** A description of the rights of the City to terminate the contract prior to its completion.

3.122.210 Early Termination.

The City Council may terminate the activities of an Economic Improvement District in whole or in part prior to the normally scheduled termination date for the District by an ordinance. However, all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments for the District, following payment of all obligations and costs of administration incurred on

behalf of the District, shall be returned to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District. In the event of early termination of only a part of the activities of an Economic Improvement District, the City Council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future District assessments against subject properties, with any funds remaining being returned to the owners as otherwise provided herein.

3.122.220 Surplus.

In the event, following the normally scheduled termination of an Economic Improvement District, including the payment of all obligations and costs of administration incurred on behalf of the District, there remain excess funds from assessments paid by owners of subject properties, then the City Council, by ordinance, shall provide for either:

- A. The return of the excess funds to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District;
- B. Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
- C. Use of part of the excess funds as provided in B and return of the balance of the excess funds as provided in A.

3.122.230 Entry and Collection of Assessments.

- A. On adoption of an assessment ordinance under Section 3.122.120 D, the City Auditor shall enter each assessment in the docket of City liens. All such assessments shall be collected in the same manner as local improvement assessments and failure to pay may result in foreclosure in the same manner as provided for other assessments.
- B. The assessments may be paid in semi-annual payments, however the City may charge a billing fee.

3.122.240 Economic Improvement Fund.

(Repealed by Ordinance No. 170223, effective July 1, 1996.)

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CHAPTER 3.123 - PORTLAND UTILITY BOARD

(Chapter replaced by Ordinance No. 187174,
effective July 31, 2015.)

Sections:

- 3.123.010 Created - Purpose.
- 3.123.020 Scope.
- 3.123.030 Membership.
- 3.123.040 Appointments - Composition.
- 3.123.050 Terms.
- 3.123.060 Standing Committees.
- 3.123.070 Staffing.
- 3.123.080 Meeting Schedule.
- 3.123.090 By-Laws.
- 3.123.100 Annual Report and Work Session.

3.123.010 Created - Purpose.

A Portland Utility Board is hereby created. The Board's purpose is to advise the City Council, on behalf of and for the benefit of the citizens of Portland, on the financial plans, capital improvements, annual budget development and rate setting for the City's water, sewer, stormwater, and watershed services. The Board will advise Council on the establishment of fair and equitable rates, consistent with balancing the goals of customer needs, legal mandates, existing public policies, such as protecting water quality and improving watershed health, operational requirements, and the long-term financial stability and viability of the utilities.

3.123.020 Scope.

- A. The Portland Water Bureau and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The Board will fully participate in the bureaus' financial planning and budgeting processes. The Board will work with the bureaus to develop long-term, 20-year mission plans. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and revise the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process. The Board will actively monitor bureau spending through the fiscal year and be briefed on final fiscal year accounting including status of debt load and rate stabilization funds. The Board will monitor bureau and City Council responses to and implementation of audits, in consultation with the Commissioner(s)-in-Charge. The Board will monitor City Council budget amendments, capital improvement plans (CIP) and implementing actions

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throughout the fiscal year. The Board will participate in evaluating the performance of the bureaus. The bureaus will engage with the Board throughout the fiscal year when developing budgets. The Board may serve, at the Mayor's pleasure, as an advisor in the development of Mayor's budgets for the Portland Water Bureau and the Bureau of Environmental Services.

- B.** The Board will periodically consult the bureaus and the Commissioner(s)in-Charge on strategic communications, public education and involvement, as well as review audits and other reports. The Board will identify and report to the Commissioner(s)-in-Charge, the Mayor or the Council on important issues and challenges for the Portland Water Bureau and the Bureau of Environmental Services. The Board will monitor the bureaus' efforts to achieve equity in the provision of services throughout the City.
- C.** Participate in the rate design process: The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, watershed health, and stormwater. The Board shall report on other city activities or proposed policies with significant impacts to water, sanitary sewer, and stormwater rates.
- D.** When the bureaus form other advisory groups on utility matters such as facility or project specific concerns, the Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.
- E.** Relationship to other interested parties: The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations shall be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

3.123.030 Membership.

(Amended by Ordinance No. 188015, effective September 29, 2016.) The Board shall have 11 permanent members. Board members shall be appointed by the Mayor in consultation with the Commissioner(s)-in-Charge of the bureaus, and confirmed by the Council. Any Council member may submit nominations to the Commissioner(s)-in-Charge. In consultation with the Commissioner(s)-in-Charge, the Mayor shall appoint the Chair of the Board. Six members shall constitute a quorum of the Board. Board members serve without compensation, except they may receive from their employer their regular salary during time spent on Board matters.

3.123.040 Appointments - Composition.

(Amended by Ordinance No. 188015, effective September 29, 2016.)

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- A.** General Criteria. All members must reside in or work predominantly in the city of Portland and have an interest in water, sewer, stormwater, and watershed health issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, public health, conservation, green infrastructure or the environment. In making Board appointments, the Mayor and Council shall strive to have a Board which reflects the diversity of the Portland community, including, but not limited to, the following factors: areas of expertise, advocacy, experience, community involvement, profession, education and/or, economic status. Preferred appointees should have a range of qualified professional and academic expertise, and community volunteer experience. Appointees will include a current employee in a represented bargaining unit with the Portland Water Bureau or the Bureau of Environmental Services. Skills that will serve the Board well include: technical knowledge of water, stormwater, and sewer utility operation and issues, accounting, civil engineering, conservation, environmental sciences, equity, health sciences, public administration, urban planning, or utility economics, financial and capital improvement analysis, ecosystem science, environmental protection, political process, group process, and communications.
- B.** Restrictions. No individual with any direct financial interest in either city utility other than as a rate-paying customer or as an employee of the utility bureaus.
- C.** The Mayor shall, in consultation with the Commissioner(s)-in-Charge, appoint three non-voting, ex officio members annually, to engage utility bureau employees in the budget process. The ex officio members shall be one represented and two non-represented utility bureau employees, appointed to participate in the process of developing recommendations on the bureaus' annual budgets. The voting and ex officio members shall be evenly distributed between the utility bureaus. The term of ex officio members shall be for 1 year. Ex officio members may be re-appointed up to three times.

3.123.050 Terms.

- A.** Board members will be appointed to serve for a term of 3 years. The terms of each member shall run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.
- B.** The Board may make recommendations to the Mayor regarding the reappointment of existing members. Notwithstanding the limitations of this Section, a Board member may continue to serve until his or her replacement is appointed.
- C.** If any member of the Board is absent more than three regularly scheduled meetings of the Board during any 12 month period, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned from the

Board. The member's position shall thereafter be vacant and subject to appointment by the Mayor.

- D.** The Mayor may remove any member of the Board at his or her discretion for due cause, including but not limited to malfeasance or neglect of duties.

3.123.060 Standing Committees.

- A.** The Board may at any time establish standing committees of at least three individuals to address specific issues related to the Board's purpose.
- B.** The Board may designate more specific roles and responsibilities for any standing committee in the Board by-laws.

3.123.070 Staffing.

- A.** The City Budget Office will provide staffing for the Board, with logistical and topic-related support from the Portland Water Bureau, the Bureau of Environmental Services, and other bureaus or agencies as may be needed. Staffing should be experienced and skilled in financial analysis, utilities, and government operations within the context of environmental stewardship.
- B.** Commissioner(s)-in-Charge liaisons to the two utility bureaus shall serve as a resource to the Board and attend its meetings.

3.123.080 Meeting Schedule.

The Board shall meet at least once monthly on a regular date established by the Board. Additional meetings may also be scheduled during annual budget and rate review periods as determined by the Board Chair. The Board Chair, with assistance from the Board's staff, will develop meeting agendas in consultation with others including Board members, the utility bureaus, and the Commissioner(s)-in-Charge.

3.123.090 By-Laws.

- A.** The Board shall adopt by-laws to govern its procedures within the purposes of this Chapter that shall not conflict with any portion of this Chapter and which are subject to the prior review and approval of the Mayor, with approval as to legal sufficiency by the City Attorney. These by-laws shall include specifications concerning selection and tenure of standing committee chairs, division of responsibilities, attendance policies, meeting schedules, as well as communications between the Board and City agencies, the media and the general public, and any other appropriate matters. As an initial action, the PUB will establish operating procedures that define expectations for member participation and roles and address transparency in its deliberations, public information and participation, and equity.

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- B.** The by-laws shall specify procedures for public testimony, including opportunities for public comments at each Board meeting.

3.123.100 Annual Report and Work Session.

- A.** Annually, the Board shall prepare and submit to the Council a report summarizing the work performed by the Board during the previous year. The Board shall submit the annual report within the first 3 months following the beginning of each fiscal year for the utility bureaus. The annual report shall include, but need not be limited to, a summary of issues reviewed and analyzed; a list of briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.
- B.** The Board's report will be presented to the Council in a work session. In addition, the Board will present a work plan outline for the next year and seek input from the Council on potential next steps.

**CHAPTER 3.124 - PORTLAND BUREAU OF
EMERGENCY MANAGEMENT**

(Chapter replaced by Ordinance No. 184740;
Amended by Ordinance No. 185304, effective June
1, 2012.)

Sections:

- 3.124.010 Definitions.
- 3.124.020 Portland Bureau of Emergency Management.
- 3.124.030 Purpose.
- 3.124.040 Organization.
- 3.124.050 Director's Powers and Duties.
- 3.124.060 Staff and Delegation.
- 3.124.070 Neighborhood Emergency Team Program.
- 3.124.080 Neighborhood Emergency Teams.
- 3.124.090 Neighborhood Emergency Team Leaders.

3.124.010 Definitions.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The following definitions apply to Chapters 3.124 through 3.126:

- A.** “Comprehensive Emergency Management Plan (CEMP)” means a written document that describes the City’s overall emergency management plan. A CEMP specifies the purpose, organization, responsibilities and facilities of the agencies and officials of the City in the mitigation of, preparation for, response to, and recovery from emergencies and disasters.
- B.** “Director” means the director of the Portland Bureau of Emergency Management.
- C.** “Emergency” means any natural, technological or human-made, event or circumstance causing or threatening: widespread loss of life, injury to persons or property, human suffering or financial loss, including but not limited to fire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war.
- D.** “Emergency Coordination Center (ECC)” means the centralized location where local officials gather during an emergency to coordinate emergency response activities and implement direction from the Mayor.
- E.** “Emergency Management” means an approach to prevent, protect against, respond to, recover from, and mitigate the effects of incidents.

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- F.** “Emergency Notices” means information that is disseminated primarily in anticipation of or during an emergency. In addition to providing situational information to the public, it frequently provides directive actions required to be taken by the general public.
- G.** “Emergency Plan” means an ongoing plan for responding to a wide variety of potential hazards.
- H.** “Incident” means an occurrence, natural or human-made, that requires a response to protect life or property in an emergency.
- I.** “National Incident Management System” (NIMS) means the Federal Government’s standardized framework of doctrines, concepts, principles, terminology, and organizational processes for emergency management.

3.124.020 Portland Bureau of Emergency Management.

(Amended by Ordinance No. 185304, effective June 1, 2012.) There is established by the City Council the Portland Bureau of Emergency Management (PBEM) as a part of the Mayor’s portfolio.

3.124.030 Purpose.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The purpose of PBEM is to centralize leadership and coordination of emergency management.

3.124.040 Organization.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall consist of the Director and such other employees as the Council may provide. The Director shall be immediately responsible to the Mayor and, thereafter, to the City Council.

3.124.050 Director's Powers and Duties.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Director of the Portland Bureau of Emergency Management’s duties and powers include, but are not limited to the following:

- A.** Overall administrative authority for the Office;
- B.** Serve as principal strategic advisor to the Mayor concerning emergency management;
- C.** Implement policy directives of the City Council and the Disaster Policy Council and enforce the schedules and plans approved by them;
- D.** Manage the Emergency Coordination Center (ECC), establishing the overall structure, roles, responsibilities and direction for the operation of the ECC and

ensuring that the ECC is appropriately sited, staffed, equipped, and maintained. The Director may reassign employees to ECC duties as required;

- E.** Maintain written emergency plans, including all chapters, annexes and appendices of the Comprehensive Emergency Management Plan (CEMP) and annually submit a report with any recommendations for revisions;
- F.** Maintain records documenting compliance with requirements of federal and state emergency management programs, including NIMS. When a bureau other than PBEM possesses such records, the bureau shall immediately produce them upon the request of the Director;
- G.** Develop and implement training and exercise programs for responders that test the effectiveness of the CEMP and other emergency management plans;
- H.** Develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents;
- I.** Develop and implement programs to educate the public about emergency preparedness, including volunteer programs, and train citizens to assist in emergencies;
- J.** Evaluate the effectiveness of the City's response to an emergency event.

3.124.060 Staff and Delegation.

(Amended by Ordinance No. 185304, effective June 1, 2012.)

- A.** The Director may appoint an Operations Manager who is accountable to the Director and may appoint other personnel necessary to carry out the provisions of this Chapter, when in keeping with the adopted budget for PBEM or specially funded projects.
- B.** The Director may delegate to staff members any of the Director's duties.
- C.** In the event of an emergency, the line of succession for the PBEM is: Director, Operations Manager, Training and Exercise Manager, Planning Manager, and Planning Program Specialist.
- D.** When a succession occurs, all duties and responsibilities of the Director are transferred to the successor and any delegations remain in place unless withdrawn by the new Director.

3.124.070 Neighborhood Emergency Team Program.

The purpose of the Neighborhood Emergency Team Program is to prepare neighborhoods for self-sufficiency during an emergency by providing individuals with information, training, and exercises related to emergency preparedness and response.

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3.124.080 Neighborhood Emergency Teams.

- A.** As part of the Neighborhood Emergency Team Program, the Director is authorized to:
 - 1.** Create Neighborhood Emergency Teams (NET) and define the qualifications for membership therein;
 - 2.** Develop written processes and procedures governing the conduct of members;
 - 3.** Conduct or cause to be conducted such inquiries or investigations into the fitness of an individual to serve as a NET member that the Director believes are necessary and appropriate;
 - 4.** Conduct or approve of ongoing training for NET members;
 - 5.** Designate certain NET members as team leaders for the purpose of supervision;
 - 6.** Dismiss or remove NET members.
- B.** When acting as agents of the City, NET members are entitled to defense and indemnification pursuant to ORS 30.285.

3.124.090 Neighborhood Emergency Team Leaders.

- A.** All NET members shall be immediately responsible to a team leader and thereafter the Director. The Director may dismiss or remove a NET Leader.
- B.** NET leaders may designate one assistant for each five NET members or fraction thereof for purposes of maintaining adequate supervision of NET members during training or deployment.
- C.** NET leaders are responsible for the organization, ongoing training, communication with and operational safety of the NET members assigned to their teams.
- D.** NET leaders shall attend regularly scheduled meetings for the purposes of training and communicating with NET members.
- E.** NET leaders shall evaluate the performance of NET members and may recommend to the Director the dismissal or removal of NET members.

**CHAPTER 3.125 - DISASTER POLICY
COUNCIL**

(Chapter replaced by Ordinance No. 184740,
effective July 13, 2011.)

Sections:

- 3.125.010 Disaster Policy Council.
- 3.125.020 Duties.
- 3.125.030 Membership.
- 3.125.040 Procedures.
- 3.125.050 Staff Support to Disaster Policy Council.

3.125.010 Disaster Policy Council.

The Disaster Policy Council (DPC) is hereby created for the purpose of promoting interbureau cooperation in furtherance of the City's integrated emergency management goals.

3.125.020 Duties.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The DPC's duties include, but are not limited to, the following:

- A. During an emergency, advise the Mayor on policy matters pertaining to management of the emergency;
- B. Approve strategic, response and work plans developed by the Portland Bureau of Emergency Management and the Emergency Management Steering Committee defining the City's emergency management program goals and priorities;
- C. Monitor individual bureau progress on work plan tasks, strategic plan tasks, and response plan updates. The Mayor, in consultation with the DPC, may compel bureaus to create and complete plans and updates;
- D. Convene meetings no less than twice a year whenever:
 - 1. The President of the City Council changes, in which case the meeting shall be held within one month of the change;
 - 2. Requested by the Mayor.
- E. Keep records of meetings and decisions.

3.125.030 Membership.

(Amended by Ordinance Nos. 185304 and 186729, effective September 1, 2014.) The DPC shall consist of the following members:

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- A.** The Mayor, who shall be Chair;
- B.** Commissioner serving as President of the City Council, who shall be Vice Chair;
- C.** If the Mayor or the President of the Council is not the Commissioner-in-Charge of the Portland Bureau of Emergency Management, the Commissioner-in-Charge of the Portland Bureau of Emergency Management or his or her designee, unless it would create a quorum of the City Council;
- D.** Chief Administrative Officer;
- E.** City Attorney;
- F.** City Auditor;
- G.** Director, Portland Bureau of Emergency Management;
- H.** Chief of Portland Fire & Rescue;
- I.** Chief of Portland Police Bureau;
- J.** Director, Bureau of Emergency Communications;
- K.** Administrator, Portland Water Bureau;
- L.** Director, Bureau of Transportation;
- M.** Director, Human Resources;
- N.** Director, Bureau of Environmental Services;
- O.** Director, Portland Parks and Recreation;
- P.** Director, Bureau of Development Services;
- Q.** Director, Portland Housing Bureau.
- R.** If the Mayor is unavailable to Chair the DPC, the duties shall be performed and authority exercised by the first of the City officials in the order of membership listed in Subsections A.-Q. above who is able and available.

3.125.040 Procedures.

When the DPC is required to approve plans under subsection 3.125.020 C., the decision making process shall be by consensus. The consensus shall be determined by the Chair.

3.125.050 Staff Support to Disaster Policy Council.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall provide staff support to the DPC, including recording and communicating its decisions.

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CHAPTER 3.126 - EMERGENCY MANAGEMENT STEERING COMMITTEE

(Chapter replaced by Ordinance No. 184740,
effective July 13, 2011.)

Sections:

- 3.126.010 Emergency Management Steering Committee.
- 3.126.020 Duties.
- 3.126.030 Membership.
- 3.126.040 Staff Support to the Emergency Management Steering Committee.

3.126.010 Emergency Management Steering Committee.

The Emergency Management Steering Committee (EMSC) is hereby created for the purpose of assisting the Portland Office of Emergency Management in developing emergency management policies and procedures for incidents requiring significant interbureau coordination.

3.126.020 Duties.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The EMSC's duties include, but are not limited to, the following:

- A. Assign lead author responsibility to specific bureaus for the development of emergency plans, including annexes and appendices to the CEMP, and approve schedules for plan completion, plan exercise, review and revision;
- B. Develop strategic, response, and work plans in coordination with the Portland Bureau of Emergency Management defining the City's emergency program goals and priorities;
- C. Devise bureau-specific protocols for mobilizing resources to respond to emergencies;
- D. Assess individual Bureau compliance with emergency plans;
- E. Keep records of decisions;
- F. Convene meetings at least monthly and at other times as requested by the Director;
- G. Make periodic reports to the Disaster Policy Council so that the DPC can fulfill its duty under PCC 3.125.020.

3.126.030 Membership.

(Amended by Ordinance Nos. 185304 and 189078, effective July 18, 2018.) The EMSC shall consist of qualified staff from the following Bureaus:

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- A.** Water Bureau;
- B.** Portland Fire & Rescue;
- C.** Portland Police Bureau;
- D.** Bureau of Environmental Services;
- E.** Portland Parks & Recreation;
- F.** Bureau of Transportation;
- G.** Bureau of Emergency Communications;
- H.** Portland Bureau of Emergency Management;
- I.** Bureau of Development Services; and
- J.** Bureau of Technology Services.
- K.** Office of Community & Civic Life.

3.126.040 Staff Support to the Emergency Management Steering Committee.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall provide staff support to the EMSC.

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CHAPTER 3.127 - BUREAU OF PORTLAND FIRE AND POLICE DISABILITY AND RETIREMENT

(Chapter added by Ordinance No. 180690, effective
December 20, 2006.)

Sections:

- 3.127.010 Bureau of Portland Fire and Police Disability and Retirement.
- 3.127.020 Purpose.
- 3.127.030 Organization.
- 3.127.040 Director's Powers and Duties.
- 3.127.050 Staff and Delegation.

3.127.010 Bureau of Portland Fire and Police Disability and Retirement.

In conjunction with Chapter 5 of the Charter of the City of Portland, there is established by the City Council, the Bureau of Portland Fire and Police Disability and Retirement as a part of the Mayor's portfolio and charged with the implementation of Chapter 5 of the Charter.

3.127.020 Purpose.

The purpose of this office is to administer Chapter 5 of the Charter of the City of Portland. This purpose may be accomplished by direction from the Board of Trustees of the Fire and Police Disability and Retirement Fund ("FPDR") and in accordance with the provisions of Chapter 5 of the Charter of the City of Portland.

3.127.030 Organization.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Bureau of Portland Fire and Police Disability and Retirement shall be directly responsible to its Board of Trustees and to the Mayor. Pursuant to Chapter 5 of the Charter, the FPDR Board shall have the powers listed in Section 5-202 of the Charter. Other bureaus may provide FPDR with necessary information and assistance in accordance with Chapter 5 of the Charter and include, but are not limited to, Portland Fire & Rescue, the Bureau of Police, and the Bureau of Human Resources.

3.127.040 Administrator's Powers and Duties.

The Administrator of the Fire and Police Disability and Retirement Fund shall:

- A. Be the Director of the Bureau of Portland Fire and Police Disability and Retirement, in accordance with Charter Chapter 5 Section 5-202;
- B. Be responsible for administering the terms of the FPDR plan;

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- C.** Serve as the principle administrator of the FPDR plan and have the power to initially approve or deny claims filed with the FPDR and to subsequently suspend, reduce or terminate benefits as provided in Charter Chapter 5;
- D.** Lead and direct the activities of the staff of the FPDR;
- E.** Oversee and direct other agents or advisers of the FPDR including actuaries and attorneys;
- F.** Be responsible for integrating disability, retirement, and return-to-work programs with other bureaus within the City where applicable; and
- G.** Review and propose amendments as necessary to the FPDR to conform to changes in federal or state law and, as appropriate, provide Council with the documentation necessary for its review and approval of the same.

3.127.050 Staff and Delegation.

The Administrator may delegate to his or her staff members any of the Administrator's duties when the Administrator is not available or able to perform those duties.

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CHAPTER 3.128 - OFFICE OF EQUITY AND HUMAN RIGHTS

(Chapter replaced by Ordinance No. 184880,
effective September 21, 2011.)

Sections:

- 3.128.010 Creation and Organization.
- 3.128.020 Purpose.
- 3.128.030 Director's Powers and Duties.
- 3.128.040 Administrative Rulemaking Procedures.

3.128.010 Creation and Organization.

There is established the Office of Equity and Human Rights. The Office of Equity and Human Rights shall consist of the Director and such other employees as the Council may provide. The Director shall report to the Commissioner in Charge.

3.128.020 Purpose.

The purpose of the Office of Equity and Human Rights is to:

- A. Promote equity and reduce disparities within City government;
- B. Provide guidance, education and technical assistance to all bureaus as they develop sustainable methods to build capacity in achieving equitable outcomes and service;
- C. Work with community partners to promote equity and inclusion within Portland and throughout the region, producing measurable improvements and disparity reductions;
- D. Support human rights and opportunities for everyone to achieve their full potential; and
- E. Work to resolve issues rooted in bias and discrimination, through research, education, and interventions.

3.128.030 Director's Powers and Duties.

(Amended by Ordinance No. 186898, effective November 19, 2014.) The duties of the Director of the Office of Equity and Human Rights include, but are not limited to:

- A. Overall administration of the Office and supervision of its staff;
- B. Implementing the policy directives of the City Council and the Commissioner in Charge, and proposing policies and practices to achieve the purpose of the Office, and adopt administrative rules, procedures and forms to assist in implementing City policies;

- C.** Developing an annual work plan to organize and prioritize the work of the Office;
- D.** Working with the Human Rights Commission, the Portland Commission on Disability and all other City bureaus, offices, boards and commissions, as well as regional partners in government, business and the community, to increase equitable outcomes and reduce disparities;
- E.** Recommending implementation strategies, accountability mechanisms, evaluation standards, and specific actions to the City Council that will achieve the goals of the Portland Plan Equity initiative, and other equity and human rights policies adopted by City Council;
- F.** Providing reports to Council and the community annually and as requested.

3.128.040 Administrative Rulemaking Procedures.

(Added by Ordinance No. 186898, effective November 19, 2014.)

- A.** Purpose. The Director has been delegated the authority to adopt and administer administrative rules appropriate to perform the duties set forth in Section 3.128.030. Administrative rules shall be adopted according to the procedures in this Section.
- B.** Adopting Rules.
 - 1.** Prior to the adoption or amendment of a permanent rule, the Director shall:
 - a.** Give notice of the proposed rule at least 15 days prior to the effective date of the rule to City Commissioners, Bureau Directors and other parties of interest. The notice shall include 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.
 - b.** During the comment and review process, the Director will analyze written comments, engage stakeholders and solicit legal review. The Director may either adopt the proposed rule, modify it or reject it.
 - c.** If the Director makes a substantial modification to the proposed rule, the Director may provide additional time for review and comment prior to adoption.
 - d.** Unless otherwise stated, all rules will be effective upon adoption by the Director. Permanent rules shall be filed in the Portland Policy Documents repository.

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- e. Upon consultation with the Commissioner in Charge, the Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the City's interest. Interim rules will be effective for a period of no longer than 180 days. No later than 15 days after adoption, notice of the interim rule shall be given to City Commissioners, Bureau Directors and other parties of interest as identified by the Director.
- 2. All administrative rules shall be posted on the Bureau's website.
- 3. The Director may repeal any adopted rules upon consultation with the Commissioner in Charge. Notice of repeal will be given to City Commissioners, Bureau Directors and other parties of interest.

**CHAPTER 3.129 - HUMAN RIGHTS
COMMISSION**

(Chapter added by Ordinance No. 181670; effective
March 19, 2008.)

Sections:

- 3.129.010 Staffing and Membership.
- 3.129.020 Mission.
- 3.129.030 Jurisdiction.

3.129.010 Staffing and Membership.

(Amended by Ordinance No. 184880, effective September 21, 2011.) There is established in the City of Portland a Human Rights Commission. The Commission shall be staffed by the Office of Equity and Human Rights. The Commission shall consist of 11 to 15 members. All members shall serve without compensation. Appointments are for staggered terms of three years. No member may serve more than two consecutive three year terms. When a vacancy occurs, a Human Rights Commission workgroup – after consultation with the Commissioner in Charge of the Office of Equity and Human Rights – nominates, the Mayor appoints, and the Council confirms, a member to fill the vacancy. This same process shall be used when an interim vacancy occurs to appoint a member to fill the balance of the unexpired term. Members shall be appointed by the Mayor so as to provide representation from a reasonably broad spectrum of the community, including without limitation the following factors: areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the City of Portland. Members are encouraged to establish constructive relationships with each member of Council, the City Auditor and other elected officials. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commission and subject to approval by the Council.

3.129.020 Mission.

(Amended by Ordinance No. 184880, effective September 21, 2011.) The Human Rights Commission shall work to eliminate discrimination and bigotry, to strengthen intergroup relationships and to foster greater understanding, inclusion and justice for those who live, work, study, worship, travel and play in the City of Portland. In doing so, the Human Rights Commission shall be guided by the principles embodied in the United Nations Universal Declaration of Human Rights and by the Portland Plan Equity initiative. The Human Rights Commission shall report at least annually to the Council on the activities of the Human Rights Commission (to include any subcommittees or task forces as may be established) on the progress of the Commission and any recommendations to the Council for further action.

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3.129.030 Jurisdiction.

The jurisdiction of the Commission will include all practices and incidents occurring in the City of Portland which affect people who live, work, study, worship, travel or play in the City. The Commission shall have jurisdiction to address such practices and incidents through education, research, advocacy and/or intervention, but shall not have civil rights enforcement authority.

**CHAPTER 3.130 - ADMINISTRATIVE
APPEALS**

(Chapter added by Ordinance No. 187151; effective
September 1, 2015.)

Sections:

- 3.130.010 Definitions.
- 3.130.020 Timely and Adequate Notification of Right to Appeal Required.

3.130.010 Definitions.

For the purpose of this Chapter:

- A.** “Administrative Act” means a final action, decision, determination, or order of Council, a bureau, department, or office. Administrative acts do not include legislative acts of Council, any City employment action, decision, determination, or order, or any action, decision, determination, or order applying Title 33 of the Code.
- B.** “Administrative Appeal” means appeals of administrative acts by appellants when the right to appeal is provided by Code or rule, and the Code or rule requires the appeal to be decided by a bureau, department, office, board, hearings officer, or Council acting in its quasi-judicial capacity.
- C.** “Appellant” includes any person given the right to appeal an administrative act by Code or a rule. As used in this Chapter, “appellant” does not include prospective, current, or former City employees contesting any administrative act related to their employment, employment benefits, application for employment, termination of employment, or internal complaint arising out of or connected with their employment.
- D.** “Rule” means an administrative rule or bureau policy, as each term is defined in Section 1.07.020.
- E.** "Timely" means that written notice is provided to the appellant in accordance with the time period specified in the Code or rule providing for the right of appeal. If the applicable Code or rule does not specify a time period, “timely” means that written notice is provided as soon as practicable after the right to request an administrative appeal is triggered but no later than:
 - 1.** Three business days after the right to an administrative appeal is triggered, if the period during which the appellant may request an administrative appeal is less than 15 days; or

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2. Ten business days after the right to an administrative appeal is triggered, if the period during which the appellant may request an administrative appeal is 15 days or more.

3.130.020 Timely and Adequate Notification of Right to Appeal Required.

- A. Timely and Adequate Notification Required. When there is a right to appeal an administrative act through an administrative appeal, the bureau, department or office must provide timely notice to appellant in accordance with Subsection 3.130.020 B.
- B. Form and Content of the Notice. An adequate notice must:
 1. Be in writing;
 2. Provide a short, plain statement describing the underlying administrative act and the basis for the administrative act, including citation to the applicable Code provision or rule;
 3. Explain any right to request an administrative appeal, including:
 - a. citation of the applicable Code provision or rule providing the right to appeal;
 - b. the time limit for requesting an administrative appeal, specifying calendar or business days;
 - c. the method for requesting an administrative appeal, including a City address and phone number;
 - d. the cost, if any, for requesting an administrative appeal, including accepted payment methods and whether there is a low-income fee waiver; and
 - e. disclosure of whether effect of administrative act will be stayed pending resolution of the requested administrative appeal.
- C. A bureau, department or office may adopt a rule specifying when and how notice of the right to request an administrative appeal will be provided so long as it is consistent with Subsections A and B of this Section 3.130.020.

**CHAPTER 3.131 - NEW PORTLANDERS
POLICY COMMISSION**

(Chapter added by Ordinance No. 187805; effective
July 8, 2016.)

Sections:

- 3.131.010 Mission.
- 3.131.020 Membership and Staffing.
- 3.131.030 Purpose.
- 3.131.040 Organization and Meetings.

3.131.010 Mission.

There is established in the City of Portland a New Portlanders Policy Commission. The New Portlanders Policy Commission shall advise the City on policies and practices to integrate immigrant and refugee communities' voices and needs into the provision of City services, City decision-making and civic engagement in Portland, and to seek constructive relationships with each member of Council and the City Auditor.

3.131.020 Membership and Staffing.

The Commission shall consist of 25 voting members. All members shall serve without compensation from the City. Appointments to serve on the Commission are for staggered terms of three years. No member may serve more than two 3-year terms. The Commissioner(s)-in-Charge of the New Portlanders Policy Commission recommends, the Mayor nominates, and the Council approves members to the Commission. Members shall be appointed to provide representation from a reasonably broad spectrum of immigrant and refugee communities, striving to include a range of areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the city of Portland and/or volunteer for a nonprofit within the city of Portland. If any member of the Commission is absent more than three regularly scheduled meetings of the Commission during any 12 month period, without having notified the Co-Chairs in advance of such absence, such member shall be deemed to have resigned from the Commission. The member's position shall thereafter be vacant. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commissioner-in-Charge. City Elected Officials may appoint City bureau staff to the Commission as non-voting members. Staffing for the Commission shall be provided, subject to the annual City Budget process.

3.131.030 Purpose.

The purpose of the New Portlanders Policy Commission is to:

- A. Review, develop, evaluate and refine policy and practice recommendations for improving immigrant and refugee community integration in all City activities.

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- B.** Facilitate constructive working partnerships between City leaders and newcomer community leadership.
- C.** Provide a forum for setting integration goals between City bureaus and community organizations.
- D.** Provide technical support and policy advice to City Council offices and City bureaus.
- E.** Serve as a consultant and advocate to local, state and federal agencies on policies impacting immigrant and refugee communities, as capacity allows.
- F.** Provide a report to City Council on policy and practice outcomes on an annual basis.
- G.** Engage in the City's annual budget process.

3.131.040 Organization and Meetings.

The Commission shall adopt bylaws and rules of procedure, and specify procedures for public testimony. The Commission shall elect each year a Chair or Co-Chairs and such other officers as the Commission may from time to time establish. The Commission shall meet at least quarterly, and may meet more often. The Commission Chair(s), in consultation with the Commissioner-in-Charge and the Director of the Bureau staffing the New Portlanders program, or their designee, shall set the agenda for Commission meetings.

**CHAPTER 3.132 - COMMUNITY
INVOLVEMENT COMMITTEE FOR
LEGISLATIVE PROJECTS UNDER THE
COMPREHENSIVE PLAN.**

(Chapter added by Ordinance No. 188177, effective
January 1, 2018.)

Sections:

- 3.132.010 Purpose.
- 3.132.020 Membership, Meetings, and Organization.

3.132.010 Purpose.

The Community Involvement Committee (CIC), an independent advisory body, is charged with reviewing, commenting and advising City staff on the community involvement elements of legislative projects that implement Portland's Comprehensive Plan. The Committee will:

- A. Recommend changes to and assessments of ongoing and project-specific community involvement practices to bring them closer into alignment with the Comprehensive Plan Community Involvement goals and policies.
- B. Approve and update the Community Engagement Manual over time to reflect emerging best practices.

3.132.020 Membership, Meetings, and Organization.

The Community Involvement Committee members shall be appointed by the Commissioner-in-Charge of the Bureau of Planning and Sustainability and confirmed by the City Council. The Committee will consist of at least 5 and no more than 12 members. The appointed membership shall be broadly representative of geographic areas and interests and from a reasonably broad spectrum of lived experience, particularly in under-served and under-represented communities. Members must live, work, worship or be enrolled in school within the City of Portland and/or volunteer for a nonprofit within the City of Portland.

- A. **Appointments and Terms.** The Commissioner-in-Charge of the Bureau of Planning and Sustainability shall appoint members of the Community Involvement Committee. Appointment to the Community Involvement Committee shall be for a three-year term, renewable for a second term. If a position is vacated during a term, the Commissioner-in-Charge of the Bureau shall appoint a member to serve for the unexpired term. Members appointed to the Community Involvement Committee serve at the pleasure of the Commissioner-in-Charge of the Bureau of Planning and Sustainability. Members of the Committee may be dismissed at the discretion of the Commissioner-in-Charge.

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- B.** Meetings, Officers, and Subcommittees.
 - 1.** The Community Involvement Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with bylaws adopted by the Director of the Bureau of Planning and Sustainability.
 - 2.** The Community Involvement Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose, such as gathering information.
- C.** Attendance. Members of the Community Involvement Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from two or more consecutive meetings or more than 50 percent of the meetings in any year.
- D.** Compensation. Community Involvement Committee members shall serve without compensation.

**CHAPTER 3.133 - RENTAL SERVICES
COMMISSION (RSC)**

(Chapter added by Ordinance No. 188633, effective
October 4, 2017.)

Sections:

- 3.133.010 Rental Services Commission Established.
- 3.133.020 Mission.
- 3.133.030 Duties.
- 3.133.040 Membership.
- 3.133.050 Meetings.
- 3.133.060 Quorum.
- 3.133.070 Chairperson.
- 3.133.080 Committees.
- 3.133.090 Staffing.
- 3.133.100 Cooperation.

3.133.010 Rental Services Commission Established.

There is established in the City of Portland, the Rental Services Commission (RSC). The RSC is designated as the primary public forum for discussion of landlord-tenant housing regulation and programs in the City of Portland.

3.133.020 Mission.

The mission of the RSC is to advise the Director of the Portland Housing Bureau (PHB), the Housing Commissioner, and the Portland City Council on issues related to landlord-tenant housing regulation and programs, and to provide a forum for public input on the rental housing market.

3.133.030 Duties.

The RSC is delegated to carry out the following functions:

A. Landlord-Tenant Policy Initiatives

- 1. Advise PHB on landlord-tenant policy issues and initiatives
- 2. Provide feedback and recommendations on landlord-tenant policy initiatives and policy changes

B. Landlord-Tenant Regulation and Programs

- 1. Advise PHB on landlord-tenant regulation and programs
- 2. Monitor PHB landlord-tenant regulation and programs

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3. Advise PHB on the effectiveness of landlord-tenant regulation and programs.
4. Recommend improvements to PHB's landlord-tenant regulation and programs
5. Recommend annual performance goals for PHB's landlord-tenant regulation and programs

C. Budget

1. Advise the Portland Housing Advisory Commission (PHAC), the Housing Commissioner, and City Council on the budget for PHB's landlord-tenant regulation and programs
2. Provide feedback on landlord-tenant funding priorities

D. Community Involvement

1. Provide an inclusive forum for the community's discussion of its landlord-tenant housing needs and priorities
2. Assist PHB in strengthening community partnerships

3.133.040 Membership.

- A. The RSC shall consist of at least 7 members and no more than 13 members.
- B. The Housing Commissioner shall appoint all members.
- C. The Housing Commissioner may designate a staff representative to serve as a non-voting ex officio member.
- D. Membership appointment shall take into account the socio-economic, gender, racial, ethnic, cultural, and geographic diversity of the City of Portland.
- E. Membership appointment shall achieve a balanced citizen-based perspective encompassing knowledge of fair housing, rent-regulated and market-rate rental housing, landlord-tenant law, property management, renter-owner advocacy, rental housing access, and rental housing health & safety.
- F. Members shall not simultaneously serve on the PHAC and the RSC.
- G. For the initial appointments to the RSC, the following terms will apply: five to seven members shall be appointed for a term of 2 years; and six to eight members for a term of 3 years.

- H.** All subsequent appointments to the RSC shall be for terms of 2 years.
- I.** Members shall be eligible to renew their appointment at the discretion of the Housing Commissioner.
- J.** The Housing Commissioner may rescind the appointment of a member if the duties and responsibilities of appointment are not being fulfilled.
- K.** Members shall serve without compensation.
- L.** PHB may approve the reimbursement of reasonable expenses of the appointed members that are incurred while a member is fulfilling authorized duties of the RSC.
- M.** The RSC shall adopt necessary bylaws and rules of procedure for the governance of its proceedings.

3.133.050 Meetings.

The RSC will hold regularly scheduled meetings at least every 2 months, at a schedule established by the RSC.

3.133.060 Quorum.

Quorum shall be defined as one-half plus one of all appointed members. A quorum shall be necessary for the RSC to take any action. Actions of the RSC shall be passed upon a majority vote of the members present.

3.133.070 Chairperson.

A chairperson shall be selected from the appointed members by the Housing Commissioner.

3.133.080 Committees.

- A.** The RSC will have the following standing committees, whose membership shall be determined by the Chairperson and the Housing Commissioner:
 - 1.** Executive Committee
 - 2.** Bylaws and Rules Committee
- B.** The RSC may create non-standing committees and task forces to address issues within the parameters of the RSC's duties and responsibilities.

3.133.090 Staffing.

PHB staff shall be provided for the ongoing functions of the RSC. PHB shall provide notice of RSC meetings to liaison staff representing the other key implementing and policy agencies in the local rental housing delivery system.

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3.133.100 Cooperation.

All city boards, bureaus, and agencies of any kind shall cooperate with the RSC and shall provide information at the RSC's request.

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5.04.410 Sewer System Construction Fund.

(Added by Ordinance No. 160515, effective March 28, 1988.) The Sewer System Construction Fund is hereby made a part of the Code of the City of Portland, Oregon, for the receipt and expenditure of monies associated with construction of sewerage facilities, including sanitary and drainage facilities. Money in the Sewer System Construction Fund may be commingled with other City money for investment purposes.

5.04.420 Sewer System Debt Redemption Fund.

(Added by Ordinance No. 160515, effective March 28, 1988.) The Sewer System Debt Redemption Fund is hereby made a part of the Code of the City of Portland, Oregon, for the receipt and expenditure of monies associated with the retirement of debt incurred by the sewer system. Money in the Sewer System Debt Redemption Fund may be commingled with other City money for investment purposes.

5.04.430 Sewer System Debt Proceeds Fund.

(Added by Ordinance No. 160515, effective March 28, 1988.) The Sewer System Debt Proceeds Fund is hereby made a part of the Code of the City of Portland, Oregon, for the receipt of monies derived from the issuance of Sewer System debt. Monies in the Sewer System Debt Proceeds Fund shall be transferred to the Sewer System Construction Fund for expenditure and to the Sewer System Operating Fund for reimbursement of costs associated with the issuance of debt and to the Sewer System Debt Redemption Fund for the retirement of debt. Money in the Sewer System Debt Proceeds Fund may be commingled with other City money for investment purposes.

5.04.440 Sewer System Rate Stabilization Fund.

(Added by Ordinance No. 160515, effective March 28, 1988.) The Sewer System Rate Stabilization Fund is hereby made a part of the Code of the City of Portland, Oregon, for the receipt of monies transferred from the Sewer System Operating Fund. Monies in the Sewer System Rate Stabilization Fund shall be transferred to the Sewer System Operating Fund for expenditure. Money in the Sewer System Rate Stabilization Fund may be commingled with other City money for investment purposes.

5.04.450 Sewer System Safety Net Fund.

(Added by Ordinance No. 160515, effective March 28, 1988.) The Sewer System Safety Net Fund is hereby made a part of the Code of the City of Portland, Oregon, for the receipt of monies derived from loans made to the Fund from the State Assessment Deferral Revolving Loan Fund, and monies derived from the payment of deferred assessments by properties participating in the Sewer Safety Net Program. Monies in the Sewer System Safety Net Fund shall be paid to the Local Improvement District Construction Fund for payment of sewer assessments for properties participating in the Sewer Safety Net Program, and shall be used to retire loans received from the State Assessment Deferral Revolving Loan Fund.

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5.04.460 Use of Sewage Disposal Fund.

(Added by Ordinance No. 160515, effective March 28, 1988.) The funds described in Portland City Code Sections 5.04.400 through 5.04.450 shall in the aggregate constitute the Sewage Disposal Fund, and shall be used for only those Sewage Disposal Fund purposes authorized by the Charter of the City of Portland, Oregon. If any of the funds associated with operation, maintenance, construction or debt management of the Sewer System become unnecessary or for any reason are dissolved and discontinued, then any remaining balances in that fund or funds shall be transferred to the Sewer System Operating Fund. If the Sewer System Operating Fund is dissolved and discontinued, then any remaining balances in that fund shall be transferred to the City's General Fund. However, in no case shall any funds be transferred to the City's General Fund until all outstanding debt of the sewer system is repaid according to terms and conditions of related bond and note ordinances.

5.04.470 Portland Police Fitness Room Trustee Account.

(Added by Ordinance No. 168683, effective April 12, 1995.) The Portland Police Fitness Room Trust Account is hereby created. Into this fund shall be deposited monies received from fitness room membership dues (through payroll deduction), the City of Portland and other contributors. Disbursements shall be made upon a requisition request from a Police Bureau's Fitness Room Committee with signature approval by either the Chief of Police or an Assistant Chief. Monies from this fund by either the Chief of Police or an Assistant Chief. Monies from this fund shall be used for maintenance and repairs of equipment, equipment replacement, and new fitness room equipment.

5.04.480 Property Management License Fund.

(Added by Ordinance No. 170223, effective July 1, 1996.) The Property Management License Fund is hereby made a part of the Code of the City of Portland, Oregon, for the receipt of any revenues derived from assessments levied under the former downtown Economic Improvement District created by Ordinance No. 164665, together with all revenues generated by the Downtown Property Management License program (City Code Chapter 6.06.) Monies derived from proceeds of the Downtown Property Management License program and delinquent Economic Improvement District assessments, as well as from interest earned on that money, shall be spent only for the services described in Section 6.06.010 of the Code of the City of Portland and for any costs of the City's administration of the Downtown Property Management License program.

5.04.490 Graffiti Nuisance Abatement Trust Fund.

(Added by Ordinance No. 172612; amended by Ordinance Nos. 172810 and 189078, effective July 18, 2018.) There is hereby created a City of Portland graffiti nuisance abatement trust fund. Any donations in support of graffiti abatement will be placed into the fund, together with any monies received in connection with voluntary nuisance abatement consent forms. Expenditures from this fund may occur upon the approval of any two of the following: (1) the Mayor; (2) the Commissioner-in-Charge of the Office of Community & Civic Life; and (3) the Graffiti Abatement Manager. Such expenditures shall be limited to: the payment of the cost of removal of graffiti; the purchase, acquisition,

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operation and maintenance of graffiti removal equipment and supplies; the costs of administering the graffiti nuisance abatement ordinance; and such other public purposes as may be approved by the City Council.

5.04.500 Technology Services Fund.

(Added by Ordinance No. 176003; amended by Ordinance Nos. 177852 and 181483, effective January 18, 2008.) The Technology Services Fund is hereby created as an internal service fund under the Bureau of Technology Services as described in Section 3.15.070 of this Code. The purpose of this Fund is to receive and record expenditures related to the management, operation and delivery of a variety of technology services to City bureaus and offices. The Fund also supports facilitation of multi-year funding of major technology initiatives. The Fund is supported primarily by charges to City bureaus for corporate and bureau-specific services.

5.04.510 Arts Education and Access Fund.

(Added by Resolution No. 36939 (approved at November 6, 2012 election); effective December 5, 2012.) The Arts Education and Access Fund is hereby created. The purpose of the Fund is to receive Gross Revenues received from the Arts Education and Access Income Tax and provide the Net Revenues to the School Districts and to the Regional Arts and Culture Council solely for the purposes established in Chapter 5.73 of this Code. In no case shall Net Revenues be transferred from the Arts Education and Access Fund to the City's General Fund, or any other fund, for any other purpose.

5.04.515 Recreational Cannabis Tax Fund.

(Added by Resolution No. 37217 (approved at November 8, 2016 election); amended by Ordinance No. 189004, effective July 1, 2018.) The Recreational Cannabis Tax Fund is hereby created. The purpose of the Fund is to receive gross revenues received from the Recreational Cannabis Tax, to provide funding for the purposes identified in Section 6.07.145 of this Code and costs related to the administration of the tax. Except for those established purposes, in no case shall revenues be transferred from the Recreational Cannabis Tax Fund to the City's General Fund, or any other fund, for any other purpose.

5.04.520 Mt. Hood Cable Regulatory Commission Agency Fund.

(Added by Ordinance No. 186065, effective June 5, 2013.) The Mt. Hood Cable Regulatory Commission Agency Fund is hereby created for the receipt and expenditure of monies received from cable franchisees and Public, Education and Government fees on behalf of Multnomah County and the cities of Gresham, Fairview, Troutdale, and Wood Village under the Intergovernmental Agreement, approved by Ordinance No. 166168 enacted on January 20, 1993, and as modified by subsequently approved amendments. Into this Fund shall be deposited all payments received from the cable franchisees of the County and the Cities, interest earned thereon while in this Fund and any other monies which are appropriate revenues of this Fund. The monies shall be expended only for purposes authorized under the Intergovernmental Agreement, and the Commission's approved budget.

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5.04.530 Inclusionary Housing Fund.

(Added by Ordinance No. 187855, effective August 1, 2016.) The Inclusionary Housing Fund is hereby created to receive net revenues from the Construction Excise Tax. Disbursements from the fund shall be for the purposes identified in Section 6.08.130 of this Code. Except for those established purposes, in no case shall any funds be transferred from the Inclusionary Housing Fund to the City's General Fund, or any other fund, for any other purpose.

5.04.540 Housing Property Fund.

(Added by Ordinance No. 188175, effective December 21, 2016.) The Housing Property Fund is hereby created in order to record the transactions of resources and requirements resulting from the acquisition, development, and operation of property by the Portland Housing Bureau. Except to further these established purposes, in no case shall any funds be transferred from the Housing Property Fund to the City's General Fund, or any other fund, for any other purpose.

5.04.550 Housing Capital Fund.

(Added by Ordinance No. 188353, effective April 26, 2017.) The Housing Capital Fund is hereby created to track the transactions related to the capital construction of affordable housing projects by the Portland Housing Bureau, primarily related to the sale and use of General Obligation bond proceeds.

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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 Registration Required.
- 6.05.040 License Transfer.
- 6.05.060 Portland Tourism Improvement District License Rate.
- 6.05.070 Due Date; Returns and Payments.
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- 6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.
- 6.05.100 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.

(Amended by Ordinance No. 189028, effective August 1, 2018.) The Portland Tourism Improvement District includes all Hotels, as defined in Section 6.05.020, and all Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations within the Portland City limits.

6.05.020 Definitions.

(Amended by Ordinance Nos. 187339, 187828, 188171 and 189028, effective August 1, 2018.)

- A. “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:
 - 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

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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; or
 6. Any Transient Lodging Provider, Transient Lodging Intermediary or Transient Lodging Tax Collector as defined in ORS 320.300.
- B.** “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C.** “Division Director” and “Director” mean the Director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, or designee;
- D.** “District” means the Portland Tourism Improvement District as described in this Chapter;
- E.** “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 latest business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;
- F.** “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.

G. “Engaged in hotel management activities” means:

- 1.** Being financially responsible for a water service provided to a Hotel or Short-Term Rental; or
- 2.** Being financially responsible for operation of a Hotel or Short-Term Rental business; or
- 3.** Being responsible for initiating or maintaining Short-Term Rental listing information on an online travel booking site; or
- 4.** Being financially responsible for the indicia of management of a Hotel or Short-Term Rental, 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 or Short-Term Rental;
 - b.** Being responsible for providing fire insurance for a Hotel or Short-Term Rental;
 - c.** Being responsible for repair and maintenance of a Hotel or Short-Term Rental;
 - d.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a Hotel or Short-Term Rental; and
 - e.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a Hotel or Short-Term Rental.

H. "City Council" means the City Council of the City of Portland, Oregon.

I. "Rent" means the full consideration charged to the Transient for the right to occupy a Room in a Hotel or Short-Term Rental 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, customer fees, booking fees, service fees, off-platform booking fees, non-refundable fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

- J.** “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.
- K.** “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.
- L.** “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.
- M.** “Room” means each portion of a Hotel or Short-Term Rental 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.
- N.** “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- O.** “Short-Term Rental Host” means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary.

6.05.030 License Registration Required.

(Amended by Ordinance Nos. 187828 and 189028, effective August 1, 2018.) Any person engaged in Hotel Management Activities of any Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations within the District shall register for such activities covering each license year, or if application is made after the beginning of

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a license year, then for the balance of the license year. Only one person needs to register for each Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations 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 or Short-Term Rental 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 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.

(Repealed by Ordinance No. 189028, effective August 1, 2018.)

6.05.060 Portland Tourism Improvement District License Rate.

(Amended by Ordinance No. 189028, effective August 1, 2018.) The license assessment established by this Chapter for Hotel or Short-Term Rental management activities in the Portland Tourism Improvement District shall be calculated as follows:

- A.** Gross rent charged by the Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations;
- 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 U.S. 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, 188171 and 189028, effective August 1, 2018.)

- 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 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 or Short-Term Rental who use Booking Agents to advertise or accept reservations 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 or Short-Term Rental 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

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periods. If a Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations is required to report on a more frequent basis, the Division will provide a schedule showing the assessment periods, due dates and delinquent dates.

- G.** Any Booking Agent or Transient Lodging Intermediary who collects and remits the Transient Lodging tax imposed under Chapter 6.04, shall also provide a Short-Term Rental Host an option for the Booking Agent or Transient Lodging Intermediary to collect and remit the assessment imposed by this Chapter.

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 Penalties and Interest.

(Amended by Ordinance Nos. 187828, 188171 and 189028, effective August 1, 2018.)

- 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 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

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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 Nos. 187828 and 189028, effective August 1, 2018.)

- 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.** Failure to separately state on the guest folio, bill or receipt the 2 percent fee if the charge is being passed through to the guest as an additional charge or fee.
- C.** 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 Nos. 187828 and 189028, effective August 1, 2018.)

- A.** Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit both Hotels and Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations 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 or Short-Term Rentals.

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- 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.

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.

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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.
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;

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- 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

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.)

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- 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.

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- D.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.095 on the following grounds:
- 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.
- 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.

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- 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 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.

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- B.** Each registration for a license, will be accompanied by payment of the license fee for the license year if known.
- 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.

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- 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.)

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- 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 4th between SW Harrison and SW Market; SW Market between SW 4th and SW 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

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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;

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

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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 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

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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.;

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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.
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

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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 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 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.

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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

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.

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- 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

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).
 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:

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- 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

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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.

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.)

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- 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.

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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.

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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

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 Nos. 188215 and 189004, effective July 1, 2018.)

- 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 Cannabis 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

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

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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.

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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); amended by Ordinance No. 189004, effective July 1, 2018.) 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 Cannabis Tax Fund at the beginning of the next fiscal year.
- B.** Allocation of revenue from the Recreational Cannabis 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.

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.

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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

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.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- 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

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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 Community & Civic Life 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 Community & Civic Life. 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;

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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;

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

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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 6.09 - NIGHTLY FEE ON SHORT-
TERM RENTALS**

(Chapter added by Ordinance No. 189031, effective
August 1, 2018.)

Sections:

6.09.005	Purpose.
6.09.010	Definitions.
6.09.020	Fee Imposed.
6.09.030	Administrative Authority.
6.09.040	Due Dates; Returns and Payments.
6.09.050	Registration.
6.09.060	Penalties and Interest.
6.09.070	Administration and Recordkeeping.
6.09.080	Deficiency Determinations; Redeterminations.
6.09.090	Business License Appeals Board; Hearings Officer; Appeal; Rules.
6.09.100	Civil Penalties.

6.09.005 Purpose.

All Booking Agents and Transient Lodging Intermediaries that facilitate the rental of Short-Term Rentals will be charged a fee each night a Guest rents a room. This fee is separate from the transient lodging tax authorized by the Portland City Charter and Chapter 6.04. The revenues from this fee will be used to fund affordable housing and homelessness initiatives in the Portland area.

6.09.010 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. “Booking Agent” has the same meaning as the term defined in Section 6.04.010.
- B. “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C. “Division Director” and “Director” means the director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services or designee;
- D. “Guest” means a person who rents one or more rooms in a Short-Term Rental on a temporary basis, for any number of days. Any person who signs a monthly rental or fixed-term lease agreement is not considered to be a Guest, but is considered a tenant exercising Long-Term Occupancy.
- E. “Host” means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and

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who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary;

- F. “Hotel”, for purposes of Chapter 6.09 only, means a commercially zoned structure that was built or remodeled to operate as a hotel or motel for transient lodging purposes.
- G. “Long-Term Occupancy” means a rental agreement between a property owner and a tenant with the intention of the rental period being an extended period of time, often months or years, governed by a verbal or written monthly rental agreement or a lease. Long-Term Occupancy established a person’s primary residence for voting and income tax purposes.
- H. “Transient Lodging Occupancy” means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any Short-Term Rental or portion thereof. Transient Lodging Occupancy does not establish or change a person’s primary residence
- I. “Online Booking Site” means a hosting or other online website that provides a means through which a Host may offer to rent a Short-Term Rental unit for transient lodging or other short-term occupancy;
- J. “Person” has the same meaning as defined in Section 6.04.010.
- K. “Rent” has the same meaning as defined in Section 6.04.010.
- L. “Room” has the same meaning as defined in Section 6.04.010.
- M. “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- N. “Transient Lodgings Intermediary” means any Transient Lodging Intermediary, Transient Lodging Tax Collector or Transient Lodging Provider as defined in ORS 320.300

6.09.020 Fee Imposed.

For the privilege of facilitating a Transient Lodging Occupancy of a Short-Term Rental within the City of Portland, a Booking Agent or Transient Lodging Intermediary shall pay to the City a fee of \$4 per night for each Transient Lodging Occupancy. This fee is due each night on any occupancy between one and 30 nights at a Short-Term Rental Accommodation. If the occupancy exceeds 30 continuous days, the fee is no longer due for any of the nights, and if collected, must be refunded to the Guest. This fee may be

passed onto the Guest if the receipt provided to the Guest separately states this nightly fee, identifying the fee as “Portland Housing and Homelessness Fee”. This fee is not assessed on Booking Agents or Transient Lodging Intermediaries who only facilitate the rental of rooms of a Hotel defined in Chapter 6.09. Additionally, Booking Agents or Transient Lodging Intermediaries who facilitate the rental of rooms of a Hotel as defined in Chapter 6.09, in addition to Short-Term Rentals are not required to collect this fee on Hotel room rentals.

6.09.030 Administrative Authority.

- 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.
 - 1.** Before adopting a new rule, a public hearing must be held. The Director shall give reasonable notice of the hearing, not less than 10 nor more than 30 days before the hearing. The notice shall include the place, time, purpose of the public hearing, a brief description of the proposed rule(s) and where copies of the full text of the proposed rule(s) may be obtained.
 - 2.** At the hearing, the Director must accept oral or written testimony concerning the proposed rule. The Director must either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the hearing. Unless otherwise stated, all rules adopted by the Director are effective upon adoption.
 - 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.

6.09.040 Due Dates; Returns and Payments.

- A.** The fee imposed by this Chapter is due and payable on or before the last day of the month for the preceding month or other reporting period allowed by the Division. Amounts due are considered delinquent on the first of the month, or in the case when 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.

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- B.** A return must be filed with the fee due on a form prescribed by the Division by the due date in Subsection A. above. Returns must show the amount of the fee owed for the period. The Division may require returns to include additional information to explain the fee calculation.
- C.** The Booking Agent or Transient Lodging Intermediary required to file the return must deliver the return, together with the remittance of the fee amount due, to the Division at its office, either by personal delivery or mail. If the return is mailed, the postmark will be considered the day of delivery for determining delinquencies.
- D.** For good cause, the Division may extend the time for making any return or payment of the fee due for one month. No further extension will be granted. Any Booking Agent or Transient Lodging Intermediary granted an extension will pay interest at the rate of 1.25 percent for the month on the amount of fee 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 period, then the interest will be added to the fee due for the computation of penalties and additional interest as detailed elsewhere in the Chapter.
- E.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the Division of the fee in any individual case, may require returns and payment of fees due for other than monthly periods. If a Booking Agent or Transient Lodging Intermediary is required to report on a different basis, the Division will provide a schedule showing the filing periods, due dates and delinquent dates.

6.09.050 Registration.

All Booking Agents and Transient Lodging Intermediaries that facilitate any Short-Term Rental reservations for Transient Lodging Occupancy must register with the Division. Failure to register with the Division does not relieve the Booking Agent or Transient Lodging Intermediary from the obligation to pay the fee. Registration must state the name under which the Booking Agent or Transient Lodging Intermediary transacts business, any affiliated companies or brands that are associated with the registration, the location of the place of business and other information necessary to facilitate the collection of the fee as the Division may require.

6.09.060 Penalties and Interest.

- A.** Original Delinquency. Any Booking Agent or Transient Lodging Intermediary that has not been granted an extension of time for remittance of the fee due and who fails to remit any fee imposed by this Chapter on or before the due date will pay a late penalty of 10 percent of the amount of the fee due in addition to the fee. There is no grace period between the due date and the assessment of penalty and interest; the day following the due date is considered be the delinquent date.

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- B.** Continued Delinquency. Any Booking Agent or Transient Lodging Intermediary 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 fee due plus all penalty and interest assessments at the time of the continued delinquency.
- 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 amount due will be added in addition to 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 Booking Agent or Transient Lodging Intermediary that fails to file or pay any fee 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 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 merge with fee. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the fee required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the fee due. This amount becomes the new base for calculation new penalty and interest amounts. This merging continues each month until the full balance is paid.
- F.** Petition for Waiver. Any Booking Agent or Transient Lodging Intermediary that fails to pay the fee within the time stated must pay the fee, penalties and interest assessed; however, the Booking Agent or Transient Lodging Intermediary 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.

6.09.070 Administration and Recordkeeping.

- A.** Records. Booking Agents and Transient Lodging Intermediaries must keep appropriate records, including but not limited to accounting and bank records, detailed transaction information including Short-Term Rental location and number of nights rented during the period and any other documentation necessary to support the fee calculation and report filed or required to be filed. All records must be retained by the Booking Agent or Transient Lodging Intermediary for a period of 5 years and 6 months after the filing of the return, amended return or payment of the fee, whichever is later.

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- B.** Examination of records; investigations. The Division, or any person authorized in writing by it, may examine during normal business hours the books, papers, reservation records and accounting records relating to returns filed by Booking Agents or Transient Lodging Intermediaries, after notification by the Division and may investigate the business of the Booking Agent or Transient Lodging Intermediary in order to verify the accuracy of any return made or if no return is filed, to determine the amount required to be paid.
- C.** Should the City prevail in any legal proceedings in any state or federal court to collect the fees, penalties and interest assessed in accordance with this Chapter, the City shall be entitled to its reasonable costs and attorneys' fees.

6.09.080 Deficiency Determinations; Redeterminations.

- A.** Deficiency determinations. If the Division determines that a return is incorrect, that required reports or returns have not been filed or that a Booking Agent or Transient Lodging Intermediary has otherwise failed to comply with the terms of this Chapter, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable within 10 days. The Division may assess penalties and interest as set forth in Section 6.09.060.
 - 1.** The Booking Agent or Transient Lodging Intermediary may petition for a redetermination if the petition is filed with 10 days of the postmark date on the written deficiency notice. Nothing prohibits the Division from extending the time for petition beyond 10 days at its sole discretion.
 - 2.** Every deficiency determination must be made and notice mailed within five 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 remit the fee, 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.** Any Booking Agent or Transient Lodging Intermediary against whom a deficiency determination is made or civil penalties are assessed under Section 6.09.100 may petition for a redetermination within the time required in this Section. If a petition for redetermination is filed timely, the Director will consider 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.

1. 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.
 2. 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 of the postmark date on the written order.
 3. No petition for redetermination or other appeal will be accepted and no petition or appeal is effective for any purpose unless the Booking Agent or Transient Lodging Intermediary has first paid in full the amount determined to be due in the deficiency determination or civil penalty assessment that is being appealed.
- C. Appeals of penalty and/or interest assessments are not subject to the appeals process outlined in Section 6.09.090. The decision of the Director regarding penalty and interest assessments is final.

6.09.090 Business License Appeals Board; Hearings Officer; Appeal; Rules.

Any Booking Agent or Transient Lodging Intermediary aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal as allowed in 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 Section 6.04.140 will apply to any such appeal.

6.09.100 Civil Penalties.

- A. The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any fee within 60 days of the Due Date provided in Section 6.09.040.
- B. Failure to separately state on the guest receipt the per night privilege charge if the charge is being passed through to the guest as an additional charge or fee.
- C. The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.09.090.

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7.02.400 Exemptions.

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

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

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

7.02.500 Tax Rate.

(Amended by Ordinance Nos. 187743, 188129 and 189017, effective July 13, 2018.)

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, for tax years beginning on or before December 31, 2017. For tax years beginning on or after January 1, 2018, the tax is 2.6 percent of adjusted net income, except as provided in Subsections B., C., D. and E. of this Section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.
1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
 2. For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.
 3. For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.

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- C.** Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.
1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
 2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
 3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
 4. If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.
- D.** Heavy Vehicle Use Tax applicable to Tax Years 2016 through 2019. The following tax is imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of this tax are dedicated to supplementing the funding of City of Portland street maintenance and safety and shall be deposited in a Street Repair and Traffic Safety Program of the Transportation Operating Fund where street repair and traffic safety expenditures are recorded.
1. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018 and January 1, 2019, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more Heavy Vehicles on streets owned or maintained by the City of Portland. For purposes of this tax, a Heavy Vehicle is any vehicle that is subject to the Oregon Weight-Mile Tax pursuant to ORS 825.450 et seq. This tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year.

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2. The minimum Heavy Vehicle Use Tax due for a tax year is \$100. The minimum tax would be in addition to the \$100 minimum tax described in Section 7.02.545, if applicable.
 3. No penalties or interest for failure to make quarterly estimated payments in the amount of the Heavy Vehicle Use Tax will be charged or imposed for the 2016 tax year only. Thereafter, penalties and interest will be calculated as provided for in the Code.
 4. If the Heavy Vehicle Use Tax raises more or less than \$2.5 million plus City costs in the first or second tax year of the tax, the City will adjust the Heavy Vehicle Use Tax rate for subsequent tax years of the tax to reach the four year target of \$10 million plus City costs. The Revenue Division of the Bureau of Revenue and Financial services is authorized to adopt an administrative rule to implement this change, if needed.
- E.** Pay ratio surtax applicable to publicly traded companies subject to U.S. Securities and Exchange Commission pay ratio reporting requirements. The following surtax is imposed in addition to the 2.2 percent tax established in Subsection A. above.
1. For tax years beginning on or after January 1, 2017, a surtax of 10 percent of base tax liability is imposed if a company subject to this section reports a pay ratio of at least 100:1 but less than 250:1 on U.S. Securities and Exchange Commission disclosures.
 2. For tax years beginning on or after January 1, 2017, a surtax of 25 percent of base tax liability is imposed if a company subject to this section reports a pay ratio of 250:1 or greater on U.S. Securities and Exchange Commission disclosures.

7.02.510 Registration Form and Tax Return Due Dates.

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

- A.** All persons subject to the requirements of this Chapter must register with the Division on a form provided or approved by the Division. Thereafter, taxfilers must file tax returns with the Division. The following timing requirements apply:
1. Registration forms must be filed within 60 days of the person beginning business in the City.
 2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Division must conform to the due date under Oregon tax law.

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- B.** The Division may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.
- C.** Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- D.** The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7.02.520 Quarterly Estimates.

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

7.02.530 Schedule for Payment of Estimated Tax.

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

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

7.02.545 Tax Returns.

Except as provided in Section 7.02.540, each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment

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may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

7.02.550 Presumptive Tax.

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

- A.** If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B.** Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than \$500 per license tax year.
- C.** Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.
- D.** Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Division will send notice of the determination and assessment to the taxfiler.

7.02.560 Payment Plan Fee.

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

7.02.600 Income Determinations.

(Amended by Ordinance Nos. 183727, 185781, 186331, 187339 and 189017, effective July 13, 2018.)

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Division determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Division’s discretion.
 - 1.** For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after

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January 1, 2008, the Owners Compensation Deduction will be indexed as described above.

2. For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.
3. For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.
4. For tax years beginning on or after January 1, 2018, the Owners Compensation Deduction cannot exceed \$125,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2019, the Owners Compensation Deduction will be indexed as described above.

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

C. Partnerships. In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:

1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.

D. Corporations. In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or

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interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.

1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.
3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.

- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.

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- I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.
 2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
 3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. “Compensation allowance deduction” is defined in Subsection 7.02.600 A.
 4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
 5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

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

- A.** “Jurisdiction to tax” occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer’s business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.
- B.** “Business activity” means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are

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taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.

- C.** In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- D.** In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:

 - 1.** Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
 - 2.** Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.
- E.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Division regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection will be a single factor gross income apportionment as directed under Subsections 7.02.610 C. and 7.02.610 D. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- F.** If the apportionment provisions of Subsection C. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Division to permit the taxfiler to:

 - 1.** Utilize the method of apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or

2. Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

7.02.620 Changes to Federal and/or State Tax Returns.

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

- A. If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Division within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B. The Division may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C. The Division may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of business taxes as a result of the amended tax return if the amended tax return is not filed with the Division within the time limits set forth in Subsection A.

7.02.630 Income Long Term Construction Contract Methods.

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

7.02.700 Penalties.

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

- A. A penalty will be assessed if a person:

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1. Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
 2. Fails to pay the tax when due.
 3. The penalty under Subsection A. is:
 - a. Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
 - b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
 - c. An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.** A penalty will be assessed if a person who has filed an extension request:
1. Fails to file a tax return by the extended due date; or
 2. Fails to pay the tax liability by the extended due date.
 3. The penalty under Subsection B. is:
 - a. Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
1. Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
 2. Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
 3. The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.
- D.** A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.

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- E.** The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
- 1.** Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
 - 2.** Failure to pay any tax within 60 days of the Division's original written notice for payment; or
 - 3.** Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Division's original written notice to provide the documents or information; or
 - 4.** Failure to fully complete any form required under this Chapter.
- F.** The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Division gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G.** The Division may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

7.02.710 Interest.

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

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- C.** Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:
- 1.** The total tax liability of the prior license tax year was less than \$1,000; or
 - 2.** An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or

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

7.02.715 Payments Applied.

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

7.02.720 Interest on Refunds.

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

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

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return. This Subsection applies to tax returns that are amended due to a change to the federal, state, city or county tax return.

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

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

7.02.800 Refundable Credit.

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

A. “Local Business” means a business operating in the pursuit of profit, gain or the production of income that:

1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.

B. “Disconnected Youth” means a youth that is

1. a resident of the City of Portland,
2. is 16-24 years old on the date on which the youth begins working with the local business,
3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
4. one or more of the following apply:

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- a.** is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
 - b.** is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
 - c.** is a custodial parent; or
 - d.** is a high school drop-out; or
 - e.** is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C.** **“Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D.** **“Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E.** **“Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Division to act as the Youth Certifying Agency for the purpose of this program.
- F.** **“2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G.** **“2006 Tax Year”** means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H.** **“Non-exempt”** means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

- A.** For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.

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- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.
- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

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

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

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

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

- A.** Taxfilers may donate to “Work for Art” by either
 - 1.** paying a sum above what is owed for their City business taxes, or
 - 2.** by designating that all or some of any refund due to them be instead donated to “Work for Art.”
- B.** To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.
- C.** Once the tax return is filed with the Division, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Division.

7.02.840 Frivolous Filing.

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

7.02.850 Hacking.

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

- A.** Any individual who intentionally accesses the Bureau's computer database without authorization will be fined:
 - 1.** \$500 if the individual acquires any information regarding any business account found in the database;
 - 2.** \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
 - 3.** \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Division's computer database, and, as a result of such conduct, causes damage to the database.

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B. Definitions. As used in this Section:

1. the term “Division’s computer database” means computer application(s) used by the Division to calculate and store business and financial data collected under the authority granted by the Business License Law;
2. the term “loss” means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;
3. the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

7.02.860 First Year Adjustment Credit.

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

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

7.02.870 Business Retention Credit for Qualifying Investment Management Firms.

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

- A. An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of

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1. \$6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or
 2. 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not be carried forward to a succeeding tax year, except as provided in Subsection B.
- B.** For purposes of this credit, the “first tax year” would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either
1. The Investment Management Firm was not doing business in the City of Portland in the prior tax year or
 2. The prior tax year began prior to January 1, 2009.
 - a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
 - d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.

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- C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:
1. At least 90 percent of the firm’s gross income for the tax year must consist of fees that are
 - a. Received from Diversified Investing Fund or from persons unrelated to the firm, and
 - b. Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
 2. At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.
 3. A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner’s Compensation Deduction in Section 7.02.600.
 4. The firm was physically located within the City of Portland boundaries at the end of the tax year.
- D. The terms “Diversified Investing Fund” and “Qualified Investment Securities” have the meanings as defined by Administrative Rule.
- E. This credit is available for tax years beginning on or after January 1, 2009.

7.02.880 Youth Employment Credit Programs.

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

- A. For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires otherwise.
1. **“Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
 - a. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 - b. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole

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proprietorship that is not legally required to register to do business in the State of Oregon ; and

- c. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland 's Business License Law and the Multnomah County's Business Income Tax Law.

- 2. **“Non-exempt”** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.
- 3. **“Tax Year”** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.
- 4. **“Youth Certifying Agency”** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.

- B. Credits issued under a Youth Employment Credit program will have the following features:

- 1. Credits will be non-refundable;
- 2. There will be a maximum number of credits per tax year per program;
- 3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;
- 4. No individual credit will exceed \$500; and
- 5. Credit certificates or letters will be provided by the Revenue Division to be attached to the tax return claiming the credit(s).

- C. Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

7.02.881 Foster Youth Employment Opportunity Credit.

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

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- A.** A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).
- B.** For each tax year, 25 non-refundable \$500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.
- C.** To qualify for the credit, a business must:
 - 1.** Employ a certified foster youth.
 - a.** If the foster youth is enrolled in an educational program, the youth must average 12 hours per week and must have worked at least 200 hours in a six month period; or
 - b.** If the foster youth is not enrolled in an educational program, the youth must average 25 hours per week and must have worked at least 400 hours in a six month period.
 - 2.** Submit the following documentation no later than one month following the close of the tax year in which the credit is to be claimed. The documentation can be submitted at any time once the youth has worked sufficient hours to qualify for the credit.
 - a.** A copy of the youth's DHS certification;
 - b.** Sufficient summary payroll records that supports the average hours per week and total minimum hours required; and
 - c.** Sufficient documentation of the school or other educational program where the youth was enrolled if claiming the credit based on Subsection 1.a. above.
 - 3.** The Revenue Division will issue either a credit certificate or credit letter authorizing the maximum credit(s) for the tax year.

7.02.882 Youth Career Readiness Credit.

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

- A.** A Youth Employment Credit, known as the Youth Career Readiness Credit, is available for tax years 2011 and 2012 as a pilot program with the goal to increase the number of students who graduate from high school "career-ready" by expanding the number of meaningful career-related learning experiences between the private sector and schools.

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B. For purposes of the Youth Career Readiness Credit:

1. **“Career-Readiness”** involves three major skill areas: core academic skills and the ability to apply those skills to concrete situations in order to function in the workplace and in routine daily activities; employability skills (such as critical thinking and responsibility) that are essential in any career area; and technical, job-specific skills related to a specific career pathway. These skills have been emphasized across numerous pieces of research and allow students to enter true career pathways that offer family-sustaining wages and opportunities for advancement.
2. **“Career-Related Learning Experiences” (CRLEs)** are structured student activities in the community, the workplace or in the school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning and also help students to clarify career goals and usually take form as “Career Awareness Activities”, “Career Exploration Activities” and “Career Preparation Activities”.
3. **“Career Awareness Activities”** include workplace tours and field trips, career and job fairs and guest speakers.
4. **“Career Exploration Activities”** include job shadowing, informational and mock interviews, career mentoring and enterprise and community-based projects.
5. **“Career Preparation Activities”** include work experience, internships and apprenticeships.
6. **“CRLE Certifying Agency”** means the partner agency that has entered into an agreement or other memorandum of understanding with the City to act as the certifying agency for CRLE programs and will issue the credit certificate to each qualifying business program.

C. For each tax year, 75 non-refundable \$500 credits are available on a first-come, first-served basis, to Local Businesses that provide substantial career-readiness activities to high school students. An individual business can claim credits for each separate career readiness activity, up to a maximum of four (4) credits. However, no more than two (2) credits can be claimed for Career Awareness Activities.

D. To qualify for the credit, a business must:

1. Provide a Career Awareness, Career Exploration or Career Preparation activities program with direct costs of more than \$2,500 or in-kind value of more than \$5,000.

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2. The CRLE program being provided by the business must be certified by the CRLE Certifying Agency.
3. Complete the certified program as agreed to obtain the credit certificate from the CRLE Certifying Agency.

7.02.890 Residential Rental Registration Program.

(Added by Ordinance No. 189086, effective July 25, 2018.)

- A. For tax years beginning on or after January 1, 2018, all owners of residential rental property in the City are required to register the property and annually provide a schedule that includes the address of all owned residential rental units within the City. The Director may require additional data about the rental location by administrative rule. For purposes of this section, except where defined by administrative rule in accordance with Section 7.02.210, “residential rental unit” means any residential property rented or offered for rent for a period of more than 30 consecutive days. If a property contains more than one residential living quarter, the term residential rental unit refers to each separate living quarter.
- B. In the first tax year of the Residential Rental Registration Program, no additional fee will be imposed in connection with the registration. In subsequent years, a fee may be enacted to partially or fully recover the administration costs of the program in addition to other services as the Council may direct. Any fee schedule would be created and amended by administrative rule in accordance with Section 7.02.210. Section 7.02.700, Penalties, shall not apply for failure to file rental registration data in the 2018 tax year. Beginning in tax year 2019 and beyond, the penalty provisions of Section 7.02.700 shall apply.

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CHAPTER 7.03 - TEMPORARY BUSINESSES

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

Sections:

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

7.03.010 Temporary Businesses Exempt from Business License Law.

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

7.03.020 Fees for Revenue.

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

7.03.030 Temporary Businesses Defined.

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

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

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

7.03.040 License Required; Fees.

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

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

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CHAPTER 7.04 - ADMINISTRATION

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

**CHAPTER 7.06 - LICENSE REQUIREMENTS
& APPLICATIONS**

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

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CHAPTER 7.08 - LICENSE FEES

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

CHAPTER 7.10 - VIOLATIONS

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

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

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

Sections:

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

7.12.010 Definitions.

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

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

7.12.020 Record of Franchises.

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

7.12.030 Authority to Inspect Franchisee Records and Require Reports.

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

7.12.040 Contents of Franchise.

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

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

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

7.12.050 Short Title and Administration.

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

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

7.12.060 Payment of Privilege Tax Required.

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

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

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

7.12.070 Privilege Tax Applicable to Other Cases.

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

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

7.12.080 Report of Earnings.

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

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

7.12.090 Time Payment of the Privilege Tax.

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

7.12.100 No Waiver or Estoppel.

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

7.12.110 Credits Allowable.

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

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7.12.120 Interest and Penalty Applicable.

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

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

CHAPTER 7.14 - UTILITY LICENSE LAW

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

Sections:

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

7.14.005 Short Title.

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

7.14.010 Fees for Revenue.

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

7.14.020 License Required.

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

7.14.030 Administration.

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

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

7.14.040 Definitions.

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

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

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

- E. “Internet Service”** means a service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the internet or a proprietary subscriber network. "Internet service" includes provision of internet electronic mail, access to the internet for information retrieval, and hosting of information for retrieval over the internet or the graphical subnetwork called the world wide web. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
- F. “Licensee”** means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.
- G. “Public Safety Radio System”** means a radio system whose licensing and use of radio transmitters by state and local government and non-governmental entities is regulated by the Federal Communications Commission as engaged in public safety activities.
- H. “Telecommunications”** means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, laser, microwave, radio, or similar facilities, with or without benefit of any closed transmission medium, but does not include:

 - 1. cable television services;
 - 2. private telecommunications network services;
 - 3. over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto;
 - 4. direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;
 - 5. services provided solely for the purpose of providing internet service to the consumer;
 - 6. public safety radio systems;
 - 7. mobile service within the meaning of 47 U.S.C. § 153(33) (2012) and

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

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

7.14.050 Application and Issuance.

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

7.14.060 Fees and Payment.

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

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

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

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

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

7.14.065 Limitations.

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

7.14.070 Deductions.

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

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

7.14.080 Reports and Review of Records.

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

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

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

7.14.085 Refunds by City to Licensee.

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

7.14.090 Appeals.

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

7.14.100 Interest.

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

7.14.110 Civil Penalties.

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

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

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

7.14.120 Collection of Delinquencies.

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

7.14.130 Confidential Financial Information.

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

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

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**CHAPTER 7.16 - CHARITABLE
SOLICITATIONS**

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

**CHAPTER 7.18 - LIQUOR LICENSE
RECOMMENDATIONS**

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

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CHAPTER 7.22 - STREET AND SIDEWALK USE PERMITS

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

Sections:

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

7.22.010 Purpose.

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

7.22.020 Authorization.

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

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

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

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

7.22.030 Permit Required.

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

7.22.040 Revocation of a Permit.

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

7.22.050 Permit Subject to Ordinances and Regulations.

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

7.22.060 Diversion of Traffic.

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

7.22.070 Interference Prohibited.

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

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

**CHAPTER 7.24 - PRIVATE PROPERTY
IMPOUND TOWING**

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

Sections:

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

7.24.010 Towing of Vehicles from Private Property.

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

7.24.020 Administrative Authority.

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

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

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

7.24.030 Definitions.

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

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

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

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

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

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

7.24.040 Private Property Impound (PPI) Tower Registration.

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

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

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

- E.** Inspection. The PPI tower's towing equipment, dispatching and storage facilities will be inspected prior to issuance of a new PPI permit. If an applicant is currently in good standing as a Tow Contractor with the City of Portland and the storage facility and tow vehicles to be inspected are currently approved for use under the City Tow Contract, the qualifying PPI inspection may be waived by the Director.
- F.** Registration/expiration dates. PPI permits are valid for no more than 1 year, and expire annually on December 31st.
- G.** Renewal. Renewal notices will be sent to all registered PPI towers not less than one month prior to the annual expiration date. A renewal form requesting any changes in the registered information will be provided. Re-inspections are not required for renewal. Any permit not renewed within 30 days after the expiration date is invalid and a new application must be submitted and approved before PPI towing resumes.
- H.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Section is not assignable or otherwise transferable.
- I.** Indemnification and Insurance. PPI towers subject to the PPI Code agree to hold harmless, defend and indemnify the City of Portland, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI permit.
 - 1.** PPI tower will maintain such public liability and property damage insurance as will protect the PPI tower from all claims for damage to property or personal injury, including death, which may arise from operations pursuant to the PPI Code. Such insurance must include a single limit liability policy with coverage of not less than \$1,000,000. PPI tower will also maintain fire and theft insurance (garage keepers insurance) to protect stored vehicles in a minimum amount of \$100,000 and maintain cargo insurance in the minimum amount of \$50,000.
 - 2.** PPI tower will maintain insurance in the limits provided by this Section to cover liability for transportation required by Subsection 7.24.070 H. In no case shall the policy deductible for garage keepers and cargo insurance exceed \$2,500 per event.
 - 3.** The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the permit. The insurance must be without prejudice to coverage otherwise existing.

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

7.24.050 Towing Regulations.

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

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

7.24.060 Towing and Storage Rates.

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

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

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

7.24.070 Conditions.

PPI towers registered under this Section will:

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

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

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

7.24.080 Prohibitions.

PPI towers will not:

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

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

7.24.090 Remedies.

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

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

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

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

7.24.100 Appeals.

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

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

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

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

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

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

Sections:

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

7.25.010 Purpose.

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

7.25.020 Savings Clause.

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

7.25.030 Definitions.

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

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

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

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

7.25.040 Authorization.

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

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7.25.050 Registration as the Operator of a Facility.

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

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

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

7.25.060 Registration of a Facility.

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

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

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

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

7.25.070 Payment Device.

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

7.25.080 Signage Requirements.

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

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A. Pay and Park Signage.

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

B. Non-Pay Private Parking Signage.

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

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

7.25.090 Assessment of Penalties.

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

7.25.100 Parking Penalty Notice.

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

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

7.25.110 Penalty Payment Letters.

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

A. If the operator does not receive payment within 10 days from the day the operator affixed the penalty notice to the vehicle, the operator may mail a penalty payment letter to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle. The letter must be mailed no earlier than 10 days nor later than 30 days from the penalty notice issuance date. The letter must include:

1. The amount demanded;
2. Acceptable method(s) of payment;
3. The schedule of increases for continued non-payment as described in Chapter 7.25;
4. Space for the recipient to inform the operator that the person to whom the letter was sent is not the current registered owner of the vehicle;
5. A statement that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve any disputes with the operator have been unsuccessful;
6. The mailing address of the Bureau, and
7. A statement to the effect that the Bureau will only investigate complaints by parkers regarding the issuance of a parking penalty notice filed within 90 days of the date of the first penalty payment letter.

B. Administrative Fees.

1. If an operator incurs costs from the Department of Motor Vehicles (DMV) in its efforts to obtain the name and address of a vehicle's registered owner, the operator may add a one-time administrative fee in addition to the penalty amount, provided that:
 - a. 10 days have elapsed since the penalty notice issuance;

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

7.25.120 Unlawful to Tow Vehicles.

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

- A.** The vehicle has been parked at the registered facility without the payment of the required parking fees or without authorization for a period in excess of 24 hours after the period for which parking fees have been paid or authorization has been given; or
- B.** The vehicle is parked at the registered facility in such a manner as to clearly impede vehicular ingress or egress to and from designated parking stalls or the facility itself, or is parked in any area that is clearly and conspicuously designated by signs or other traffic control devices as areas in which parking is restricted or forbidden; or
- C.** The vehicle is parked at any of the operator's registered parking facilities, and:
 - 1.** Within the previous 2-year period, the vehicle was parked at any of the operator's registered facilities without payment of parking fees or authorization, three times or more; and
 - 2.** During that time the operator affixed and mailed the notices and payment letters as provided for in this Chapter; and
 - 3.** Three or more penalties remain unpaid; and
 - 4.** The operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle will be towed if the vehicle is again parked at a registered parking facility. The notice must also state the total amount due for outstanding penalties, the issue date and parking facility

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

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

7.25.130 Complaint Handling Procedures.

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

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

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

7.25.140 Maintenance of Records.

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

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

7.25.150 Insurance Required.

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

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

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

7.25.160 Prohibitions.

No operator shall:

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

7.25.170 Remedies.

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

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

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

7.25.180 Appeals.

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

7.25.190 Locking Parked Cars.

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

**CHAPTER 7.26 - REGULATION OF PAYDAY
LENDING**

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

Sections:

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

7.26.010 Purpose.

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

7.26.020 Definitions.

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

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

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

7.26.030 Permits.

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

7.26.040 Administrative Authority.

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

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

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

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

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

7.26.050 Payment of Principal Prior to Payday Loan Renewal.

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

7.26.060 Cancellation of Payday Loan.

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

7.26.070 Payment Plan for a Payday Loan.

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

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

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

7.26.080 Remedies.

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

7.26.090 Appeals.

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

7.26.100 Complaints.

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

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

7.26.110 Severability.

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

TITLE 10 - EROSION AND SEDIMENT CONTROL REGULATIONS

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**TITLE 10 - EROSION AND SEDIMENT CONTROL
REGULATIONS**

(Title added by Ordinance No. 173979, effective March 1, 2000)

**TITLE 10
EROSION AND SEDIMENT
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CHAPTER 10.10 - GENERAL

Sections:

- 10.10.010 Short Title.
- 10.10.020 Purpose.
- 10.10.030 Authority.
- 10.10.040 Complaints.
- 10.10.050 Compliance with Other Laws.

10.10.010 Short Title.

Title 10 of the Portland City Code shall be known as the “Erosion and Sediment Control Regulations”.

10.10.020 Purpose.

This Title provides requirements for development and construction related activities in order to control the creation of sediment and to prevent the occurrence of erosion at the source during construction and development. The Erosion and Sediment Control Regulations seek to:

- A. Reduce the sediment and pollutants contained in erosion caused by construction and development;
- B. Reduce the amount of sediment and pollutants entering storm drainage systems and surface waters from all ground disturbing activity;
- C. Reduce the amount of erosion placing dirt and mud on the public right-of-way and surrounding properties during construction and development; and,
- D. Reduce the amount of soil and dust placed into the air during ground disturbing activity.

10.10.030 Authority.

(Amended by Ordinance Nos. 176955, 177092, 179690, 182389 and 189078, effective July 18, 2018.)

A. General.

- 1. This Title shall be administered and enforced by the Director of the Bureau of Development Services (BDS) for all ground disturbing activities, except as set forth in Subsections A.2 & A.3.
- 2. For development and construction related activities within the public right-of-way, in a public easement, or under a public works permit or contract, this Title shall be administered and enforced by the director of the Bureau that is performing or contracting for the development or construction, specifically, the Director of the Bureau of Transportation, the Director of

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the Bureau of Environmental Services, the Director of Parks and Recreation, and the Administrator of the Portland Water Bureau.

3. For non-permitted ground disturbing activity, this Title shall be administered and enforced by the Bureau of Environmental Services (BES) on a complaint based response basis.
- The Directors, as specified in Subsection A. above, may implement procedures, forms, specifications, and written policies for administering the provisions of this Title.
- The Directors, as specified in Subsection A above, may issue interpretations on the meaning and intent of the Erosion and Sediment Control Regulations. Such interpretations shall conform to the purposes of this Title.
- Rulemaking.
1. The Director of the BDS shall have the authority to adopt rules and supplemental regulations for permitted development activities with the concurrence of the Directors as specified in Subsection A., above. Each of the Directors shall have the authority to adopt amendments to the Erosion Control Manual with the concurrence of the other Directors specified in Subsection A. above. All the Directors specified in Subsection A. above shall have the authority to administer and enforce such rules and regulations. Such rules and regulations shall be in conformance with the intent and purpose of this Title.
- The Director of BES shall have authority to adopt rules and supplemental regulations for non-permitted ground disturbing activities with the concurrence of the Directors as specified in Subsection A., above.
2. Permanent Rules.
- a. Prior to the adoption of a permanent rule, the Director developing the rule shall:
- (1) Publish a notice in a newspaper of general circulation in the City. The notice shall be published not less than thirty days before the hearing. The notice shall 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 notice shall be

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provided to the Office of Community & Civic Life at least thirty days before the hearing.

- (2) At the hearing, a designee of the Director shall hear testimony and receive written comments regarding the proposed rules. The designee shall provide a recommendation to the Directors. The recommendation shall take into consideration the comments received.
 - (3) The Director shall review the recommendation of the designee, and with the concurrence of the Bureaus shall either adopt the proposed rule, modify or reject it.
 - (4) If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or shall provide an additional public review prior to adoption.
 - b. Unless otherwise stated, all rules shall be effective two weeks after adoption by the Director.
3. Interim Rules.
- a. An interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious threat of injury or hazard to the public health, the environment or public or private property. The rule shall include specific written reasons for the finding.
 - b. Interim rules shall be effective for a period of not longer than 180 days.
 - c. Not more than 30 days after adoption of an interim rule, public notice of interim rules shall be given by publication in a newspaper of general circulation and notice sent to the Office of Community & Civic Life. Such notice shall also identify the location at which copies of the full set of the interim rules may be obtained.
4. All final and interim rules shall be filed in the office of the Director. All final and interim rules shall be available to the public at the Development Services Center.
5. Notwithstanding Subsections D.1. through D.4., above, the administrative rules contained in the Erosion Control Manual filed with the Council together with the ordinance creating this Title may be adopted by any Director named in Subsection A. above without further public review or

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comment. Thereafter, any Director thus identified may with the concurrence of the other Directors amend, modify or repeal any of the administrative rules contained in the Erosion Control Manual following the adoption of the rules procedure set forth in Subsection D.

- E.** The Directors, as specified in Subsection A above, may set fees for all permits, plan reviews and inspections under this Title. The fees shall be established by administrative rule. Fees shall set at levels sufficient to cover all administrative costs associated with processing applications, reviewing plans, inspections and enforcement. Fees under this Title are in addition to any other fees required by the City Code. Fees under this Title are also not part of any required bond, letter of credit or other form of guarantee.

10.10.040 Complaints.

(Amended by Ordinance No. 179690, effective November 18, 2005.) A single coordinated complaint process shall be established by all Bureaus authorized to administer this Title. Each Bureau authorized to administer this Title shall create a public complaint process that provides a single point of contact for receiving a complaint.

10.10.050 Compliance with Other Laws.

(Amended by Ordinance No. 179690, effective November 18, 2005.)

- A.** General. The requirements of this Title are minimum requirements. Compliance with this Title does not in any way imply, either directly or indirectly, compliance with any other law.
- B.** Precedence - City Code. Where the provisions of this Title are more restrictive than those set forth in other regulations under the City Code or ordinance, the provisions of this Title shall control.
- C.** Precedence - State or Federal Regulation. Where a State or Federal natural resource agency permit requirements address erosion prevention and sediment control, the State or Federal natural resource protection requirements shall control. For any portions of a site where State or Federal permit requirements do not apply, City Code requirements shall control.

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CHAPTER 10.20 - DEFINITIONS

Sections:

- 10.20.010 Definitions.
10.20.020 Referenced Regulations.

10.20.010 Definitions.

(Amended by Ordinance Nos. 176955, 179690 and 182389, effective January 2, 2009.)

- A.** General. For the purpose of this Title, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified in this Chapter. Throughout this Title, the following words and phrases shall be construed as set forth in this Section, unless the context requires otherwise.
- B.** Definitions.
1. "Accepted" means, for projects in the public right-of-way, that the required plans have been reviewed by the Director and have been found to be in conformance with the Erosion and Sediment Control Regulations.
 2. "Applicant" means the person who applies for a permit.
 3. "Approval" or "Approved" means a determination by the Director that the provisions of this Title have been met.
 4. "Bedrock" means in-place solid rock.
 5. "Best Management Practice" or "BMP" means a physical, chemical, structural or managerial practice that prevents, reduces, or treats the contamination of water, or which prevents or reduces soil erosion.
 6. "Bureau" means the Bureau of Environmental Services, the Bureau of Development Services, the Bureau of Transportation and the Portland Water Bureau.
 7. "Certified Professional in Erosion and Sediment Control" or "CPESC" means a person who has been so determined by the Soil and Water Conservation Society and the International Erosion Control Association.
 8. "Contract Work" means capital improvement program or other City funded public works activities provided by an outside contractor in compliance with the City's Standard Construction Specifications and other applicable special standards.
 9. "Denuded" means land that has had the natural vegetative cover or other cover removed leaving the soil exposed to the elements.

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10. "Development" means any human induced change to improved or unimproved real estate, whether public or private, including but not limited to construction, installation, or expansion of a building or other structure, land division, street construction, drilling, and site alteration such as that due to dredging, grading, paving, parking or storage improvements, excavating, filling or clearing.
11. "Director" means those persons specified in Section 10.10.030 or those persons' designees.
12. "Disturbance Area" means an area where soils are exposed or disturbed by development, both existing and proposed. The disturbance area includes staging and storage areas, structures, and areas needed for vehicle access and maneuvering. When a disturbance area is delineated for new development, it must be a contiguous area. Agricultural and pasture land and native vegetation planted for resource enhancement are not considered part of the disturbance area.

For utility lines, trenches, or other similar linear work, the disturbance area includes staging and storage areas, the linear feature, and the areas on each side of the linear feature 15 feet wide for public works projects and 10 feet wide for all other projects. Where necessary for safety in deep trenches, the disturbance area may be made wide enough to allow for bending and shoring of the trench.

13. "Drainage Control" means the collection, conveyance and discharge of stormwater.
14. "Dwelling" means any structure containing dwelling units.
 - a. "Single Family Dwelling" means a structure containing only one dwelling unit.
 - b. "Duplex" means a structure containing two dwelling units.
15. "Environmental Overlay Zone" means any location in a "c" or "p" overlay zone shown on Official Zoning Maps or described in Chapter 33.430 of the City of Portland Zoning Code.
16. "Erosion" means the wearing away of the ground surface as a result of the effects of gravity, wind, water or ice.
17. "Erosion Control Manual" means the collection of administrative rules adopted to implement the purpose and intent of this Title.

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18. "Final GRADE means the finished grade of the site which conforms to the approved plan.
19. "Grade" means the vertical location of the ground surface.
20. "Greenway" means a Greenway Overlay Zone as determined by the City of Portland Zoning Code Title 33, Section 33.440.030.
21. "Ground Disturbing Activity" means any activity that exposes soil.
22. "Nuisance" (See Chapter 10.80.010 of this Title).
23. "Owner" means the person whose name and address is listed as the owner of the property by the County Tax Assessor on the County Assessment and Taxation records.
24. "Permanent measures" or "permanent stabilization" means a combination of plants, mulch, sod, matting, erosion control blankets, and permanent structures that will provide long-term soil stabilization.
25. "Permanent non-permitted ground disturbing activities" means activities or businesses that do not require a development permit and which expose soils for extended periods as an integral part of their production or maintenance. Examples include agriculture, quarries, mining, nurseries, and maintenance of sports fields.
26. "Permit" means an official document issued by the Director authorizing performance of a specified activity.
27. "Person" means any individual, partnership, association or corporation.
28. "Plan" means a text narrative, or graphic or schematic representation, with accompanying notes, schedules, specifications and other related documents.
29. "Pollutant" means any substance which is prohibited or limited by the provisions of Chapter 17.39 of the City Code, released or discharged in conjunction with development.
30. "Responsible Party" means:
 - a. The property owner or person authorized to act on the owner's behalf; or
 - b. Any person causing or contributing to a violation of this Title.

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- 31. "Sediment" means mineral or organic matter deposited as a result of erosion.
- 32. "Site" means any lot or parcel of land or contiguous combination where development occurs. For utility lines, trenches or other similar linear work, the site includes only the disturbance area directly related to the linear work activity (see "disturbance area").
- 33. "Slope" means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
- 34. "Soil" means naturally occurring surficial deposits overlaying bedrock.
- 35. "Special Site" (See Section 10.30.030 of this Title).
- 36. "Stabilization" means the process of establishing an enduring soil cover of vegetation or mulch or other ground cover and may be in combination with installation of temporary or permanent structures. Stabilization shall reduce to the maximum extent practicable the erosion process and the resultant transport of sediment.
- 37. "Storm Drainage System" means facilities by which stormwater runoff is collected or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, culverts, pumping facilities, retention and detention basins, natural and constructed (or altered) drainage channels, reservoirs, and other drainage structures.
- 38. "Storm Event" means a storm that produces one-half inch of rain or more during any 24 hour time period.
- 39. "Stormwater" means water runoff, snowmelt runoff or surface runoff and drainage.
- 40. "Visible and Measurable" means:
 - a. Deposits or tracking of mud, dirt, sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or into the storm or surface water system, either by direct deposit, dropping, discharge or as a result of the action of erosion.
 - b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.

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- c. Earth slides, mud flows, earth sloughing, or other earth movement which leaves the property.
- 41. "Water Body" means rivers, sloughs, continuous and intermittent streams and seeps, ponds, lakes, aquifers, and wetlands.
- 42. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.
- 43. "Wetland" means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs and similar areas.

10.20.020 Referenced Regulations.

(Amended by Ordinance No. 176955 and 182671, effective May 15, 2009.) All referenced regulations are available as specified below:

- A. Erosion Control Manual. The Erosion Control Manual is maintained by the Bureau of Development Services.
- B. City of Portland Plant List. The City of Portland Plant List is maintained by the Bureau of Planning and Sustainability.
- C. City of Portland Standard Construction Specifications. The City of Portland Standard Construction Specifications are maintained by the City Engineer.

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CHAPTER 10.30 - REQUIREMENTS

Sections:

- 10.30.010 General Scope.
- 10.30.020 Minimum Requirements.
- 10.30.030 Additional Requirements for Special Sites.
- 10.30.040 Maintenance.

10.30.010 General Scope.

(Amended by Ordinance Nos. 175205 and 179690, effective November 18, 2005.)

- A.** This Title applies to all ground disturbing activities whether or not a permit is required, unless such activities otherwise are exempted by Portland City Code. All non-permitted ground disturbing activities shall comply with this Title unless otherwise noted.
- B.** Exemptions:
 - 1.** Installation of signs is exempt from this Title.
 - 2.** Emergencies: Development which is subject to Subsection A. may commence without complying with the requirements of this Title if the Director determines that there is a hazard posing imminent danger to life or property, such as substantial fire hazards, risk of flood or other emergency. However, upon a determination by the Director that such emergency has passed, the provisions of this Title shall apply.

10.30.020 Minimum Requirements.

(Amended by Ordinance No. 179690, effective November 18, 2005.) The following minimum requirements apply to all development and ground disturbing activities.

- A.** Purpose
 - 1.** No visible and measurable sediment or pollutant shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system.
 - 2.** Depositing or washing soil into a water body or the storm drainage system is prohibited.
 - 3.** Ground disturbing activities requiring a permit shall provide adequate public notification of the City's Erosion Control Complaint Hotline.
- B.** Requirements and Standards. In order to meet the purpose set forth in Subsection A. above, the responsible party shall do all or any of the following:

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- 1.** Install measures intended to keep soil on site or out of water bodies, storm drainage systems or the public right-of-way as the first step in any development. These measures shall be made functional prior to any upslope development taking place.
- 2.** Remove any soil that enters the public right-of-way.
- 3.** Protect stormwater inlets that are functioning during the course of the development by approved sediment control measures so that sediment-laden water cannot enter the inlets without first being filtered.
- 4.** Apply permanent or temporary soil stabilization to denuded development site areas in conformance with the following schedule. Permanent non-permitted ground disturbing activities may achieve compliance with this schedule by installing and maintaining approved permanent Best Management Practices (BMPs) that meet the purpose of this Title.
 - a.** Between October 1 and April 30, all denuded sites shall be provided with either temporary or permanent soil stabilization as soon as practicable, but in no case more than two days after ground disturbing activity occurs.
 - b.** Between May 1 and September 30, temporary erosion and sediment control measures to reduce dust and sediment transport shall be applied as soon as practicable, but in no case more than seven days after ground disturbing activity occurs.
 - c.** Ground cover shall be installed on any portion of a site that is denuded for more than six months. Sports fields or playgrounds surrounded by vegetative cover or permanently installed curbing are exempt from this requirement.
 - d.** Temporary measures shall be maintained until permanent measures are established.
 - e.** Ground disturbing activity taking place between October 1 and April 30 for sites located in the Balch Creek Subdistrict of the Northwest Hills plan district is prohibited, and is not subject to Alternate Methods review per Section 10.40.040. (See Chapter 33.563 of the City of Portland Zoning Code.)
- 5.** Plant replacement vegetative cover that does not include plants listed in either the Nuisance or the Prohibited Plant List, as set forth in the City of Portland Plant List. Permanent non-permitted ground disturbing activities are exempted from this requirement.

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6. Secure or protect soil stockpiles throughout the project with temporary or permanent soil stabilization measures. The responsible party is accountable for the protection of all stockpiles on the site, and those transported from the site. Depositions of soil may be subject to additional regulations requiring permit, review or erosion and sediment control.
7. Select BMPs from the Erosion Control Manual.
8. Post signage on the site of the permitted ground disturbing activity that identifies the City's Erosion Control Complaint Hotline number or the responsible City project manager/inspector. Permanent non-permitted ground disturbing activities are exempted from this requirement.
 - a. Post a sign on the site that is clearly visible from the right-of-way. The sign shall be at least 18" by 18" and made of materials that shall withstand weather for the duration of the project. Lettering shall be at least 3" high and easily readable. Signs shall be color coded or otherwise marked to identify the appropriate enforcing bureau; or
 - b. Another visual notification method approved by the Director of the designated enforcing bureau.
9. Demonstrate that any trench dewatering and trench spoils will be managed onsite or provide discharge approval from the Bureau of Environmental Services for offsite discharge.
10. Identify sites where potential pollutants will be stored, used, or disposed. Such sites must provide adequate containment to prevent the release of non-soil pollutants.

10.30.030 Additional Requirements for Special Sites.

(Amended by Ordinance No. 179690, effective November 18, 2005.) When the Director determines that special site conditions may prevent compliance with Section 10.30.020, the Director may require additional erosion, sediment and pollutant control measures.

- A. Special site conditions may include, but are not limited to, the following:
 1. Slopes before development that are greater than 10 percent (1 Vertical:10 Horizontal).
 2. Ground disturbance of a natural vegetative buffer within 50 feet of a wetland and or water body.
 3. The development site is located entirely or partially within an Environmental Overlay Zone or Greenway Overlay Zone.

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4. The development site or development phase will have ground disturbing activity at any one time of 10,000 square feet or more. Single family dwellings and duplex dwellings are exempt from this size limitation.
 5. The development includes a land division containing 10,000 square feet or more.
 6. Project timing is such that ground disturbing activity will take place between October 1 and April 30.
 7. The development involves discharge or offsite disposal of dewatering or trench spoils.
- B.** Additional requirements imposed by the Director to achieve compliance with Section 10.30.020 A. may include, but are not limited to, the following:
1. Requiring drainage control in compliance with Titles 17 and 24 during all development phases.
 2. Requiring that a State of Oregon registered professional engineer, other professional certified by the State of Oregon with experience or qualifications in preparing erosion control plans, or a registered CPESC prepare or implement the erosion and sediment control plan.
 3. Prohibiting ground disturbing activities between October 1 and April 30.
 4. Limiting the amount of denuded soil at any given time
 5. Requiring a bond, letter of credit or other guarantee.

10.30.040 Maintenance.

(Amended by Ordinance No. 179690, effective November 18, 2005.) The requirements of this Section apply to all permitted ground disturbing activities.

- A.** The responsible party shall maintain all erosion, sediment and pollutant control measures, temporary and permanent, in proper functioning order.
- B.** The responsible party shall inspect, maintain, adjust, repair, and replace erosion, sediment and pollutant control measures within 24 hours following a storm event to ensure that the measures are functioning properly.
- C.** During active ground disturbing activity, the responsible party shall inspect and maintain erosion, sediment and pollutant control measures daily between October 1 and April 30.

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- D.** All inspections conducted by a responsible party in Subsections B. and C. above shall be noted in an inspection log indicating the date and time of the inspection. The inspection log shall be made available to the Director upon request.
- E.** All site public notification signs required by 10.30.020 shall be maintained to remain easily readable from the public right-of-way throughout the duration of the ground disturbing activity.

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CHAPTER 10.40 - PERMITS & PLANS

Sections:

- 10.40.010 Plan Required.
- 10.40.020 Permit and Plan Requirements.
- 10.40.030 Approval or Denial of Erosion, Sediment and Pollutant Control Plan.
- 10.40.040 Alternate Methods Review Process.
- 10.40.050 Issuance of Permit.
- 10.40.060 Public Works Projects.
- 10.40.070 Cancellation of Permit or Expiration of Permit.

10.40.010 Plan Required.

(Amended by Ordinance No. 179690, effective November 18, 2005.)

- A.** The responsible party shall submit an erosion, sediment and pollutant control plan for permitted development projects to the Director for review if:
 - 1.** The disturbance area is 500 square feet or greater in area; or
 - 2.** The disturbance area is in a special site (see Section 10.30.030 A. for definition).
- B.** An erosion, sediment, and pollutant control plan is not required for work that does not require a permit or for planting of trees or other vegetation by hand held tools, unless otherwise required by the terms of a compliance order or land use decision.
- C.** Where a plan is required, the responsible party shall not commence any development before the Director has approved the proposed plan.

10.40.020 Permit and Plan Requirements.

(Amended by Ordinance No. 179690, effective November 18, 2005.)

- A.** All permit applications or contract submittals that require an erosion, sediment, and pollutant control plan shall be accompanied by the plans at the time of application or submittal. The number of erosion, sediment and pollutant control plans required shall be determined by the applicable permit or contract process. All erosion, sediment and pollutant control plans shall comply with the Minimum Erosion, Sediment and Pollutant Control Plan Standards in the Erosion Control Manual.
- B.** The Director shall review all erosion, sediment and pollutant control plans. The Director may waive items required under Subsection A above where the Director determines that certain items are not applicable to a specific application or project.
- C.** The responsible party shall be accountable for any plan modifications needed due to conflicts, omissions or changed conditions that arise in the field. The responsible

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party shall bear all costs to comply with the City of Portland Standard Construction Specifications, the Erosion Control Manual and the City Code.

10.40.030 Approval or Denial of Erosion, Sediment and Pollutant Control Plan.

The erosion, sediment and pollutant control plan shall be reviewed by the Director. If the Director finds that the plan complies with this Title, it shall be approved. Such approval shall be indicated on the plan documents. The approved plan shall not be changed, modified, or altered without authorization from the Director. All development regulated by this Title shall be done in accordance with the approved plan. If the Director approves only a portion of the plan, development may commence on only that portion of the site for which the plan that has been approved.

10.40.040 Alternate Methods Review Process.

(Amended by Ordinance Nos. 176955, 179690 and 182389, effective January 2, 2009.)

- A.** The Director may approve the use of alternate methods that provide protection that is greater than or equal to the protection provided by the methods prescribed in the Erosion Control Manual.
- B.** In order to determine the suitability of alternate erosion control methods not specifically addressed by this Title and not approved by the Director as described in Subsection A. above, and to provide interpretation of this Title, there is created an alternate methods review process. The process shall consist of an Administrative Review Board and an Erosion Control Review Board.
 - 1.** Administrative Review Board. The Administrative Review Board shall be established as the initial review process. The Bureau of Development Services shall provide staff for the Administrative Review Board.
 - a.** Administrative Review Board Membership. The Administrative Review Board shall comprise one member and one alternate appointed by the Director, or Manager, of each of the following Bureaus: Bureau of Environmental Services, Bureau of Transportation, Portland Water Bureau, Bureau of Development Services and the Urban Forestry Division.
 - b.** Meeting Schedule and Quorum. The Administrative Review Board shall meet on an as needed basis, based on review requests. The board shall not meet more than once per week. At least one member or alternate must attend from the Bureau of Development Services, and at least one member or alternate must attend from the Bureau of Environmental Services to constitute a quorum. When the Administrative Review Board considers a petition concerning work in the right-of-way, at least one member or alternate from the Bureau

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responsible for the work in the right-of-way must also attend to constitute a quorum.

- c.** Duties. The Administrative Review Board shall review and reach determination on all petitions which request the use of alternate methods of erosion control and provide interpretation of the requirements of this Title. Any alternate method allowed shall provide an equivalent or greater level of protection than the methods prescribed in the Erosion Control Manual. The decision of the Administrative Review Board shall have full force and effect unless petitioned to the Erosion Control Review Board. The Administrative Review Board shall give written notice to the responsible party of its decision.

- 2.** Erosion Control Review Board. The Erosion Control Review Board is established to hear petitions regarding decisions made by the Administrative Review Board. The Commissioner in charge of the Bureau of Development Services shall appoint members to serve on the Erosion Control Review Board, and shall designate a Chair. The Bureau of Development Services shall provide staff for the Erosion Control Review Board.

- a.** Board Membership.

- (1)** The Erosion Control Review Board shall consist of three members. Members must be qualified by experience and training to make decisions on matters pertaining to erosion control methods.
- (2)** Members shall be appointed for a period of three years.
- (3)** Any member of the Erosion Control Review Board may be removed from office by the Commissioner in charge for due cause, such as malfeasance in office, incapacity or neglect of duty.
- (4)** The Commissioner in charge shall appoint a qualified alternate for each member, who shall attend meetings and vote when the member is unavailable.

- b.** Meeting of the Board. Meetings of the Erosion Control Review Board shall be held at the call of the Chair or upon notice from the Commissioner in charge.

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- c. Duties. The Erosion Control Review Board shall review and make decisions on all petitions from decisions made by the Administrative Review Board. The Erosion Control Review Board may, by a majority vote, affirm, reverse or modify the action of the Administrative Review Board. Any alternate method of erosion control shall provide an equal or greater level of protection than the methods prescribed in the Erosion Control Manual. The decision of the Erosion Control Review Board shall be final. The Erosion Control Review Board shall give written notice to the petitioner of its decision.
- C. Petitions to the Administrative Review Board. Whenever the responsible party wishes to pursue an alternate method of erosion control not addressed by this Title, the responsible party may request review of the alternate method by the Administrative Review Board. Any alternate method of erosion control shall provide an equal or greater level of protection than the methods prescribed in the Erosion Control Manual. All requests for review shall be in writing and addressed to the Director of the Bureau of Development Services.
- D. Petitions to the Erosion Control Review Board. The responsible party may petition for further review of a decision made by the Administrative Review Board to the Erosion Control Review Board. Any petition shall be addressed to the Director of the Bureau of Development Services and must be received within fifteen days of the Administrative Review Board's decision. The Director shall forward the notice or a copy to the Erosion Control Review Board and the Board shall determine a hearing date. The petitioner and any interested parties shall be notified of the time and place for the hearing.
- E. Burden of proof. The burden of proof for all alternate methods reviews falls upon the responsible party.
- F. Fee for petition. All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as-needed basis. The approved Fee Schedule shall be available at the Development Services Center. The fee shall be paid at the time the petition is filed.

10.40.050 Issuance of Permit.

- A.** No permit requiring an erosion, sediment and pollutant control plan shall be issued until the plan is approved.
- B.** As a condition of permit issuance, the responsible party shall agree to allow all inspections to be conducted.

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- C. Where a bond, letter of credit or other guarantee is required, the permit shall not be issued until the bond or guarantee has been obtained and approved.

10.40.060 Public Works Projects.

(Amended by Ordinance No. 179690, effective November 18, 2005.) Projects within the public right-of-way shall not be commenced until the erosion, sediment and pollutant control plan has been accepted and controls are in place.

10.40.070 Cancellation of Permit or Expiration of Permit.

The Director may require that all denuded soil on the site be permanently stabilized before a permit is cancelled or expires.

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CHAPTER 10.50 - INSPECTIONS

Sections:

- 10.50.010 General.
- 10.50.020 Inspections for Non-Permitted Activities.
- 10.50.030 City Inspections.
- 10.50.040 Other Inspections.
- 10.50.050 Refusal of Entry.
- 10.50.060 Release of Bond or Other Guarantee.

10.50.010 General.

- A. The Director may conduct inspections whenever it is necessary to enforce any provisions of this Title, to determine compliance with this Title or whenever the Director has reasonable cause to believe there exists any violation of this Title.
- B. Inspections shall occur at reasonable times of the day. If the responsible party is at the site when the inspection is occurring, the Director or authorized representative shall first present proper credentials to the responsible party and request entry. If such entry is thereupon refused, the Director shall have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.

10.50.020 Inspections for Non-Permitted Activities

- A. Non-permitted ground disturbing activities shall be inspected as the result of a complaint.
- B. Inspections in response to complaints shall occur from one of the following locations:
 - 1. The adjacent right-of-way;
 - 2. Adjacent public property;
 - 3. Adjacent private property with approval of entry from the property owner;
or
 - 4. The property that is the subject of the complaint with approval for entry by the property owner.

10.50.030 City Inspections.

(Amended by Ordinance No. 179690, effective November 18, 2005.) The Director shall conduct the following inspections on permitted development activities. It shall be the duty of the responsible party to notify the Director at the appropriate inspection phase as set

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forth below. Inspections of erosion, sediment and pollutant control measures may occur with other inspections being conducted on the development or construction project.

- A.** Pre-construction inspection. The Director shall conduct inspections after initial, temporary erosion, sediment and pollutant control measures have been put in place and prior to any ground disturbance in addition to that necessary for the installation of the erosion, sediment and pollutant control measures. When the development is being conducted in phases, this inspection shall occur at the beginning of each phase.
- B.** Permanent measures inspection. The Director shall conduct inspections after permanent measures are put in place. When the development is being conducted in phases, this inspection shall occur after permanent measures have been installed for each phase.
- C.** Interim inspections. The Director may conduct other inspections not specifically addressed above to determine compliance with this Title.
- D.** Final erosion control inspection. For special sites as defined in Section 10.30.030 A., an inspection shall be conducted after construction completion to determine the effectiveness of permanent erosion and sediment control measures. This inspection shall be conducted six months after construction completion or at other times determined by the Director. This inspection may be conducted at sites other than special sites as determined by the Director.

10.50.040 Other Inspections.

Where the Director has determined that special site conditions exist, the Director may designate a special inspector to monitor erosion, sediment and pollutant control at that site. The special inspector shall be qualified to perform such monitoring.

10.50.050 Refusal of Entry.

No person shall refuse entry or access to a permitted development project to any authorized representative of the Director who provides proper credentials and requests entry for the purpose of conducting an inspection. In addition, no person shall obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

10.50.060 Release of Bond or Other Guarantee.

(Amended by Ordinance No. 179690, effective November 18, 2005.) At the time of project approval, when the Director determines that all provisions of this Title have been met, the bond, letter of credit or other guarantee that has been provided shall be released. Public works permit and contract performance guarantees shall be released as dictated in the applicable permit or warranty agreements.

CHAPTER 10.60 - REVISIONS

Sections:

10.60.010 Revisions to Erosion, Sediment and Pollutant Control Plan.

10.60.010 Revisions to Erosion, Sediment and Pollutant Control Plan.

- A.** During development, the Director or the responsible party may request revisions to the approved erosion, sediment or pollutant control plan. The Director may approve, (or for projects within the public right-of-way accept), or deny all revisions.
- B.** The Director may require revisions to the approved erosion, sediment and pollutant control plan when:

 - 1.** It is determined that approved erosion, sediment and pollutant control measures do not meet the purposes set forth in Subsection 10.30.020.A.
 - 2.** An alternate method, measure or control fails to perform as claimed by the responsible party.
 - 3.** A change in project timing has occurred due to an adverse change in weather.
 - 4.** During development, relevant new information about soil, site, topography or water conditions is discovered.
 - 5.** Changes to the area or type of ground disturbing activity or equipment used are proposed or implemented.
 - 6.** The project schedule has changed which results in development being conducted at a different time of year than originally accepted or approved.
 - 7.** Additional or substitute construction or maintenance materials or chemicals will be used during development that require pollutant BMPs as set out in the Erosion Control Manual.
- C.** Revised plans shall show all actual and proposed changes made on the site, the new locations of the drainage patterns, and the affect that the revisions will have on the site. The new plans shall show how problems associated with the prior plan have been corrected, and indicate all new erosion, sediment and pollutant control measures. The Director may require that the new plans be prepared by a State of Oregon registered engineer, a State of Oregon registered landscape architect, or a CPESC, and that the revisions be stamped as such.

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- D.** The responsible party shall be solely responsible for the costs associated with any revisions, including but not limited to, any additional or alternate methods, measures, performance criteria or controls.

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**CHAPTER 10.70 - ENFORCEMENT AND
PENALTIES**

Sections:

10.70.010	Violation of Title
10.70.020	Notice of Violation
10.70.030	Stop Work Orders
10.70.040	Erosion, Sediment and Pollutant Control Plan for Non-Permitted Activities
10.70.050	Voluntary Compliance Agreement
10.70.060	Civil Penalties
10.70.070	Appeal of Notice of Violations and Penalties

10.70.010 Violation of Title.

- A.** The following actions shall constitute a violation of this Title:
- 1.** Any failure, refusal or neglect to comply with any requirement of this Title.
 - 2.** Allowing or causing a condition that threatens to injure public health, the environment, or public or private property.
 - 3.** Failure to correct ineffective erosion, sediment and pollutant control measures after being required to do so by the Director.
- B.** Each specific incident and each day of non-compliance shall be considered a separate violation of this Title.

10.70.020 Notice of Violation.

- A.** Written Notice of Violation. When the Director determines that a violation of this Title has occurred, the Director shall notify the responsible party and the property owner in writing that a violation of this Title has occurred. The notice of violation shall either be delivered to the responsible party or posted at the property site of the violation, and mailed to all responsible parties. If the address of the responsible party is unknown, then the notice shall, in addition to being posted at the site, be published in a local newspaper for one week. This publication shall serve as the mailed notice.
- B.** The written notice shall include the following information:
- 1.** Date violation has occurred;
 - 2.** Permit number, where applicable;
 - 3.** Site address, legal description or project location;

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4. Description of violation;
 5. Disclosure that civil penalties, charges and liens may result from a failure to remedy the violations;
 6. Deadline to correct violation prior to assessment of civil penalties. If there is a threat of injury to the public health, the environment, or public or private property, the Director may require correction of the violation within 24 hours. All violations shall be corrected within 14-calendar days;
 7. The date that civil penalties, administrative enforcement fees, charges or liens will begin accumulating; and,
 8. Information about the responsible party's ability to appeal.
- C. Failure to respond to notice of violation may result in civil penalties, administrative enforcement fees and stop work orders.

10.70.030 Stop Work Orders.

- A. When it is necessary to obtain compliance with this Title, the Director may issue a stop work order requiring that all work, except work directly related to the elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the responsible party shall not resume work until such time as the Director gives specific approval in writing. The stop work order shall be in writing and shall include:
1. Date of order;
 2. Permit number, where applicable;
 3. Site address, legal description or project location of stop work order;
 4. A description of all violations; and,
 5. The conditions under which the work may resume.
- B. The stop work order shall be in writing and posted at a conspicuous location at the site. In addition, a copy shall be sent to the responsible party by certified mail. For projects in the public right-of-way, the stop work order shall be delivered to the responsible party.
- C. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D. A stop work order shall be effective upon posting.

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- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director shall then issue a written notice under Subsection A. above within 24 hours.

10.70.040 Erosion, Sediment and Pollutant Control Plan for Non-Permitted Activities

If non-permitted ground disturbing activities violate provisions of this Title, the responsible party may be required to submit an ESPC Plan to demonstrate what measures will be revised or added to comply with the requirements of this Title.

10.70.050 Voluntary Compliance Agreement.

- A.** General. When a violation of this Title has occurred, as an enforcement option, the Director may enter into a Voluntary Compliance Agreement with the responsible party.
- B.** Contents. A Voluntary Compliance Agreement shall set forth the actions to be taken by the responsible party to correct violations of this Title. It may also set forth the actions to mitigate the impacts of violations. The agreement shall set forth a schedule for correction and completion of the mitigation.
- C.** Effect of Agreement.
- 1.** A Voluntary Compliance Agreement is not enforceable by any third party. By entering into a Voluntary Compliance Agreement, the responsible party waives the right to an appeal under Section 10.70.060.
 - 2.** The Director may reduce or waive civil penalties if the responsible party performs all the terms of the Voluntary Compliance Agreement. The Director may not waive civil penalties in any case where the responsible party is a repeat violator. If the responsible party fails to perform according to the terms of the Voluntary Compliance Agreement, the Director shall assess civil penalties from the date the violation occurred for each violation addressed in the Agreement.
 - 3.** Subject to the approval of the Director, the responsible party may elect to substitute in-kind services for up to 90% of the amount of all assessed penalties. The Director shall determine the actions that can be deemed in-kind services.

10.70.060 Civil Penalties

Violations of this Title may result in any of the following penalties:

- A.** Civil Penalties.
- 1.** For each violation, a civil penalty may be assessed of up to \$1,000 per day. Each day a violation exists shall be considered a separate violation.

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- 2.** The Director shall consider the following criteria in determining the amount of any civil penalty to be assessed under this Section:
 - a.** The nature and extent of the person's involvement in the violation;
 - b.** The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
 - c.** Whether the violation was isolated and temporary, or repeated and continuous;
 - d.** The magnitude and seriousness of the violation;
 - e.** The City's costs of investigation and remedying the violation;
 - f.** Whether any criminal charges have been issued against the person; and
 - g.** Any relevant, applicable evidence bearing on the nature and seriousness of the violation.

B. Administrative Enforcement Fees.

- 1.** The Director may charge a penalty in the form of a monthly enforcement fee for each project found in violation of this Title that meets the following conditions:
 - a.** The project is subject to a notice of violation or stop work order as described in Sections 10.70.020 and 10.70.030;
 - b.** A response period of 30 days has passed since the effective date of the notice of violation or stop work order; and
 - c.** The project remains out of compliance with the initial notice of violation or stop work order or any subsequent notice of violation or stop work order.
- 2.** The amount of the monthly enforcement fee shall be:
 - a.** For projects with development in an Environmental Overlay Zone: \$800.00
 - b.** For all other projects: \$400.00

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If all violations are not corrected within six months from the date of the initial notice of violation, subsequent enforcement fees shall be twice the amount stated above.

3. Once the monthly enforcement fees begin, they shall continue until all violations listed in the first or any subsequent notice of violation have been corrected, inspected and approved.
4. Whenever the responsible party believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the Director. Upon receipt of such notice, the Director shall promptly schedule an inspection of the project and shall notify the responsible party if any violations remain uncorrected.
5. When a project meets the conditions for charging an enforcement fee as described in this Section, the Director shall file a statement with the City Auditor that identifies the property, the amount of the monthly fee, and the date from which the charges are to begin. The Auditor shall then:
 - a. Notify the responsible party of the assessment of enforcement fees;
 - b. Record a property lien in the Docket of City Liens; and,
 - c. Bill the responsible party monthly for the full amount of the enforcement fees owing, plus additional charges to cover the administrative costs of the City Auditor; and
 - d. Maintain lien records until:
 - (1) The lien and all associated interest, penalties, and costs are paid in full; and
 - (2) The Director certifies that all violations listed in the first or any subsequent notice of violation have been corrected.

10.70.070 Appeal of Notice of Violations and Penalties.

- A. Whenever the responsible party has been given a written notice or order pursuant to this title and has been directed to make any correction or to perform any act and the responsible party believes the finding of the notice or order was in error, the responsible party may have the notice or order reviewed by the Director. If a review is sought, the responsible party shall submit a written request to the Director within 10 days of the date of the notice or order. Such review shall be conducted by the Director. The responsible party requesting such review shall be given the opportunity to present evidence to the Director. Following a review, the Director

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shall issue a written determination. Nothing in this Section shall limit the authority of the Director to initiate a code enforcement proceeding under Title 22.

- B.** A responsible party may appeal a written notice of a violation or civil penalty to the Codes Hearings Officer in accordance with Title 22 of the City Code.

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CHAPTER 10.80 - NUISANCE ABATEMENT

Sections:

- 10.80.010 Summary Abatement Authorized.
- 10.80.020 Notification Following Summary Abatement.
- 10.80.030 Financial Responsibility.

10.80.010 Summary Abatement Authorized.

The Director may determine that the failure or non-existence of erosion, sediment and pollutant control measures as required by this Title constitute a nuisance presenting an immediate threat of injury to the public health, the environment, or public or private property. Such nuisances shall be subject to the requirements of this Chapter. In cases where the Director determines it is necessary to take immediate action in order to meet the purposes of this Title, summary abatement of such nuisance is authorized.

10.80.020 Notification Following Summary Abatement.

- A.** When summary abatement is authorized by this Title, the decision regarding whether or not to use summary abatement shall be at the Director's discretion. In case of summary abatement, notice to the responsible party prior to abatement is not required. However, following summary abatement, the Director shall post upon the development site liable for the abatement a notice describing the action taken to abate the nuisance.
- B.** Additional Notification by Mail.
 - 1.** Upon posting of the notice described in Subsection A above, the Director shall cause a notice to be mailed to the owner at the owner's address as recorded in the county assessment and taxation records for the property. The mailed notice shall include the content described in Subsection 10.70.020 B.
 - 2.** An error in the name of the property owner or address listed in the county assessment and taxation records shall not render the notice void but in such case the posted notice shall be deemed sufficient.

10.80.030 Financial Responsibility.

- A.** Whenever a nuisance is abated under this Title, the Director shall keep an accurate account of all expenses incurred including a civil penalty of \$500 plus 100% of contractor's costs for each nuisance abated. When the City has abated a nuisance maintained by an owner of real property, for each subsequent nuisance which is abated by the City within two consecutive calendar years concerning real property, owned by the same person, an additional civil penalty of 50 percent (minimum of \$100) of the cost of abatement shall be added to the costs charges and civil penalties

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provided for in this Subsection. The additional civil penalty shall be imposed without regard to whether the nuisances abated by the City involve the same real property or are of the same character.

- B.** When a property meets the conditions for costs or penalties as described in this Section, the Director shall file a statement of such costs or penalties with the Auditor. Upon receipt of the statement, the Auditor shall mail a notice to the property owner, stating the City's intent to assess the property in question the amount due plus charges to cover the costs of the City Auditor. In the event that amount due set forth in the notice is not paid in full within 30 days of the date of notice, the Auditor shall enter the amount of the unpaid balance, plus charges to cover administrative costs of the City Auditor, in the Docket of City liens which shall therefore constitute a lien against the property.

development impact area. Trees may be planted to meet tree density requirement elsewhere on the site.

11.50.040 Tree Preservation Standards.

(Amended by Ordinance Nos. 187675, 188278, 188816, 188959 and 189078, effective July 18, 2018.)

A. Where these regulations apply.

- 1.** This Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations. On sites where these regulations do not apply, tree removal is subject to the requirements of Chapter 11.40, Tree Permit Requirements.
 - a.** On sites. Development activities with ground disturbance or a construction staging area greater than 100 square feet on unpaved portions of the site within the root protection zone, as defined in Subsection 11.60.030 C.1.a., of one or more Private Trees 12 or more inches in diameter and/or one or more City Trees 6 or more inches in diameter.
 - b.** In streets. Development activities with ground disturbance or construction staging not limited to existing paved surfaces where there are one or more Street Trees 3 or more inches in diameter.
- 2.** Any Heritage Trees and trees required to be preserved through a land use condition of approval or tree preservation plan cannot be removed using the provisions in this Chapter, but may be counted toward the tree preservation requirements of this Section.

B. Exemptions. The following are exempt from the tree preservation standards of this Section:

- 1.** On portions of sites located within an IH, IG1, EX, or CX zone.
- 2.** On sites that are less than 5,000 square feet in area.
- 3.** On sites that have existing or proposed building coverage of 85 percent or more.
- 4.** Trees that are dead, dying, dangerous, or a nuisance species, as documented in a Tree Plan per Subsection 11.50.070 B. These are subtracted from the total number of trees to be addressed by the standards.
- 5.** Trees exempted from this standard by a land use decision.

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6. Tree preservation requirements approved in a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.
 7. Repair and replacement of existing fences and decks that are not changing in footprint or length when no trees are to be removed as a part of the project.
- C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in Subsection 11.50.040 C.1. sunset after December 31, 2019. After December 31, 2019 the regulations in effect will be those in effect on January 1, 2015.
1. Private Trees.
 - a. General tree preservation.
 - (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per Subsection 11.50.040 C.1.a.(2) below. Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (*Quercus garryana*), Pacific Madrone (*Arbutus menziesii*), Pacific Yew (*Taxus brevifolia*), Ponderosa Pine (*Pinus ponderosa*), or Western Flowering Dogwood (*Cornus nuttallii*) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.
 - (2) Mitigation. For each tree not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11. In cases where more than one tree is proposed for removal in excess of that allowed by Subsection 11.50.040 C.1.a.(1), the mitigation payment required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

**Table 50-1
Required Mitigation**

Size of Tree Removed (inches in diameter)	Required Mitigation
At least 12 and less than 20	The cost of (2) two-inch diameter replacement trees
At least 20 and less than 36	The cost of (4) two-inch diameter replacement trees
At least 36 or more	The cost per inch of tree removed

b. Preservation of trees 36 inches or greater.

- (1)** Retention. An applicant shall preserve and protect all non-exempt trees 36 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per Subsections 11.50.040 C.1.b.(2) and 11.50.040 C.1.b.(3), below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in Subsection 11.50.040 C.1.a. above.
- (2)** Mitigation. For each tree 36 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11.
- (3)** Notice. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by Subsection 11.50.040 C.1.b.(2) above, the property owner or the property owner's representative must post a notice on the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner's representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.
 - (a)** The posted notice must:

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- (i) Be posted on the site for at least 45 calendar days prior to development permit issuance;
 - (ii) Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
 - (iii) Include the date of posting and the date of the end of the notification period;
 - (iv) Include a site plan at least 8.5 x 11 inches in size showing the location and description of the trees(s) to be removed including diameter inch size(s); and
 - (v) Include contact information for the property owner or the property owner's representative.
 - (b) The notices to the Neighborhood Association and District Coalition must:
 - (i) Be e-mailed or mailed to the Neighborhood Association and District Coalition using the contact information maintained by the Office of Community & Civic Life. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 45 calendar days prior to development permit issuance;
 - (ii) Include a description of the trees(s) to be removed including diameter inch size(s); and
 - (iii) Include contact information for the property owner or the property owner's representative.
- (4) Exemption of tree preservation mitigation payments for affordable housing developments. Projects are exempt from the mitigation requirements in Subsection 11.50.040 C.1.b.(2) if the development will be an affordable housing development approved for system development charge exemptions under Section 30.01.095. The amount of the mitigation exemption shall be pro-rated to a percentage equal to the percentage of dwelling units on the development site that are approved for the systems development charge exemption in Section 30.01.095. The Director of the

**CHAPTER 11.80 - DEFINITIONS AND
MEASUREMENTS**

Sections:

- 11.80.010 Defining Words.
11.80.020 Definitions and Measurements.

11.80.010 Defining Words.

Words used in the tree code have their normal dictionary meaning unless they are listed in Section 11.80.020 below. Words listed in Section 11.80.020 have the specific meaning stated, unless the context clearly indicates another meaning.

11.80.020 Definitions and Measurements.

(Amended by Ordinance Nos. 188278 and 189078, effective July 18, 2018.)

- A.** Information about the use of terms in the tree code is contained in Section 11.10.030.
- B.** The definition of words with specific meaning in the tree code are as follows:
- 1.** "Appeals Board" is the Urban Forestry Appeals Board. The duties and composition are in Section 11.20.030.
 - 2.** "Arboriculture" refers to the horticultural focus on the study and care of trees and other woody plants.
 - 3.** "Arborist" means a professional listed as a certified arborist by the International Society of Arboriculture or a consulting arborist registered with the American Society of Consulting Arborists.
 - 4.** "Attached Structure" means a structure attached to a building.
 - 5.** "BDS Director" is the Director of the Bureau of Development Services or the BDS Director's designee. The duties of the BDS Director are in Section 11.10.010.
 - 6.** "Building" means a structure that has a roof, is enclosed on at least 50 percent of the area of its sides and required a development permit prior to construction.
 - 7.** "Building Coverage" has the same meaning as in Title 33 Planning and Zoning.
 - 8.** "Business Hours" means 7:30 am to 5 pm, during working days.
 - 9.** "City" is the City of Portland.

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10. "City Forester" is the Manager of Urban Forestry, or the Manager's designee. The duties of the City Forester are in Section 11.10.010.
11. "Commission" means the Urban Forestry Commission, also referred to as the UFC. The duties and composition are in Section 11.20.020.
12. "Construction Staging Area" means a designated area for the storage of equipment and vehicles, stockpiles, waste bins, and other construction-related materials during a construction project. Any construction trailers are to be included in the construction staging area. In some cases, more than one staging area may be established on site.
13. "County Urban Pocket Areas" refers to properties within unincorporated Multnomah County that are subject to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities Between the City of Portland and Multnomah County.
14. "Diameter" refers to the cross-sectional size expressed in inches of a tree measured 4.5 feet above the ground. See Subsection 11.80.020 C., Measurements.
15. "Days" means calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays as identified in Human Resources Administrative Rule 6.02.
16. "Development, Alteration" has the same meaning as in Title 33, Planning and Zoning.
17. "Development Impact Area" is the area on a site affected by proposed site improvements, including buildings, structures, parking and loading areas, landscaping, and paved or graveled areas. The development impact area also refers to areas devoted to storage of materials, or construction activities such as grading, filling, trenching, or other excavation necessary to install utilities or access.
18. "Development Permit" refers to permits issued by the City such as building permits, zoning permits, site development permits, public works permits and capital improvement projects.
19. Development Types:
 - a. "Single Dwelling" refers to a house, attached house, or manufactured home with or without an accessory dwelling unit located on its own lot or parcel as those terms are defined in Title 33 Planning and Zoning

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- b.** "One and Two Family Residential" refers to a house, attached house, duplex, attached duplex, or manufactured home on one lot or parcel as those terms are defined in Title 33 Planning and Zoning
 - c.** "Multi-Dwelling Residential" refers to more than two dwelling units on a single lot or parcel, as well as Group Living, and Single Room Occupancy housing as defined in Title 33 Planning and Zoning.
 - d.** "Commercial/Office/Retail/Mixed Use" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning: The uses are: Household Living, Commercial Parking, Quick Vehicle Servicing, Office, Retail Sales And Service, Self-Service Storage and Vehicle Repair.
 - e.** "Industrial" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Industrial Service, Manufacturing And Production, Warehouse And Freight Movement and Wholesale Sales.
 - f.** "Institutional" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Colleges, Community Service, Daycare, Medical Centers, Parks and Open Areas, Religious Institutions and Schools.
 - g.** "Other" means development that includes one or more of the following primary uses referred to in Title 33 Planning and Zoning. The uses are: Commercial Outdoor Recreation, Major Event Entertainment and Basic Utilities.
- 20.** "Injury" means a wound inflicted upon a tree resulting from any activity, including trenching, excavating, altering the grade, smothering within the root protection zone of a tree, bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action leading to the death or permanent damage to tree health including the following:
 - a.** "Disturbance" is the various activities from construction or development that may damage trees.
 - b.** "Excessive Pruning" is removing in excess, one-fourth (25 percent) or greater, of the functioning leaf, stem or root area in a single growing season. Exceptions are when clearance from overhead utilities or public improvements is required or to abate a hazardous

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condition or other public nuisance. Excessive pruning does not include normal pruning that follows ANSI standards, see "Proper Arboricultural Practices," and "Pruning"

- c.** "Removal" is felling, cutting or removing any portion of the crown trunk, or root system of a tree, that results in the loss of physiological viability, or any procedure in which the natural result will lead to the death of the tree, including girdling, poisoning, topping or drowning the tree.
 - d.** "Smothering" is the result of compaction or compression of the soil particles or texture that may result from the movement of heavy machinery and trucks, storage of construction materials, structures, paving, or any other means that creates an upper layer that is impermeable within the root protection zone.
 - e.** "Topping" means the inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not include acceptable pruning practices as described in the American National Standards Institute (ANSI) "A-300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material. Topping is considered "removal".
- 21.** "Land Use Review" is a procedure for a specific use or development required under Title 33 Planning and Zoning.
- 22.** "Nuisance Plant List" is a list within the "Portland Plant List" that identifies nuisance trees and plants.
- 23.** "Overlay Zones and Plan Districts" refer to any of the following overlay zones or plan districts as shown on the Official Zoning Map, unless the specific regulation states otherwise:
 - a.** Environmental Overlays shown on the Official Zoning Map with a "c" or "p".
 - b.** Pleasant Valley Natural Resource Overlay, shown on the Official Zoning Map with a "v".
 - c.** Willamette River Greenway Overlay Zones, as applied to the Natural "n", or Water Quality "q", overlays and only within or riverward of the greenway setback portion of the Recreational "r",

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General "g" and Industrial "i" overlays, as designated on the Official Zoning Map.

- d.** Scenic Resources Overlay, for trees located within scenic corridors, shown on the Official Zoning Map with an "s".
 - e.** Aircraft Landing Zone, for trees located within the aircraft landing zone, shown on the Official Zoning Map with an "h".
 - f.** Johnson Creek Basin Plan District, only applied to the South subdistrict, to areas within the special flood hazard area, and to sites that abut the Springwater Corridor.
 - g.** Rocky Butte Plan District.
 - h.** South Auditorium Plan District.
- 24.** "Person" includes any individual, property owner, firm, association, corporation, agency, entity, or organization of any kind.
- 25.** "Proper Arboricultural Practices" refers to the methods employed during tree planting or cutting or removing any part of the branching structure of a plant in the crown, trunk or root areas in accordance the most recent edition of the American National Standards Institute (ANSI) "A-300 Standards" and published "Best Management Practices" of the International Society of Arboriculture.
- 26.** "Pruning" is the removal or reduction of parts of a tree that are not requisite to growth or production, are no longer visually pleasing, or are injurious to the health or development of the tree.
- 27.** "Public Agency" means any public agency or public utility as defined in ORS 757.005, or drainage district as defined in ORS 174.116.
- 28.** "Recognized Organization" is a neighborhood, community, business, or industrial association, or organization recognized or listed by the Office of Community & Civic Life. Recognized organization also includes the Office of Community & Civic Life district offices.
- 29.** "Responsible Engineer" for the Bureau of Transportation this shall be the City Engineer, for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau. Each Responsible Engineer may delegate their authority and duties to another employee in the same bureau. The duties are as prescribed in Section 11.10.010.

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- 30.** "Responsible Party" is a person in control of property in fee ownership or tenancy where a tree is located or property adjacent to a Street Tree. The responsible party may include the owner or owners, lessees, tenants, occupants or other persons in charge. In cases of violations, the responsible party may also include the person, partnership, or corporation who violated the provisions of this Title.
- 31.** "Site" has the same meaning as in Title 33 Planning and Zoning.
- 32.** "Street" has the same meaning in Section 9-101 of the City Charter.
- 33.** "Treatment" is the application of therapeutic remedies or corrections to site conditions when injury to trees has occurred to improve the chances of long term viability. Generally these measures should occur only under the direction of an arborist. Treatment measures include compensatory or corrective pruning, fertilization, inoculation, soil fracturing, grade restoration and supplemental irrigation.
- 34.** "Tree Area" is the amount of area on a development site that is used to calculate the required number of trees to be planted to meet tree density standards.
- 35.** "Tree Plan" is a site plan showing trees to be preserved and protected, planted, or removed. Specific requirements for Tree Plans are in Chapter 11.50.
- 36.** Tree Related Terms:
 - a.** "City Tree" is a tree within City limits that is on property owned or managed by the City. A tree that straddles a property line between private property and City-owned or -managed property is a Private Tree, shared by the City and adjacent property owner. A tree on a property line between City-owned or managed property and the street is a Street Tree.
 - b.** "Dangerous Tree" is one where the condition of the tree presents a foreseeable danger of inflicting damage that cannot be alleviated by treatment or pruning. A tree may be dangerous because it is likely to injure people or damage vehicles, structures, or development, such as sidewalks or utilities.
 - c.** "Dead Tree" is a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life as determined by an arborist.

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- 14C.20.050 Reserved.
- 14C.20.060 Found Property.

Chapter 14C.30 GENERAL PROCEDURES AND AUTHORITY OF THE BUREAU OF POLICE

- 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.

**CHAPTER 14B.100 - LIQUOR LICENSE
RECOMMENDATIONS**

Sections:

- 14B.100.010 Purpose.
- 14B.100.020 Delegation of Application Recommendation Authority.
- 14B.100.030 Application Procedure.
- 14B.100.040 Reconsideration of Applications.
- 14B.100.050 Notification of OLCC Proceedings.
- 14B.100.060 Impact Areas.

14B.100.010 Purpose.

The purpose of this Chapter is to establish a fair, effective and efficient process which shall be used by the Chief of Police in making recommendations to the Oregon Liquor Control Commission (OLCC) for liquor licenses for premises within the City limits. This Chapter is necessary to ensure that all premises licensed to sell or dispense liquor in any form meet the high expectations of this community and that all licensed premises are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this City and its neighborhoods.

14B.100.020 Delegation of Application Recommendation Authority.

In order to expedite service to license applicants and the citizens of the City, the Council, as the governing body of the City, hereby delegates to the Chief of Police its authority to make liquor license application recommendations to the OLCC. Any responsibility delegated to the Chief of Police by this Chapter may also be performed by the designee of the Chief of Police.

14B.100.030 Application Procedure.

(Amended by Ordinance Nos. 179351 and 189078, effective July 18, 2018.)

- A.** Any applicant for any license who is required by the OLCC to have a recommendation from the City of Portland concerning the suitability of the application shall present the license application forms prescribed by the OLCC to the Office of Community & Civic Life, or its designee, for the purpose of obtaining the recommendation of the Chief of Police concerning the license.
- B.** The Office of Community & Civic Life shall accept liquor license applications only when the following conditions are met:
 - 1.** All required forms are properly completed and in order; and
 - 2.** The applicant has obtained a valid City business license; and
 - 3.** The processing fee has been paid. Fees shall be in the maximum amount allowed by Oregon law and shall be nonrefundable.

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- C.** The Office of Community & Civic Life shall forward liquor license applications to the Chief of Police with a copy of the City of Portland Liquor Outlet Information form to the Bureau of Licenses within one business day of receipt.
- D.** Except for applications for new licensed premises for railroads, public passenger carriers or boats, health care facilities, or all OLCC wholesale type licenses, in addition to the posting of a conspicuous notice on the licensed premises as required by the OLCC, Office of Community & Civic Life shall:

 - 1.** Notify the following persons by mail that an application has been filed:

 - a.** Property owners and property occupants within 300 feet of the proposed licensed premises;
 - b.** The neighborhood association within whose boundaries the licensed premises will be located.
 - 2.** Post the proposed new licensed premises with a notice indicating the process for public comment.
 - 3.** Request a response in writing from the neighborhood association, property owners and property occupants and allow at least 20 days after the mailing or posting of notification as provided in this Section, to provide a response in writing to Office of Community & Civic Life. Office of Community & Civic Life shall notify any person who responds pursuant to this Section of the recommendation made by the Chief of Police to the OLCC.
- E.** The Chief of Police shall conduct an investigation of each application for the purpose of determining the recommendation that shall be made to the OLCC. In addition to the information required by the OLCC application forms, the Chief of Police is authorized to require from the applicant any other pertinent information that the Chief of Police deems appropriate.
- F.** The Chief of Police shall coordinate with Office of Community & Civic Life and the City Noise Control Officer prior to issuance of a recommendation to determine if there is substantial neighborhood concern or opposition to the application, or if there is evidence that noise is or will be a significant and persistent problem at the licensed premises.

 - 1.** If the Chief of Police finds that there are valid grounds to make an unfavorable recommendation to OLCC as provided by Oregon liquor laws, the Chief of Police shall forward an unfavorable recommendation directly to the OLCC.

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2. If there is substantial neighborhood concern or opposition to the application, or there is evidence that noise is or will be a significant and persistent problem at the licensed premises, but the Chief of Police, because of time constraints or other factors, does not find sufficient basis for an unfavorable recommendation as provided by Oregon liquor laws, the Chief of Police shall forward a no endorsement recommendation directly to the OLCC, with supporting documentation of neighborhood concern or opposition and/or evidence of noise as provided by Office of Community & Civic Life, and shall request that the OLCC hear testimony from the neighborhood. Office of Community & Civic Life shall coordinate neighborhood testimony for OLCC hearings.
 3. If the Chief of Police finds no basis for an unfavorable recommendation as provided by Oregon liquor laws, and there is no substantial neighborhood concern or opposition or evidence that noise is or will be a significant and persistent problem at the licensed premises, the Chief of Police shall forward a favorable recommendation directly to the OLCC. The Chief of Police may also attach conditions or restrictions to a favorable recommendation, such as allowing sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other conditions or restrictions consistent with the Oregon liquor laws.
- G.** The Chief of Police shall notify the applicant of the recommendation.
- H.** The process for renewal applications shall be as provided by this Section except that the notification requirements of Subsection D shall not apply.
- I.** If Office of Community & Civic Life believes a good neighbor agreement will alleviate substantial neighborhood concern or opposition, Office of Community & Civic Life shall attempt to work with the licensed premises and the neighborhood to achieve a good neighbor agreement. Office of Community & Civic Life shall notify the Chief of Police and the OLCC of any completed good neighbor agreements, or, of its attempts to achieve a good neighbor agreement, in the event Office of Community & Civic Life is unable to complete a good neighbor agreement within a reasonable period of time.

14B.100.040 Reconsideration of Applications.

Except as provided by this Section, after having made a recommendation other than favorable on any new license application, the Chief of Police shall not reconsider an application for the same location by the same or substantially the same applicant for a period of at least 6 months, or during the period the applicant has an appeal relating to the license pending in court or in a state administrative agency, whichever is longer. However, the Chief of Police may reconsider an application in less than 6 months if no appeal relating to the license is pending in court or in a state administrative agency, and the Chief of Police

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reasonably determines that the circumstances which caused the Chief of Police to make a recommendation other than favorable have substantially changed.

14B.100.050 Notification of OLCC Proceedings.

(Amended by Ordinance No. 189078, effective July 18, 2018.) Office of Community & Civic Life shall notify Council of OLCC hearing dates, places and times, and advise Council of applications that will receive unfavorable recommendations, no endorsements recommendations, or favorable recommendations with conditions or restrictions. Office of Community & Civic Life shall advise Council of the OLCC's decisions on applications.

14B.100.060 Impact Areas.

- A.** It shall be the responsibility of the Chief of Police to review, from time to time, the locations, types and quantities of liquor licenses that have been issued for premises located in geographical areas, neighborhoods or sectors of the City. If the Chief of Police, upon inquiry, or at the request of citizens or groups finds: that some area of the City is saturated with certain types of licensed premises selling or serving alcoholic beverages and that the placement of additional licensed premises within that area will likely be deleterious to that area; or, that excessive criminal acts, traffic congestion, or litter problems are present or will increase due in part to the licensed premises; or, additional licensed premises are not justified by public interest or convenience, then the Chief of Police shall make a recommendation to Council that the area be designated as an impact area, and that liquor licenses of certain types should not be granted or renewed in that area for a specific period of time, or until the number of current licenses is reduced to the point that licensed premises can be permitted that will not be deleterious to the area, or, will not lead to additional criminal acts, traffic congestion or litter problems, or, are justified by public interest or convenience.
- B.** If Council declares an area to be an impact area based upon findings that valid grounds exist as provided by Oregon liquor laws, the Chief of Police shall notify OLCC so that OLCC may ensure that liquor license applicants are put on notice of the impact area.
- C.** Within any area declared to be an impact area as provided by this Chapter, the Chief of Police is authorized, on behalf of Council:

 - 1.** To present an unfavorable recommendation to the OLCC on any application for a new licensed premises located in the impact area; or,
 - 2.** To present a favorable recommendation for any existing licensed premises located in the impact area, subject to certain conditions or restrictions, such as allowing liquor sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other restrictions consistent with the Oregon liquor laws.

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- D.** Impact area recommendations shall not apply to licensed premises wherein the sale of alcoholic beverages is incidental to full service restaurant facilities, with meals prepared on the licensed premises, provided that the liquor license applicant(s) and the restaurant owner(s) are one and the same.
- E.** The following areas are declared by Council to be impact areas:
- 1.** Burnside District Impact Area. The Burnside District, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Burnside District is defined as that area bounded by the Willamette River on the East and North, by NW Ninth Avenue to West Burnside Street, by West Burnside Street to SW Fourth Avenue, by SW Fourth Avenue to SW Ankeny Street, by SW Ankeny Street to the Willamette River.
 - 2.** Central Eastside Industrial District Impact Area. The portion of the Central Eastside Industrial Area, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For the purposes of this Section, the Central Eastside Industrial Area is defined as that area bounded by the Banfield Freeway to the North, by SE 12th Avenue to the East, by SE Clay Street to the South, and by the Willamette River on the West.
 - 3.** Inner North/Northeast Neighborhood Impact Area. The Inner North/Northeast Neighborhood, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Inner North/Northeast Neighborhood is defined as that area bounded by NE Columbia Blvd. on the North, NE Broadway Blvd. on the South, and Interstate 5 on the West. The area's boundary on the East is NE 42nd Avenue from NE Columbia Blvd. to NE Prescott Street, NE 23rd Avenue from NE Prescott Street to NE Mason Street, NE 21st Avenue from NE Mason Street to NE Fremont Street and NE 7th Avenue from NE Fremont Street to NE Broadway Blvd.

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**CHAPTER 14B.110 - AMUSEMENT DEVICES,
GAMES AND MACHINES**

Sections:

- 14B.110.010 Purpose.
- 14B.110.020 Definitions.
- 14B.110.030 Authorization.
- 14B.110.040 Permits Required for Certain Amusement Devices.
- 14B.110.050 Permits Required, Fees.
- 14B.110.060 Permit Application, Issuance, Denial.
- 14B.110.070 Requirements of Permit Holders.
- 14B.110.080 Inspection of Amusement Devices, Records, and Premises.
- 14B.110.090 Prohibited Conduct.
- 14B.110.100 Permit Suspension, Revocation.
- 14B.110.110 Violations, Sealing Prohibited Amusement Devices.
- 14B.110.120 Civil Penalties.
- 14B.110.130 Criminal Penalties.
- 14B.110.140 Appeals.

14B.110.010 Purpose.

The purpose of this Chapter is to provide for the strict regulation of amusement devices, games and machines in order to reduce the potential for unlawful gambling, adverse neighborhood impacts, and adverse impacts on the welfare and education of children in the City, and to raise revenue.

14B.110.020 Definitions.

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

- A.** “Amusement device” means any machine, device, or game, including foosball or table soccer games, billiards or pool tables, shuffleboard, shooting gallery devices, miniature bowling games, electronic games of skill, video games, and other similar machines, devices, or games:
 - 1.** Which are made available for display or operation; and,
 - 2.** Which require the payment of money or other valuable consideration.
 - 3.** “Amusement device” shall not include:
 - a.** Ping pong tables, music devices, vending machines, or any rides where no element of chance, bonus, or prize is involved; or
 - b.** Video lottery games, game terminals and equipment operated directly by the Oregon Lottery Commission as a state agency.

14B.110.140 Appeals.

- A.** The filing of a notice of appeal to the Code Hearings Officer, as set out in Chapter 22.10 of this Code, of revocation or suspension of a permit, or of any civil penalty imposed by the Director under this Chapter, or of any seizure of an amusement device for destruction, shall stay the effective date of the action until the appeal is determined by the Code Hearings Officer.
- B.** The notice of appeal shall be in writing. The notice shall state the name and address of the appellant to which all required notices may be mailed. The notice shall also indicate the reasons why the appealed action was wrong and what the correct determination should be.

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**CHAPTER 14B.120 - TIME, PLACE AND
MANNER REGULATION OF
ESTABLISHMENTS THAT SELL AND
SERVE ALCOHOLIC BEVERAGES**

(Chapter added by Ordinance No. 178201, effective
March 19, 2004.)

Sections:

- 14B.120.010 Purpose.
- 14B.120.020 Definitions
- 14B.120.025 Authority to Adopt Rules, Procedures and Forms.
- 14B.120.030 Nuisance Activity Violations.
- 14B.120.040 Notice.
- 14B.120.050 Nuisance Abatement Plan.
- 14B.120.055 Responsible Neighbor Program.
- 14B.120.060 Enforcement.
- 14B.120.070 Hearings.
- 14B.120.080 Remedies.

14B.120.010 Purpose.

The Oregon Legislature has authorized Oregon cities and counties to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments serving alcoholic beverages, ORS 471.164. In adopting the provisions of this Chapter, the City Council's intent is to provide for reasonable time, place and manner regulations of the nuisance aspects of those establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. By requiring that the nuisance violations be brought before the Code Hearings Officer, the City Council's intent is that there will be specific findings made regarding the occurrence of adverse effects. The City Council also intends that the remedies imposed by the Code Hearings Officer under the authority of this Chapter will solely address the time, place and manner aspects of the nuisance activities. In addition, to create the most effective program, this Chapter establishes the Responsible Neighbor Program. The purpose of the Responsible Neighbor Program is to encourage the owners of establishments serving alcoholic beverages to act to ensure that the operation of their establishment does not create nuisances and thereby negatively impact neighborhood livability.

14B.120.020 Definitions.

(Amended by Ordinance Nos. 184870 and 189078, effective July 18, 2018.) As used in this Chapter, unless the context requires otherwise:

- A. "Alcoholic Beverage" means any liquid or solid containing more than one-half of one-percent alcohol and capable of being consumed by a human being.

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- B.** "Director" means the Director of the Office of Community & Civic Life, or the Director's designee.
- C.** "Chief of Police" means the Chief of Police of the Portland Police Bureau.
- D.** "Licensee" means any person holding a license issued by the Oregon Liquor Control Commission.
- E.** "Establishment" means any location licensed under ORS Chapter 471 and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Establishment" also includes areas outside of a building that the Oregon Liquor Control Commission has specifically approved for serving alcoholic beverages.
- F.** "Nuisance activity" means any of the following:
 - 1.** Operation of sound producing equipment, as prohibited by City Code Section 14A.30.020.
 - 2.** Disorderly conduct as defined in ORS 166.025 (2003).
 - 3.** Offensive littering as defined in ORS 164.805 (2003).
 - 4.** Drinking on public rights of way, unless officially authorized, as prohibited by City Code Section 14A.50.010.
 - 5.** Interference with vehicle ingress and egress as prohibited by City Code Section 14A.50.035.
 - 6.** Alcoholic beverage violations in parks, as prohibited by City Code Section 20.12.040, where the violation relates to a specific licensee.
 - 7.** Discharge of a firearm at the establishment, as prohibited by City Code Section 14.A.60.020.
 - 8.** Illegal Drug activity as defined by ORS Chapter 475.840 sections (1) – (4).
 - 9.** Unlawful Prostitution Procurement Activities or loitering for the purpose of prostitution as defined in City Code Sections 14A.40.040 or 14A.40.050 or Illegal prostitution as defined in ORS 167.007.
 - 10.** Criminal homicide as defined in ORS 163.005(2) and 163.095-163.149.

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11. Assault by means of a weapon or motor vehicle as defined in ORS 163.160(1)(b), 163.165(1)(a), 163.165(1)(c), 163.175(b)-(c), 163.185(a) and 163.185(d).
 12. Assault that causes serious physical injury as defined in ORS 163.165(b) and 163.175(a).
 13. Recklessly endangering another person as defined in ORS 163.195.
 14. Any felony sexual offense in the first degree as defined in ORS 163.375-163.427.
 15. Unlawful Use of a Weapon as defined in ORS 166.220.
- G. "Serve" or "serving" means to furnish, provide or supply alcoholic beverages to patrons or customers.

14B.120.025 Authority to Adopt Rules, Procedures and Forms.

The Director and Chief of Police are authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.

14B.120.030 Nuisance Activity Violations.

(Amended by Ordinance No. 184870, effective September 14, 2011.) It shall be a violation of this Chapter if:

- A. During any continuous sixty (60) day period, any combination of three or more nuisance activities as defined in Subsections 14B.120.020 F.1.-9. occurs that is related to or arising out of an establishment that serves alcoholic beverages.
- B. One or more nuisance activities as defined in Subsections 14B.120.020 F.10-15. occur that are related to or arising out of an establishment that serves alcoholic beverages.

14B.120.040 Notice.

(Amended by Ordinance No. 184870, effective September 14, 2011.)

- A. The Director and the Chief of Police shall appoint a Liquor License Team to review and substantiate the occurrences of nuisance activities.
- B. If the Director or the Chief of Police determines that a nuisance activity has occurred at an establishment, the Director or the Chief of Police will send a written notice to the licensee. The notice shall contain a description of the nuisance activity, the date and the time of its occurrence.
- C. Upon determining that there is reasonable belief that a violation of this Chapter has occurred as provided under Section 14B.120.030, the Director or the Chief of Police

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shall send written notice to the licensee. The written notice shall contain at least the following information:

1. The street address or legal description of the establishment, as reflected in the records of the Oregon Liquor Control Commission.
 2. A concise statement setting forth the date and time of nuisance activities, and the possible remedies that may be imposed under this Chapter by the Code Hearings Officer; and,
 3. A request that the licensee provide a written response within ten (10) business days either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.
- D.** If the licensee's response does not satisfy the Director or the Chief of Police's concerns, they may attempt to develop a nuisance abatement plan with the licensee. The Director or the Chief of Police may file a complaint with the Code Hearings Officer as provided under Section 14B.120.060 if:
1. The licensee refuses to actively and meaningfully participate in the process of developing a nuisance abatement plan; or,
 2. The effort by the Director or the Chief of Police to develop a nuisance abatement plan with the licensee fails.

14B.120.050 Nuisance Abatement Plan.

- A.** If the licensee responds to the Director or the Chief of Police within ten (10) business days of the date of the notice, with a proposed course of action for abating the nuisance activities, the Director or the Chief of Police shall review the proposal. If the Director or the Chief of Police determines that the proposal will reasonably abate the nuisance activities, the Director or the Chief of Police and the licensee shall enter into an enforceable agreement, specifying the terms and conditions of the abatement plan.
- B.** At a minimum, the agreement shall identify the nature of the nuisance activities, the specific steps the licensee will undertake to abate the nuisance activity and the related resources the licensee will commit to the abatement, if applicable, and a mechanism for the Director or the Chief of Police to monitor compliance with the plan.
- C.** Any such agreement shall be executed by the licensee and the Director or the Chief of Police within thirty (30) days of the date of the licensee's written response to the Director or the Chief of Police's notice. The Director or the Chief of Police may,

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upon request, extend this thirty-day period if it appears that the parties are working diligently to come to agreement.

14B.120.055 Responsible Neighbor Program.

(Amended by Ordinance No. 178898, effective November 24, 2004.) Qualified licensees may request to participate in a Responsible Neighbor Program as administered by the Director.

- A. The Director shall approve a licensee for participation in the Responsible Neighbor Program, if the licensee meets all of the following qualifications:
 - 1. The licensee is licensed solely for off premises sales; and
 - 2. The licensee is currently certified for participation in the Responsible Vendor Program provided in ORS 471.344 (2003).
- B. If any licensee participating in the Responsible Neighbor Program has three (3) nuisance activities in violation of Section 14B.120.030, or fails to comply with any of the qualifications under Subsection 14B.120.030 A., the Director shall issue a written notice to the licensee and initiate a proceeding before the Code Hearings Officer as set out in Chapter 22.03 of the City Code for suspension of the licensee from participation in the Responsible Neighbor Program for a period of one year.
- C. If a licensee is removed from the Responsible Neighbor Program, any subsequent nuisance activity violations under Section 14B.120.030, the Director or the Chief of Police will follow the processes and remedies as provided in Sections 14B.120.040 through 14B.120.080

14B.120.060 Enforcement.

(Amended by Ordinance No. 184870, effective September 14, 2011.) Upon making a determination that a violation of this Chapter has occurred as provided under Section 14B.120.030, the Director or the Chief of Police may file a complaint before the Code Hearings Officer to initiate a code enforcement proceeding only if any of the following have first occurred:

- A. The licensee has failed to submit a timely written response to the Director or the Chief of Police's notice; or
- B. The licensee fails to propose or enter into an abatement plan that is acceptable to the Director or the Chief of Police; or
- C. The licensee does not operate the establishment in compliance with the written abatement plan.
- D. The licensee has been found to be in violation of this Chapter within the preceding 12 months.

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14B.120.070 Hearings.

The initiation and procedures of any code enforcement proceeding to determine whether nuisance activities have occurred as provided in Section 14B.120.030 and to impose remedies under Section 14B.120.080 shall follow the provisions of Chapter 22.03 of the City Code.

14B.120.080 Remedies.

(Amended by Ordinance No. 184870, effective September 14, 2011.) If the Code Hearings Officer determines that a violation has occurred, as provided in Section 14B.120.030, the Code Hearings Officer shall make findings regarding the occurrence of the nuisance activities and any related adverse effects. Time, place and manner abatement remedies imposed by the Code Hearings Officer to address the occurrence of the nuisance activities may include any of the following:

- A. Limiting the hours or days during which the establishment may operate.
- B. Requiring the establishment to provide resources to monitor, control and respond to patron behavior at and around the establishment, including but not limited to, hiring adequate security personnel to patrol the establishment.
- C. Restricting the activities at the establishment to prevent the reoccurrence of nuisance activities, including but not limited to restrictions upon the time and manner in which entertainment is offered.
- D. Ordering the licensee to undertake other actions reasonably necessary to abate the nuisance activities or mitigate the effects thereof, including but not limited to, modifying the establishment to include noise insulation to prevent and abate nuisance activities related to noise.

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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.130.055 Social Equity Program.
- 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, 188602, 189078 and 189183, effective September 26, 2018.) 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.

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- B.** “Cannabinoid concentrates” means a substance obtained by separating cannabinoids from marijuana by;
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.

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- 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.
- H.** "Director" means the Director of the Office of Community & Civic Life, 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.

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- 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:

 - (1)** Cannabinoid edible processor;
 - (2)** Cannabinoid topical processor;
 - (3)** Cannabinoid concentrate processor;
 - (4)** Cannabinoid extract processor; and
 - (5)** Micro-tier 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 a processing endorsement an applicant or 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.

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- 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.
- S.** “Micro-Tier Processor” means a Marijuana Micro-Producer Tier I or Marijuana Micro-Producer Tier II holding an active producer micro-tier processing endorsement issued by the Oregon Liquor Control Commission.
- T.** “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.
- U.** “Processor” means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.
- V.** “Produces” means the planting, cultivation, or growing of marijuana.
- 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.
- X.** “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.
- Y.** “Social Equity Applicant” means a Marijuana Business that qualifies for Marijuana Regulatory License fee credit pursuant to this Chapter’s Social Equity Program.

14B.130.030 License Required.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- 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 Community & Civic Life.
- 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, 188602, 189078 and 189183, effective September 26, 2018.)

- 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.
- 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 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

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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 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:

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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.
 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 Community & Civic Life 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, 188602, 189078 and 189183, effective September 26, 2018.)

- 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:

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1. All completed forms fully executed and signed, including:
 - a. Personal history forms, as developed by the Office of Community & Civic Life, 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 Community & Civic Life that includes a description of the planned business 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 an applicable commercial building permit has been issued or obtained. Marijuana processors of cannabinoid extracts must also provide documentation showing that the applicable commercial building permit, mechanical permit(s) for extraction equipment, and tank permit(s) from the City Fire Marshal's Office have been obtained and received final inspection approval. The documentation for a commercial building permit may include a temporary Certificate of Occupancy.

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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 Community & Civic Life.
 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.
 9. The licensee shall notify the Office of Community & Civic Life 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.-9. on a form provided by the Office of Community & Civic Life and pay an annual fee as stated in the fee schedule adopted by City Council.

14B.130.055 Social Equity Program.

(Added by Ordinance No. 189183, effective September 26, 2018.)

- A.** Applicants may request participation in the Social Equity Program by demonstrating qualifications on a form provided by the Office of Community & Civic Life.
1. To qualify as a Social Equity Applicant, the applicant must demonstrate at least one of the following qualifying factors:
 - a. Applicant provides opportunities to individuals directly impacted by criminal prosecutions during cannabis prohibition as demonstrated by:
 - (1) 25 percent or greater of ownership is represented by individuals with a federal or state conviction for a criminal offense committed prior to July 1, 2015 in which possession, delivery or manufacture of marijuana or marijuana items is an element, whether misdemeanor or felony; or

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- (2) 20 percent or greater of staff hours are represented by individuals with a federal or state conviction for a criminal offense committed prior to July 1, 2015 in which possession, delivery or manufacture of marijuana or marijuana items is an element, whether misdemeanor or felony.
- b. Applicant is a small business as demonstrated by:
 - (1) The business entity seeking the license and all business entities, including any parent companies, associate companies, subsidiaries or affiliates, with an ownership interest of 10 percent or greater, have a combined annual total income less than \$750,000 in the preceding calendar year; and
 - (2) In total, no more than two other state recreational or medical cannabis licenses are pending for or have been obtained by the business entity seeking the license and all individuals and entities with 10 percent or greater ownership interest, including any parent companies, associate companies, subsidiaries or affiliates business entity owners.
- c. Applicant is a small business, as defined by Portland City Code Subsection 14B.130.055 A.1.b., and contracts with an ancillary industry vendor(s) certified by the State of Oregon as an emerging small business, pursuant to OAR 123-200-1700, and/or as socially and economically disadvantaged, pursuant to OAR 123-200-1210.
 - (1) If the application is for a new license, the entity seeking the license must have paid the vendor(s) a total of at least \$30,000 during the 24 months immediately preceding license issuance, for expenses directly related to the marijuana business seeking the license.
 - (2) If the application is for a renewal license, the entity seeking the license must have paid the vendor(s) a total of at least \$30,000 during the most recent licensing period, for expenses directly related to the marijuana business seeking the license.
 - (3) The marijuana business, or any owners, including any parent companies, associate companies, subsidiaries or affiliates, must not have any shared ownership with the ancillary industry vendor(s) or its parent companies, associate companies, subsidiaries or affiliates.

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2. A Social Equity Applicant that meets one of the qualifying factors shall receive Marijuana Regulatory License fee credits as follows:
 - a. 15 percent credit from the Marijuana Regulatory License fee; and
 - b. If the application is for a producer or processor marijuana regulatory license, the Social Equity Applicant will receive credit in the form of a license fee credit for documented payments to Bureau of Development Services for related Life Safety Preliminary Meetings and Early Assistance Meetings, or substantially similar assistance programs available at Bureau of Development Services. The license fee credit will be up to the lesser of \$750 or the total license fee.
 - c. Requests for credit should be directed to the Office of Community and Civic Life. All such credits will be deducted from the Marijuana Regulatory License fees.
3. A Social Equity Applicant that meets at least two of the qualifying factors shall receive Marijuana Regulatory License fee credit as follows:
 - a. 25 percent credit from the Marijuana Regulatory License fee; and
 - b. If the application is for a producer or processor marijuana regulatory license, the Social Equity Applicant will receive credit in the form of a license fee credit for documented payments to Bureau of Development Services for related Life Safety Preliminary Meetings and Early Assistance Meetings, or substantially similar assistance programs available at Bureau of Development Services. The license fee credit will be up to the lesser of \$1,500 or the total license fee.
 - c. Requests for credit should be directed to the Office of Community and Civic Life. All such credits will be deducted from the Marijuana Regulatory License fees.

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;

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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, 188602, 189078 and 189183, effective September 26, 2018.)

- 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.
 2. The license fee as stated in the fee schedule adopted by City Council. Fees, including late 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 Community & Civic Life.
 - a. Applicant may request a license fee deferred payment plan by submitting a form provided by the Office of Community & Civic Life to demonstrate financial need.
 - b. If the applicant's deferred payment plan request is approved by the Director, fees must be paid as follows:
 - (1) Any marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana micro-wholesaler, or marijuana courier must make an initial payment of \$250 before the Director issues the license. The licensee must pay the remaining license fee of \$750 within 6 months of the license effective date.

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- (2) Applicants for all other license types must make an initial payment of \$500 before the Director issues the license. The licensee must pay the remaining license fee of \$3,000 within 6 months of the license effective date.
- c. For any marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana micro-wholesaler, or marijuana courier, payments made up to 30 days after the 6-month due date must include a late fee of \$100. Payments made after 30 days and up to 60 days after the 6-month due date must include a late fee of \$200.
 - d. For all other license types, payments made up to 30 days after the 6-month due date must include a late fee of \$250. Payments made after 30 days and up to 60 days after the 6-month due date must include a late fee of \$500.
 - e. Failure to pay the total licensing fee, including late fees, within 60 days after the 6-month due date constitutes a violation and the Director may impose civil penalties, license suspension, and/or license revocation.
- 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;

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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 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, 188178 and 189183, effective September 26, 2018.)

- 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.
 - 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.
 - 4.** Licensee must correct any violations and comply with any stop work orders issued by any City Bureau.
- 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:

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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 or micro-tier processor endorsement must comply with the following requirements:
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, 188602 and 189078, effective July 18, 2018.)

- A.** Upon presentation of proper credentials, an Applicant or Licensee shall allow any representative of the Bureau of Police or the Office of Community & Civic Life 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.

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- 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 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

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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 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

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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;
 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 Nos. 188178 and 189078, effective July 18, 2018.)

- 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 Community & Civic Life.
- 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

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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.
- 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

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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.

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**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.

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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16.20.660 Nonprofit Permit.

A nonprofit vehicle permit allows a vehicle displaying the permit to park in any area designated by the permit. This permit may be issued to a charitable organization when permit parking activities directly serve a charitable function. The permit may contain restrictions as deemed necessary by the City Traffic Engineer.

16.20.670 Carpool Permit for Metered Parking.

A vehicle with a carpool permit may park without payment of the meter fee only at any long-term metered parking space, or at spaces reserved for carpool permit parking.

16.20.675 Carpool Zone Permit.

A vehicle with a carpool zone permit may park in the area designated on the permit according to the rules of the permit.

16.20.680 Other Permit.

An other permit allows parking in any area designated on the permit. The permit may contain restrictions as deemed necessary by the City Traffic Engineer.

16.20.695 Improper Use.

- A. The improper use of a permit, meter hood, or sign will be cause for the revocation of the permit, meter hood, or sign and/or for a fine to be levied by the City Traffic Engineer. Upon notice of revocation, the permit and/or meter hood(s) must immediately be returned to the City Traffic Engineer.
- B. The vehicle permit applicant is fully responsible for any violation of the conditions of the permit.
- C. All fees paid will be forfeited in the event of revocation. All fines will be due within 30 days after the fine is levied.
- D. Decisions of the City Traffic Engineer regarding the revocation of a vehicle permit may be appealed to the Code Hearings Officer according to the provisions of Title 22 of the Portland City Code.

16.20.800 Area Parking Permit Program.

16.20.801 Purpose.

- A. The area parking permit program is intended to increase access to residents and businesses, reduce traffic congestion, increase traffic/pedestrian safety, reduce air pollution, reduce noise pollution, prevent blighted areas, and promote the use of mass transit, car pooling, and other alternative modes of transportation.
- B. The area parking permit program will reduce commuter traffic that originates from outside the permit area and has no apparent connection or business within the

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permit area. A guest who originates from outside the permit area but is visiting a resident or conducting business within the permit area may be provided a guest permit by the area permittee.

- C. Each area that implements the parking permit program will have a unique set of parking needs. These needs will be based in part on the extent of the parking congestion; the cause(s) of the congestion; the proximity of the neighborhood to the parking generator(s); the mix of residential/nonresidential use; the number of guests visiting the area; the frequency of guests visiting the area; the availability of off-street parking; the types of parking problems in surrounding areas; the availability of alternative modes of transportation; the possibility of alternative parking solutions; and the physical layout and boundaries of the area.
- D. Each area must meet the eligibility criteria (16.20.830) and follow the prescribed process (16.20.840) in order to form a permit program.
- E. Area residents and businesses will be allowed to purchase a permit granting on-street parking privileges in the area where they reside or have their places of business. A permit will allow a vehicle under the legal control of a resident, worker, or visitor, with a properly displayed permit decal or card, to exceed the area permit parking program time limits that are posted within a designated area.

16.20.810 Definitions.

(Amended by Ordinance Nos. 165594, 176394 and 189078, effective July 18, 2018.)

- A. **“Address”** is the street number and applicable apartment number for each dwelling unit, business, or other use. Each apartment or commercial unit is regarded as a unique address.
- B. **“Annual permit fee”** is the annual fee for each business, guest, or resident permit decal. If a permit is issued on or after the first day of the seventh month in the permit year, the fee will be one half of the yearly permit fee. Replacement permits will be one half of the current permit fee.
- C. **“Area business”** is any professional establishment or nonresident property owner whose business property is located within a permit area.
- D. **“Area Parking Committee”** is the group of not less than two people and not more than five people (excluding alternates) appointed by the neighborhood association and business district association which implements an Area Permit Parking Program or, when a proposed permit program area is not within the boundaries of a listed business district association, by the neighborhood association whose residents represent the greatest number of addresses within a permit area. Area Parking Committees will assist the City Traffic Engineer in establishment of the

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Area Permit Parking Program, development of a Supplemental Plan Description, and ongoing review of the program.

- E. **“Area resident”** is any person who resides within the permit area.
- F. **“Area vehicle”** is one that originates from inside the permit area and/or has an apparent connection or business within the permit area.
- G. **“Business District Association”** is any group listed by the Office of Community & Civic Life to represent businesses of a geographic area within the City.
- H. **“Business permit decal”** is the decal issued by the City Traffic Engineer for assignment to vehicles under the legal control of workers, customers, clients, or others while conducting business in the area.
- I. **“Complimentary Hours Permit”** is the permit(s) granted to each area program permit holder for guest parking for special occasions.
- J. **“Effective hours”** are the days and hours during which the area permit program applies as defined by each individual Supplemental Plan.
- K. **“Guest permit decal”** is the decal issued by the City Traffic Engineer to a permittee to identify any vehicle(s) under the legal control of guests during periods when guests are actually visiting at the permittee’s address.
- L. **“Improper use”** has occurred when a permit holder violates the provisions described on the permit application. Improper use will lead to penalties as described in 16.20.860.
- M. **“Neighborhood association”** is any group recognized by the Office of Community & Civic Life to represent residents of a geographic area within the City.
- N. **“Non-permitted vehicle”** is any vehicle which does not display a current permit decal for the Area Permit Parking Program Area in which it is parked.
- O. **“Permit area”** is any area as designated by an initiating petition or as modified in the boundary description.
- P. **“Permit decal”** (generally) means any resident, business, and guest decal issued by the City Traffic Engineer to residents and businesses in permit areas. Permit decals must be clearly identified as belonging to a specific permit area, for use during a specified permit year, and proper for only one of the following permits: resident, business, or guest. These decals must be displayed in the manner described in the administrative rules for Area Parking Permit decals. Permit decals expire on the last day of the permit year in which they are issued.

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- Q. “Permit program”** is any Area Permit Parking Program created and administered under this Code Chapter 16.20.800.
- R. “Permit year”** is the 12-month period set for the administration of an Area Permit Parking Program by consent of the City Traffic Engineer and the Area Parking Committee.
- S. “Permitted vehicle”** is any vehicle which properly displays the correct permit decal, or temporary permit issued by the City Traffic Engineer for use on such vehicle.
- T. “Program administrator”** is designated by the City Traffic Engineer to administer an Area Permit Parking Program. Program administrator responsibilities include routine program administration, consulting with the Area Parking Committee to amend or interpret the Supplemental Plan Description, and giving approval or denial to proposed permit program provisions.
- U. “Resident permit decal”** is a decal issued by the City Traffic Engineer to a resident to identify the vehicle(s) under the resident’s legal control as permitted vehicle(s).
- V. “Supplemental plan description”** is the document established by the Area Parking Committee and the program administrator. It details the Area Parking Permit Program policies and procedures in accordance with Code Chapter 16.20.800.
- W. “Temporary permit”** is used in lieu of an annual permit decal on vehicles. The purpose of a temporary permit is for display in a vehicle under the legal control of an applicant without sufficient proof to obtain a permanent permit, for the usage of complimentary hours, or for construction projects. Applicants will be charged a fee for each vehicle they register with the exception of complimentary permit hours. The Area Parking Committees may establish any additional terms and conditions for use of temporary permit cards.
- X. “Unauthorized permit”** is the display of any permit decal not assigned to that vehicle as defined in the supplemental plan description.
- Y. “Vehicle of record”** is the vehicle which a permit holder has registered for a permit decal with the Program Administrator.

16.20.830 Area Eligibility.

All of the following eligibility criteria must be met before the area will be considered for the area parking permit program:

- A.** There must exist at some time during the day an occupancy rate of 75 percent or more of the existing on-street parking spaces. Twenty-five percent (25%) of the vehicles occupying the on-street spaces must be other than area vehicles. Vehicles that originate from outside the proposed permit program area but are visiting a

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1. A description of each of the previous and proposed uses for the property for which the Permit is being sought--with sufficient detail to enable the City to calculate dwelling units and square footage for the entire property under the previous use and for the proposed use(s) of the New Development.
 2. For residential uses--the number of residential dwelling and the square footage of each dwelling unit.
 3. For non-residential uses--the square footage for each occupancy use type (i.e., office, retail, etc.).
- C.** Except as otherwise provided in this Chapter, the amount of the SDC due shall be calculated by determining the number of dwelling units, square footage of each dwelling unit, and square footage of non-residential development for the previous use(s) of the property and the number of dwelling units, square footage of each dwelling unit, and square footage of non-residential development for all of the proposed use(s); calculating the total SDC for the previous use(s) and the proposed uses(s); and subtracting the total SDC for the previous use(s) from the total SDC for the proposed use(s) to arrive at the net Park SDC due. If the previous use(s) were vacant for more than 50 percent of the 5 years prior to the date of the application, the SDC shall be the full amount of the SDC for the proposed use(s) and no reduction shall be made for previous use(s).
- D.** Notwithstanding any other provision, the dollar amounts of the SDC set forth in the SDC Methodology Report are based on 2013 values and shall be adjusted on July 1, 2016 and thereafter annually on July 1st to account for changes in the costs of acquiring and constructing parks facilities. The adjustment factor shall be based on:
1. the percent change in average market value of residential and commercial land in the City, measured from Tax Year 2013-14, annually, to the most recent annual tax year report, according to the records of the Multnomah County Tax Assessor,
 2. the portion of Rate Group growth costs for land identified in Subsection 17.13.020 Z.,
 3. the percent change in average construction costs measured from 2013, annually, to the quarter prior to the rate change, according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index, and
 4. the portion of Rate Group growth costs for improvement identified in Subsection 17.13.020 Z.

The adjustment factor for each Rate Group shall be determined as follows:

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Percent change in Land Value multiplied by the Rate Group's Land Portion (percent)

+ Percent change in Construction Cost Index multiplied by the Rate Group's Development Portion (percent)

= Park SDC Rate Group Adjustment Factor

The resulting Adjustment Factor shall be multiplied by the adopted SDC rates by Rate Group and added to the base charges.

- E.** Notwithstanding any other provision, the adjustment shall not exceed a total of 12 percent in any consecutive two-year period. This shall be calculated by dividing the proposed new rate by the rate of two years prior. If the resulting change is greater than 12 percent, the rate shall be set at 12 percent variance from the rate of two years prior.

17.13.050 Application Requirements.

(Amended by Ordinance Nos. 176955, 181669 and 187150, effective July 1, 2016.) All Applications must meet the application completeness requirements of the Planning Bureau and Bureau of Development Services. Where construction requires a land division, the Applicant must have final plat approval prior to submitting a Building Permit Application. This Ordinance shall apply to all Building Permits for New Development not yet complete as of the effective date and those which are subsequently submitted or made complete. Fees are assessed based on the rate schedule in use on the date that the permit application is made complete. For purposes of this Section, a complete Application shall meet all the requirements of the Bureau of Development Services.

17.13.060 Partial and Full Exemptions.

(Amended by Ordinance Nos. 176511, 179008, 181669, 183448, 187150 and 189050, effective August 1, 2018.) The uses listed and described in this Section shall be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any Applicant seeking an exemption under this Section shall specifically request that exemption no later than the time of the City's completion of the final inspection. Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must apply for an Alternative Exemption calculation under Section 17.13.080. The Applicant has the burden of proving entitlement to any exemption so requested.

- A.** Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used for not more than 180 days in a single calendar year.

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- B.** Affordable housing is exempt pursuant to Section 30.01.095.
- C.** Alteration permits for tenant improvements are fully exempt.
- D.** New construction or remodeling of Dwelling Units where no additional Dwelling Unit(s) are created and the square footage of each remodeled dwelling unit does not change the range of square footage in the SDC Methodology Report is fully exempt.
- E.** New construction or remodeling of non-residential development where no additional square footage is created is fully exempt.
- F.** Campus Housing is fully exempt.
- G.** For New Development which includes a mix of exempt and non-exempt forms of Development, the applicable exemption(s) shall apply only to that portion of the New Development to which the exemption applies.
- H.** Certain accessory dwelling units are exempt pursuant to Section 17.14.070.

17.13.070 SDC Credits and SDC Reimbursements.

(Amended by Ordinance Nos. 172732, 172758, 173386, 174617, 181669 and 187150, effective July 1, 2016.) SDC Credits:

- A.** The City shall grant a Credit against the Parks SDC, which is otherwise assessed for an New Development, for any Qualified Public Improvement(s) constructed or conveyed as part of that New Development. For purposes of this section, a Qualified Public Improvement will be considered part of a New Development when the application for a credit is made and the New Development is identified by a Building Permit Number. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.
- B.** To obtain an SDC Credit, the Applicant must specifically request a Credit prior to the City's completion of the final inspection for the new Development. In the request, the Applicant must identify the improvement(s) for which Credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which Credit is sought. If, in the Administrator's opinion, the improvement(s) is a Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit shall be granted. The value of the SDC Credits under this section shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of Real Property Interests, as follows:
 - 1.** For Real Property Interests, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon

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comparable sales of similar property between unrelated parties in an arms-length transaction;

2. For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the Applicant if actual costs are higher than estimated, and an additional SDC to be paid by the Applicant if actual costs are lower than estimated. The City shall inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously negotiated. The City shall limit credits to reasonable costs. Credits shall be awarded only in conjunction with an application for development;
 3. For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant;
- C. The Administrator will respond to the Applicant's request in writing within 21 days of when the request is submitted. The Administrator shall provide a written explanation of the decision on the SDC Credit request.
1. The "Request for Parks SDC Credit for Qualified Public Improvement" (Form PSDC-7) and accompanying information will be sent to the Parks SDC Administration Section, who will prepare a staff report and convene the SDC Credit Review Committee. The Committee shall be composed of representatives of the following organizations:
 - a. Metropolitan Home Builders Association
 - b. Coalition for a Livable Future
 - c. League of Women Voters
 - d. Developer-at-Large
 - e. Parks Board Member or Designee
 - f. Portland Business Alliance Member or Designee
- If a vacancy occurs, the organization will nominate a replacement. Members of the committee will be nominated by their respective organizations and appointed by the Director.

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2. The Committee shall review each proposal and forward a recommendation, along with any minority viewpoints. The Director will make a decision within 60 days of the application.
 3. Certified copies of the decision and the Committee recommendations will be transmitted to the Auditor of the City of Portland, who will file them in a special record of such decisions. All such decisions of the Director shall be accessible to the public under like terms as ordinances of the City of Portland. Any decision of the Director shall be subject to amendment, repeal, or alteration by the City Council, but any such action must take place within 30 days of the decision.
- D.** If the Applicant disputes the Administrator's decision with regard to an SDC Credit request, including the amount of the Credit, the Applicant may seek an alternative SDC Credit calculation under Section 17.13.080. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial Credit request.
- E.** When the construction or donation of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. For purposes of this paragraph, "subsequent phases of the original development project" means additional New Development that is approved as part of the same regulatory development approval, (such as elements approved as part of the same conditional use master plan or planned unit development) or other portions of the same "site" (as defined by PCC 33.901.030) that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. For multi-phased developments, the applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development rather than independent projects.
- F.** The Applicant may request that the portion of the Park SDC credit relative to the Non-Local Access portion of the SDC fee be applied to their development anywhere within the City. The proportional breakdown of Local Access portion to Non-Local Access portion is 43 percent Local Access and 57 percent Non-Local Access.
- G.** Parks and Recreation SDC Credits are void and of no value if not redeemed with the City for payment of a Parks and Recreation SDC within 10 years of the date of issuance.
- H.** Notwithstanding any other provisions of this section, with respect to conveyances of Real Property Interests specified in development agreements adopted before

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June 21, 2000, the value of the credit will be 25 percent of the appraised value of the Real Property Interest.

17.13.080 Alternative Calculation for SDC Rate, Credit, or Exemption.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

A. Pursuant to this section, an Applicant may request an alternative Parks and Recreation SDC rate calculation, alternative SDC Credit determination, or alternative SDC exemption, but only under the following circumstances:

- 1.** The Applicant believes that the number of persons per Dwelling Unit for residential development, or resident equivalents per 1,000 square feet for non-residential development, resulting from the New Development is, or will be, less than the number of persons per Dwelling Unit or resident equivalents per 1,000 square feet established in the SDC Methodology Report, and for that reason, the Applicant's SDC should be lower than that calculated by the City.
- 2.** The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for Credit under Section 17.13.070, or the City accepted for Credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the Credit.
- 3.** The Applicant believes the City improperly rejected a request for an exemption under Section 17.13.060 for which the Applicant believes it is eligible.

B. Alternative SDC Rate Request

- 1.** If an Applicant believes that the occupancy assumptions for the class of structures that includes New Development are inaccurate, in that, for residential development, the number of persons per Dwelling Unit is, or will be, less than the number of persons per Dwelling Unit established in the SDC Methodology Report, or for non-residential development, the number of resident equivalents per 1,000 square feet is, or will be, less than the number of resident equivalents per 1,000 square feet established in the SDC Methodology Report, the Applicant must request City consideration of an alternative SDC rate calculation, under this section, no later than the time the City completes the final inspection for the New Development. Alternative SDC rate calculations must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development. The City shall not entertain such a request filed after the City has completed the final inspection for the new Development. Upon the timely request for an alternative SDC rate calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make

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a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC Rate request, the Applicant must provide complete and detailed documentation, including verifiable dwelling occupancy data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed Alternative SDC Rate calculation shall include an explanation with particularity why the rate established in the SDC Methodology Report does not accurately reflect the New Development's impact on the City's capital improvements.
3. The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, the following are found:
 - a. The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section, and
 - b. The calculation of the proposed Alternative SDC rate was by a generally accepted methodology, and
 - c. The proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.
4. If, in the Administrator's opinion, all of the above criteria are not met, the Administrator shall provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative Parks and Recreation SDC Rate.

C. Alternative SDC Credit Request

1. If an Applicant has requested an SDC Credit pursuant to Section 17.13.070, and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation, under this section, no later than the time the City completes the final inspection for the New Development. The City shall not entertain such a request filed after the City has completed the final inspection for the new Development. Upon the timely request for an Alternative SDC Credit calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination

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within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC Credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the Applicant is seeking Credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis, and techniques of analysis as a means of supporting the proposed Alternative SDC Credit.
3. The Administrator shall apply the Alternative SDC Credit if, in the Administrator's opinion, the following are found:
 - a. The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s), and
 - b. The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct, and credible and were gathered and analyzed by an appropriate competent professional in compliance with generally accepted principles and methodologies, and
 - c. The proposed Alternative SDC Credit is based on realistic, credible valuation analysis.
4. If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed Alternative Parks and Recreation SDC Credit proposal.

D. Alternative SDC Exemption Request:

1. If an Applicant has requested a full or partial exemption under Section 17.13.060 and that request has been denied, the Applicant may request an Alternative SDC Exemption under this Section, no later than the time the City completes the final inspection for the new Development. The City shall not entertain such a request filed after the City has completed the final inspection for the New Development. Upon the timely request for an Alternative SDC Exemption, the Administrator shall review the Applicant's request and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of Section 17.13.060 for exemptions.
2. In support of the Alternative SDC Exemption request, the Applicant must provide complete and detailed documentation demonstrating that the

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Applicant is entitled to one of the exemptions described in Section 17.13.060.

3. The Administrator shall grant the exemption if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 17.13.060.
4. Within 21 days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

17.13.090 Payment.

(Amended by Ordinance Nos. 173565, 181669 and 183447, effective July 1, 2010.)

- A. The Parks and Recreation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full Parks and Recreation SDC, the Applicant may elect to pay the SDC in installments as is authorized by ORS Chapter 223.208 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this Code, before the City will issue any Building Permits.
- B. Upon written request of Portland Parks & Recreation, the City Auditor is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.
- C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

17.13.100 Refunds.

(Amended by Ordinance No. 181669, effective January 1, 2009.) Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. The City shall refund to the Applicant any SDC revenues not expended within ten (10) years of receipt. Refunds will be given, upon request by the Applicant, when a building permit application is canceled.

17.13.110 Dedicated Account and Appropriate Use of Account.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

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- A.** There is created a dedicated account entitled the “Parks and Recreation SDC Account.” All monies derived from the Parks and Recreation SDC shall be placed in the Parks and Recreation SDC Account. Funds in the Parks and Recreation SDC Account shall be used solely for the purpose of providing capacity-increasing capital improvements as identified in the adopted Parks and Recreation SDC-CIP as it currently exists or a hereinafter amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes which include:
1. design and construction plan preparation;
 2. permitting;
 3. land and materials acquisition, including any costs of acquisition or condemnation;
 4. construction of parks and recreation capital improvements;
 5. design and construction of new drainage facilities or streets required by the construction of parks and recreation capital improvements and structures;
 6. relocating utilities required by the construction of improvements;
 7. landscaping;
 8. construction management and inspection;
 9. surveying, soils and material testing;
 10. acquisition of capital equipment that is an intrinsic part of a facility;
 11. demolition that is part of the construction of any of the improvements on this list;
 12. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire parks and recreation facilities;
 13. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement plan; and the costs of collecting and accounting for system development charges expenditures.
- B.** Money on deposit in the Parks and Recreation SDC Account shall not be used for:
1. any expenditure that would be classified as a maintenance or repair expense;
or

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2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
 3. costs associated with acquisition or maintenance of rolling stock
- C. The City may prioritize SDC-funded projects and may spend SDC revenues for growth-related projects anywhere in the City. However, during any period of twenty years, the City shall not spend less SDC revenues for local access parks within any City parks planning sub-area than the total amount of SDC revenues collected for local access parks within that sub-area.

17.13.120 Challenges and Appeals.

(Amended by Ordinance No. 174617, effective July 28, 2000.)

- A. Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be \$100.
- B. Except where a different time for an Administrator's decision is provided in this Chapter, all Administrator decisions shall be in writing and shall be delivered to the Applicant within 21 days of an Application or other Applicant request for an Administrator determination. Delivery shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Any person may appeal any decision of the Administrator made pursuant to this Chapter to the City Hearings Officer by filing a written request with the Administrator within fourteen (14) days after the delivery of the Administrator's written decision to the Applicant. The fee for appealing a decision to the Hearings Officer shall be \$250 and shall accompany the request for appeal. An outline of these appeal procedures shall be included in the Administrator's written decision.
- C. The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100.
- D. The City shall withhold all Permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

17.13.130 City Review of SDC.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

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- A.** No later than every five (5) years as measured from initial enactment, the City shall undertake a review to determine that sufficient money will be available to help fund the Parks and Recreation SDC-CIP identified capacity increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the Parks and Recreation SDC-CIP should be modified, and to ensure that such facilities will not be over-funded by the SDC receipts.
- B.** In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary and consistent with state law, the City Council may propose and adopt appropriately adjusted SDCs.
- C.** The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.140 Time Limit on Expenditure of SDCs.

The City shall expend SDC revenues within ten (10) years of receipt, based on the priorities in the Parks and Recreation SDC-CIP list.

17.13.150 Implementing Regulations.

(Amended by Ordinance No. 187150, effective July 1, 2016.) The Director may adopt regulations to implement the provisions of this chapter.

17.13.160 Amendment of the Parks and Recreation SDC-CIP List.

(Amended by Ordinance No. 181669, effective January 1, 2009.) The City Council may, by resolution, amend its Parks and recreation SDC-CIP list as set forth in the SDC Methodology Report, from time to time to add or remove projects the City deems appropriate. The Administrator may, at any time, change the timing and sequence for completion of projects included in the Parks and Recreation SDC-CIP list.

17.13.170 Severability.

The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this Chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this Chapter would have been adopted had such an unconstitutional provision not been included herein.

**CHAPTER 17.14 – FINANCING OF, AND
EXEMPTIONS FROM, SYSTEM
DEVELOPMENT CHARGES**

(Chapter added by Ordinance No. 145785; amended
by Ordinance Nos. 166334 and 189050, effective
August 1, 2018.)

Sections:

- 17.14.010 Purpose.
- 17.14.020 Definitions.
- 17.14.030 Application, Consent to Assessment.
- 17.14.040 Terms and Conditions of Deferred Payment and Installment Payment Agreements.
- 17.14.050 Assessment.
- 17.14.060 Cancellation.
- 17.14.070 System Development Charge Exemptions.

17.14.010 Purpose.

(Amended by Ordinance Nos. 183447 and 189050, effective August 1, 2018.) The purposes of this Chapter are to authorize financing agreements that provide for payments deferrals and installment payments of City system development charges and to provide exemptions from such charges. This Chapter fulfills the following mandates:

- A. The requirement of Chapter 722 Oregon Laws of 1977 (ORS 223.207 and 223.208) that the rights and duties accorded the City and property owners by the laws relating to assessments and financing of local improvement districts shall also apply to assessments and financing of those charges imposed by the City that are defined by Subsections 1 (a) and (b) of Section 2, Chapter 722 Oregon Laws of 1977 (ORS 223.208 (1) (a) and (b)); and
- B. The decisions of City Council to establish certain exemptions from the assessment of system development charges.

17.14.020 Definitions.

(Amended by Ordinance No. 183447, effective July 1, 2010.) As used in this Chapter the following terms shall be defined as follows:

- A. **“System development charge”** means a charge imposed pursuant to Chapters 17.13, 17.15, 17.36 and 21.16 of this Code.
- B. **“Owner or property owner”** means all persons who appear on the County property tax record for the property subject to the system development charge.

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- C. **“Responsible Bureau”** means the City agency, office, organization, division or bureau which is responsible for calculating and maintaining records regarding system development charges.

17.14.030 Application, Consent to Assessment.

(Amended by Ordinance No. 183447, effective July 1, 2010.) Any owner of real property subject to a systems development charge may apply to defer the payment of system development charges, or to pay the charge in installments in a manner similar to that provided for local improvement district assessments. As a condition to such application, the owner shall waive any right to challenge the validity or applicability of the charge and shall consent to the assessment of the property subject to the charge.

17.14.040 Terms and Conditions of Deferred Payment and Installment Payment Agreements.

(Amended by Ordinance Nos. 183447 and 185326, effective July 1, 2012.)

A. Deferred Payments.

1. The City shall authorize the deferred payment of system development charges for periods not to exceed 6 months for projects valued less than or equal to \$750,000, 9 months for projects valued greater than \$750,000 and less than or equal to \$7 million, and 12 months for projects that are valued greater than \$7 million.
2. For purposes of this Section, the City shall rely on the value assigned to projects by the City when calculating building permit fees.
3. The City shall charge simple interest during the deferral period at the interim interest rate established by ordinance pursuant to Chapter 17.12 of this Code.
4. The City shall collect fees and charges for the processing and administration of deferred payment agreements as set by general ordinance.
5. The City shall authorize the deferred payment of system development charges for periods not to exceed 18 months for new single family residential dwellings (detached, duplex, row house, townhouse) regardless of project value; this option shall include the requirements of Subsections 3. and 4. of this Section and shall be offered on projects for which complete building permit applications and SDC deferral applications in accordance with Section 17.14.030 are received between July 1, 2012 through June 30, 2014. Development for which a complete building permit application or a SDC deferral application under Section 17.14.030 are received after June 30, 2014 are not eligible for the deferral provided by this Subsection.

- B. Installment Payment Agreements.** Payment of principal and interest shall be made in installments as set forth in the signed installment payment contract.

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17.14.050 Assessment.

The City Auditor shall report to the Council from time to time the contracts to pay system development charges pursuant to this Chapter. If the Council finds that the contracts are in order and that subject property has been permitted to connect to City facilities and has thereby benefited, it shall approve the contracts by ordinance direct the billing for the charges upon the land benefited plus a financing fee. The financing fee shall be calculated as set forth in PCC 17.12 Assessments. All such assessments may be combined in one assessment roll and shall be entered upon the Docket of City Liens and collected in the same manner as other local improvement assessments.

17.14.060 Cancellation.

(Amended by Ordinance No. 183447, effective July 1, 2010.)

- A.** Upon written request of the responsible City bureau, the City Auditor is authorized to cancel assessments of system development charges, without further Council action, where the property is not physically connected to the public improvement of where the new development approved by the building permit is not constructed and the building permit is cancelled. The City Auditor shall establish administrative guidelines and fees or charges relating to the cancellation of assessments. The City Auditor shall maintain on file for public inspection a current copy administrative guidelines and fees or charges.
- B.** For property which has been subject to a cancellation of assessment of system development charges, a new installment payment contract shall be subject to the code provisions applicable to system development charges and installment payment contracts on file on the date the new contract is received by the City.

17.14.070 System Development Charge Exemptions.

(Added by Ordinance No. 189050, effective August 1, 2018.)

- A.** Affordable housing developments are exempt from all system development charges as provided by Section 30.01.095 of this Code.
- B.** Certain developments and uses are exempt from parks and recreation system development charges as provided by Section 17.13.060 of this Code.
- C.** Certain developments and uses are exempt from transportation system development charges as provided by Section 17.15.050 of this Code.
- D.** Temporary uses are exempt from sanitary sewer system development charges as provided by Section 17.36.040 of this Code.
- E.** Certain developments and uses are exempt from water service system development charges as provided by Section 21.16.170 of this Code.

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- F.** An accessory dwelling unit, as that term is defined in Chapter 33.910 of this Code, is exempt from all system development charges under the following conditions:
- 1.** The building permit application for the accessory dwelling unit must have an intake date of August 1, 2018 or later.
 - 2.** Prior to issuance of a building permit for the accessory dwelling unit, the applicant must submit a recorded covenant on a form provided by the Revenue Division of the Bureau of Revenue and Financial Services. The covenant will prohibit the use of the accessory dwelling unit or any other structure on the property as an accessory short-term rental, as that term is defined in Chapter 33.207 of this Code, for a period of 10 years from the date of permit final inspection. The covenant must be recorded in the deed records for the property before the City will issue the building permit.
 - 3.** The Revenue Division will enforce the requirements of this Section and may:
 - a.** Adopt, amend, and repeal administrative rules, establish procedures, and prepare forms for the implementation, administration, and enforcement thereof;
 - b.** In the event of a violation, use any reasonable means to collect debt, including but not limited to private collection agencies, liens, or lawsuits;
 - c.** Delegate functions under this Section as deemed appropriate by the Revenue Division;
 - d.** Impose a civil penalty of up to \$500 for failure to pay an application fee within 60 days of the approval of an SDC fee waiver;
 - e.** Impose a civil penalty of up to \$500 per violation for failure to provide requested information to the Division; and
 - f.** Waive or reduce for good cause any civil penalty assessed under this Section.
 - 4.** If an applicant for an exemption under this section or a successor-in-interest thereof violates the covenant for an accessory dwelling unit or any requirement of this section, or if the covenant is terminated according to its terms:
 - a.** The exemption will be terminated and all previously exempt portions of system development charges will become immediately due and payable by the then-owner of the property. The amount owing will be 150 percent of the rates in effect at the time the

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violation is identified or the covenant is terminated, whichever is later.

- b.** For the purpose of applying any previous use credits, SDC Bureaus will use the timeframe of the ADU building permit intake date. If credits are applicable, SDC Bureaus will apply credits using the rates in effect at the time the violation is identified, or the covenant terminated, whichever is later.
- c.** A processing fee of \$400 per waiver application shall apply from August 1, 2018 through June 30, 2019. Thereafter the Revenue Division Director shall publish a fee schedule based on cost recovery.
- d.** 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 of this Code.

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5. For uses for which the appropriate SDC calculation is a unit of measure other than square feet, such as the number of students, movie screens, etc., the first Application submitted for such a use that is subject to this Chapter shall establish the baseline number of existing units of measure. No SDC shall be assessed against that baseline. A baseline Trip rate so established shall be valid, and need not be recalculated, for the next 12 months.
- C. Port Development. At the Applicant's option, Port Development may be subject to assessment under Subsection A. of this Section, or under this Subsection.
1. If the Applicant elects assessment under this Subsection C., the Applicant and the City shall negotiate an agreement for the payment of a fee in lieu of the Transportation SDC that includes the following elements:
 - a. A methodology for estimating the amount of the SDC which would be imposed pursuant to Subsection A. above during a period of either 3 years or until the expiration of the SDC project list, whichever is less, but in any event not more than 10 years, as specified by the Applicant. The methodology shall take into account the Port Development anticipated under the Applicant's master plan during the period specified in that plan, the Trips that the Port Development is expected to generate, Trip levels against which SDCs have historically been assessed, the anticipated increases or decreases in the dollar amounts of the SDC during the specified period, any applicable credits or exemptions and any other factors which the Administrator deems to be relevant. In no event shall the charge estimated under this Subsection be less than the SDC that would otherwise be due for the Port Development and the Applicant shall indicate its agreement to the methodology in writing.
 - b. A payment period shall be imposed during which the Applicant shall pay in full the amount due within 12 months of the Applicant's agreement to the methodology.
 2. In the event the Applicant and the City are unable to agree to a methodology under this Subsection, the normal method of calculating and assessing the SDC under Subsection A. above shall apply.

17.15.050 Exemptions and Discounts.

(Amended by Ordinance Nos. 171698, 173437, 177198, 181322, 182389, 182652, 183679, 183448, 184756, 185195, 185987, 187821, 188619, 188757, 188758 and 189050, effective August 1, 2018.) The uses listed and described in this section shall be exempt, either partially or fully, from payment of the Transportation SDC. Any Applicant seeking an exemption or a discount under this Section shall specifically request that exemption within 180 days after building permit issuance for the New Development. Where New Development consists of only part of one or more of the uses described in this section, only

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that/those portion(s) of the development which qualify under this section are eligible for an exemption or discount. The balance of the New Development which does not qualify for any exemption or discount under this section shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption or discount request, the Applicant must apply for an alternative exemption calculation under Section 17.15.070. The Applicant has the burden of proving entitlement to any exemption so requested.

- A. Temporary Uses are fully exempt so long as the use or structure proposed in the New development will be used not more than 180 days in a single calendar year.
- B. New Development that will not generate more than 15 percent more Person Trips than the present use of the property generates and that will not increase Person Trips by more than 25 Person Trips shall be fully exempt.
- C. Affordable housing is exempt to the extent established by Section 30.01.095.
- D. Discount of the Transportation SDC may be available for qualified land use types described in this Subsection and located within designated areas of the City. The Applicant has the burden of proving entitlement to any discount so requested. No discount based on the person trip methodology shall be provided for any SDC within the North Macadam Overlay area or the Innovation Quadrant Overlay area.
 - 1. To qualify for a discount, the Applicant must demonstrate the following:
 - a. The New Development will be located within the Central City or other centers as designated by the Bureau of Planning and Sustainability. Other centers include the Gateway Plan District, areas within Town Centers and Neighborhood Centers as mapped in the new 2035 Comprehensive Plan, and parcels within 1,000 feet of light rail stations (excluding single-family, OS, and IG and IH zones).
 - b. The New Development will meet the eligibility criteria listed in the following table:

Residential	
Single Family (1,200 square feet or more)	Ineligible
Single Family (1,199 square feet or less)	Ineligible
Multiple Family	Eligible if in mixed use site that is built to at least 75% of max FAR
Senior Housing/Congregate Care/Nursing Home	Eligible if in mixed use site that is built to at least 75% of max FAR

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Commercial – Services	
Bank	Eligible if in mixed use site that is built to at least 75% of max FAR
Day Care	Eligible if in mixed use site that is built to at least 75% of max FAR
Hotel/Motel	Eligible if in mixed use site that is built to at least 75% of max FAR
Service Station / Gasoline Sales	Ineligible
Movie Theater/Event Hall	Eligible if in mixed use site that is built to at least 75% of max FAR
Carwash	Ineligible
Health Club / Racquet Club	Eligible if in mixed use site that is built to at least 75% of max FAR
Commercial – Institutional	
School, K-12	Eligible
University / College / Jr. College	Eligible
Church	Eligible
Hospital	Eligible
Park	Eligible
Commercial - Restaurant	
Restaurant (Standalone)	Eligible if in mixed use site that is built to at least 75% of max FAR
Quick Service Restaurant (Drive-Though)	Ineligible
Commercial - Retail	
Shopping/Retail	Eligible if in mixed use site that is built to at least 75% of max FAR
Convenience Market	Eligible if in mixed use site that is built to at least 75% of max FAR
Free Standing Retail Store/ Supermarket	Eligible if in mixed use site that is built to at least 75% of max FAR
Car Sales - New / Used	Ineligible
Commercial – Office	
Administrative Office	Eligible if in mixed use site that is built to at least 75% of max FAR
Medical Office / Clinic	Eligible if in mixed use site that is built to at least 75% of max FAR
Industrial	
Light Industry / Manufacturing	Eligible if in mixed use site that is built to at least 75% of max FAR
Warehousing / Storage	Ineligible
Self-Storage	Ineligible

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2. The following Transportation SDC discounts apply to eligible land uses:

a. Central City – 33 percent reduction

b. Other Centers– 8 percent reduction

E. Graded Scale: A change in use of an existing building where the gross enclosed floor area does not exceed 3,000 square feet is fully exempt. A change in use of an existing building where the gross floor area is between 3,000 square feet and 5,000 square feet shall be assessed on a graded scale. The percentage of the rate to be assessed on the entire existing building shall be calculated by the following equation:

$$(\text{size of existing building} - 3,000 \text{ square feet}) / 2,000 \text{ square feet}$$

Examples of Graded Scale Assessment Calculations

$(4,000 - 3,000) / 2,000 = 0.50$ Existing 4,000 square foot building assessed at 50% of the rate

$(3,200 - 3,000) / 2,000 = 0.10$ Existing 3,200 square foot building assessed at 10% of the rate

$(4,900 - 3,000) / 2,000 = 0.95$ Existing 4,900 square foot building assessed at 95% of the rate

F. Alteration permits for tenant improvements, new construction or remodeling are fully exempt where:

1. no additional dwelling unit(s) or structure(s) are created;

2. the use or structure will not result in an increase in additional Trips according to the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report;

3. the use or structure is of a temporary nature and is used less than 180 days in a calendar year.

G. The construction of accessory buildings or structures which will not create additional dwelling units or which do not create additional demands on the City's capital improvements are fully exempt.

H. Any newly permitted and constructed accessory dwelling unit (ADU) conforming to the Title 33 definition of an ADU will qualify for a waiver of SDC fees if a complete building permit application is submitted for the ADU from April 15, 2010 through July 31, 2018, provided that the Applicant receiving a waiver obtains an occupancy permit no later than June 30, 2019. If an occupancy permit is not

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obtained by June 30, 2019, an occupancy permit will not be issued until the SDC is paid at the rates in effect at the time the occupancy permit is issued.

- I.** For New Development which includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) shall apply only to that portion of the New Development to which the exemption applies.
- J.** Certain accessory dwelling units are exempt pursuant to Section 17.14.070.

17.15.060 SDC Credits, SDC Credit Transfers and SDC Reimbursements.

(Amended by Ordinance Nos. 172677, 173121, 173437, 174936, 181322, 182652, 184756, 185195 and 188619, effective January 1, 2018.)

A. SDC Credits:

- 1.** The City may grant a credit against the Transportation SDC, which is otherwise assessed for a New Development, for eligible capital improvements constructed or dedicated as part of the New Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.
 - a.** To obtain an SDC Credit, the Applicant must specifically request a credit within 180 days after building permit issuance for the New Development. In the request, the Applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement or other eligible improvement pursuant to Subsection 17.15.060 A.1.c. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought, as follows:
 - (1)** For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.
 - (2)** For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought.
 - (3)** For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant.

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- b.** If, in the Administrator's opinion, the improvement(s) are Qualified Public Improvements, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit shall be determined by the Administrator as follows:

 - (1)** For improvements on or contiguous to the New Development site, only the costs for the Over-Capacity portion of the improvement as described in the definition of Qualified Public Improvement are eligible for SDC Credit. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development.
 - (2)** For Qualified Public Improvements not located on or contiguous to the New Development site, the full cost of the improvement may be eligible for SDC Credit.
- c.** The Administrator may grant credit for all or a portion of the costs of capital improvements constructed or dedicated as part of the New Development that do not meet the requirements of Qualified Public Improvements, provided that the improvements are listed on the City's TSDC Project List. In such case, the Administrator may determine what portion of the costs are eligible for SDC Credit.
- d.** For all improvements for which Credit is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion the Credit based upon the percent of the total SDC attributable to the City Rate Study and the Overlay Rate Study.
- e.** For all improvements for which Credit is sought within the Innovation Quadrant Transportation System Development Charge Overlay, the Administrator shall apportion the Credit based upon the percent of the total SDC attributable to the City Rate Study and the Innovation Quadrant Overlay Project Report.
- f.** The Administrator will provide to the Applicant a written notice of the City's decision on the SDC Credit request, including an explanation thereof, within 21 calendar days of the request being submitted.
- g.** The Applicant may seek an alternative SDC Credit calculation under Section 17.15.070. Any request for an Alternative SDC Credit

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- C. A letter signed by the property owner, or an authorized representative of the property owner, consenting to a sidewalk cafe adjacent to the property on which the restaurant is located.
- D. 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, 185397 and 188850, effective April 6, 2018.)

- 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. All sidewalk café furniture must be placed on hard surfaces, consistent with Section 17.28.060.
- 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; Amended by Ordinance No. 188850, effective April 6, 2018.) Insurance is required pursuant to TRN-10.21 Insurance Requirements for Permits Issued by Street Systems Management.

17.25.080 Form and Conditions of Permit.

(Amended by Ordinance Nos. 182870, 184957, 188850 and 189078, effective July 18, 2018.) 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:

- 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 a separate Community/Special Event permit has been issued.
- D.** The permit is specifically limited to the approved Area of Operation.

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- 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 patrons. 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 Community & Civic Life 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.
- K.** A sidewalk café event extension permit may be issued to extend Area of Operation on a temporary basis, during a community event street closure.

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.
- 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.

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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.

17.25.110 Enforcement.

(Added by Ordinance No. 188850, effective April 6, 2018.) The Director of the Bureau of Transportation, or designee, shall retain the right to inspect and enforce permit compliance related to rules and regulations. Enforcement of rules and regulations shall be in accordance with TRN-8.14 (Right-Of-Way Use Enforcement Program).

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1. Who causes or permits the discharge of sanitary sewage into the public sewer system, or
 2. Whose use of the property directly or indirectly benefits from stormwater management services provided by the City.
- R. "Rolling Average"** means the average of the 10 most recent monthly averages of representative City- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate, unless another period is approved by the Director.
- S. "Sanitary Sewage"** means wastewater discharged to the public sewer system by permit or other approval of the Director and includes, but is not limited to, domestic wastewater, industrial and commercial process wastewater and contaminated stormwater.
- T. "Sanitary Sewer Conversion Charge"** means the charge to convert a nonconforming sewer, as that term is defined in Chapter 17.33. This charge is assessed in lieu of line and branch connection charges.
- U. "Sanitary System Development Charge (SDC)"** means a connection charge for new or increased demand of the public sewer system. This charge reimburses the City for an equitable portion of the costs of major sewer facilities such as wastewater treatment facilities, pump stations and interceptor sewers.
- V. "Seed"** means a population of microorganisms capable of oxidizing biodegradable organic matter that is added to a wastewater sample as part of the analysis of biochemical oxygen demand (BOD). Only seed prepared using primary effluent from the City's Columbia Boulevard Waste Water Treatment Plant may be used for this analysis.
- W. "Stormwater Management Facility"** means a facility or other technique used to reduce volume, flow rate, or pollutants from stormwater runoff. Stormwater facilities may reuse, collect, convey, detain, retain, or provide a discharge point for stormwater runoff.
- X. "Stormwater Management Services"** means services and actions used to collect, convey, detain, retain, treat or dispose of stormwater. These services include managing stormwater runoff from public streets, mitigating flooding, preventing erosion, improving water quality of stormwater runoff, collecting and conveying stormwater runoff from private properties when runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigating impacts to natural habitats caused by stormwater runoff, and protecting properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of-way.

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- Y. "Stormwater System Development Charge (SDC)"** means a connection charge for new or increased demand of the public stormwater and drainage system. This charge reimburses the City for an equitable portion of the costs of public stormwater management facilities such as collection and conveyance facilities, detention and disposal facilities, and water pollution reduction facilities.
- Z. "Temporary Connection"** means a connection to the sanitary sewer system where the duration of the connection is less than three years and connection and disconnection occur only once. Connections made to the public sewer, stormwater or drainage system made for the purpose of environmental remediation will not be considered a temporary connection unless approved by the Director.
- AA. "Temporary Structure"** means a structure that is separate and distinct from all other structures and is created and removed in its entirety within 3 years, including all impervious area associated with the structure.
- BB. "Total Suspended Solids (TSS)"** means the total suspended matter that either floats on the surface or is suspended in water or wastewater and that is removable by laboratory filtering in accordance with 40 CFR 136 Table B.
- CC. "Transportation SDC Study"** means the transportation system development methodology established by Chapter 17.15.
- DD. "User Charge"** means a charge paid by a ratepayer for the use of public sanitary or stormwater management services. User charges are calculated on a routine basis such as monthly or annually.

17.36.030 Annual Rate Ordinance.

Charges authorized by this Chapter pay for the City to provide sewer and stormwater management services. Charges are calculated based on true costs of service or may be based on rates per unit volume or usage or area served. Charges and rates are established via a BES rate ordinance adopted annually by the City Council. Charges are effective on a fiscal-year basis (July 1 to June 30 of the following year).

17.36.040 Sewer System Connection Charges.

(Amended by Ordinance Nos. 186403 and 189050, effective August 1, 2018.) Connection charges are for establishing a new connection, new use or expanding existing uses of the public sewer and City stormwater facilities. A property may be subject to one or more of these charges depending on the connections made.

- A.** The methodology for calculating connection charges is set forth in the Sanitary and Stormwater System Development Charge Methodology administrative rules (PPD item ENB – 4.05).
- B.** Payment is required upon issuance of a building or connection permit or, for connections related to City sewer extension projects, prior to or at the time a property physically connects to the public system.

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1. Prepayment. A person may pre-pay connection charges by providing a letter of intent that includes the parcel description and address, if applicable, and the estimated number of EDUs or impervious area. The Director may grant a refund at any time for excess charges at the rate in effect at the time of building permit or connection. Prepayment of connection charges does not guarantee reserved system capacity or usage of City sewer or drainage services. The Director may accept a cash or surety bond posted by the owner of the occupancy in lieu of immediate payment of the charge if:
 - a. The appropriate number of EDUs for the occupancy cannot be determined before the permit is issued; or
 - b. The Director has determined the number of equivalent dwelling units for the occupancy but the applicant does not agree with the Director's determination.
2. True-up. Within 2-1/2 years after connection, the Director will determine the number of EDUs and the amount of the SDCs due, using water consumption records or other evidence. Upon notice, the applicant must pay the SDCs within 60 days or the bond will be forfeited upon approval by the Director and the Commissioner-in-Charge.
3. Deferral of connection charges. Users who qualify to defer SDC or other sewer connection charges but who want to connect to the system can defer payment of connection charges until such date as the Director may specify as authorized by ordinance. The charge in effect at the time of connection is applied at time of payment. Deferred connection charges are delinquent when not paid after a period of 90 days from the date due and bear interest and penalties as set forth in this Chapter. Users may convert the deferral to an installment payment loan. The Director will establish rules, procedures and forms to govern the administration of the deferral program.

C. Sanitary System Development Charge (SDC).

1. A person must pay sanitary SDCs for:
 - a. Connecting a building property to a sanitary or combined sewer;
 - b. Increasing sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer; or
 - c. Increasing flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer.
2. Sanitary SDCs are calculated based on the number of EDUs.

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- a. EDUs for nonresidential uses will be calculated from Plumbing Fixture Units (PFUs), as defined by the Oregon Plumbing Specialty Code in effect at the time of the permit application.
 - b. Industrial wastewater. Industrial wastewater dischargers are subject to review of sewer usage within two years of occupancy. EDUs are calculated from the highest 6-month average of metered usage over that period. The user of record is responsible for EDUs in excess of those paid at the issuance of the permit.
 - c. EDUs for groundwater or other permitted discharges to sanitary or combined sewer are calculated based on estimated discharge volume.
3. Temporary use. Temporary structures and connections are not subject to sanitary SDCs. However, sanitary SDCs, including penalties and interest charges, become due and payable for structures or connections that are not removed within three years. Temporary structures and temporary connections are not exempt from paying user charges, including extra strength charges.
4. Credits. Sanitary SDC credits may be rewarded for:
 - a. Prior sewer connections. Full credit may be awarded for each EDU purchased and in existence prior to its demolition or disconnection.
 - b. Prior sewer user charge payments. A credit of \$21 per EDU for each year of sanitary sewer user charge payments from 1949 to 1991 may be awarded for buildings not demolished or disconnected prior to July 1, 1971.

D. Sanitary Line Charge.

1. Residential Property. The line charge is based on the square footage of that portion of the property receiving service that lies within 100 feet of the public right-of-way or easement where a sewer has been constructed or is planned. Such street or easement line is considered as continuing 100 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge is based on a minimum assumed lot size of 1,200 square feet.
2. Non-Residential Property. The line charge is based on the square footage of the portion of the property receiving service that lies within 300 feet of the public right-of-way or easement where a sewer has been constructed or is planned. Such street or easement line is considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns

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away from the property. The minimum line charge is based on a minimum lot size of 3,600 square feet.

3. When an adjacent, developed lot, as defined in Title 33 of this Code, is under the same ownership and used in conjunction with a neighboring, developed lot that is connected to the sewer, the adjacent lot is charged a line charge for its frontage as described above. This condition includes but is not limited to improved parking lots, and lots with garages or landscaping.
4. Lack of gravity service. When a sewer is constructed that can not provide full gravity service, the line charge is reduced by:
 - a. 50 percent if the property has gravity service to the first floor only and must install a pump for the basement; and
 - b. 75 percent if no gravity service is available for the first floor and the property must install a pump.

The adjustment may not exceed the costs associated with the installation of a pump system. The ratepayer may appeal this determination to the Director.

- E.** Branch charge. BES collects a branch charge for providing a branch sewer to the property, but only if the property was not assessed for the branch or its equivalent previously.
1. Additional charges may be assessed to cover the City's design and construction costs for branches that were requested by the user but not ultimately used. These charges must be paid before the property may be connected to the public system.
 2. BES collects a branch charge for City adoption of private nonconforming sewer lines located within the public right-of-way as provided under Subsection 17.32.055 B.2.
 3. Sampling manhole charge. When a property is subject to an extra strength charge as described in Subsection 17.36.060 A., the user may request that the City install a sampling manhole on the branch. The user must pay all direct and indirect costs of installing the manhole.
- F.** Sewer Conversion Charges. A property owner must pay sanitary sewer conversion charges according to the following two categories and as determined by administrative rule at the time the City provides a new sewer connection or when the property owner requests a permit for a new conforming sewer connection.
1. Residential Conversion Charges. Single-family, duplex, three-plex, or four-plex properties are assessed the residential sewer conversion charge, which is the branch charge in place at the time of connection.

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2. **Commercial Conversion Charges.** All multifamily, commercial, mixed-use, industrial, and institutional properties are assessed according to administrative rule and are calculated to recover costs for City sewer extension projects that serve the property. The commercial conversion charge replaces line, branch, system development and connection charges in this context.
- G. Stormwater System Development Charge.** The stormwater SDC consists of two parts: an onsite charge, reflecting use of public facilities handling stormwater flows from individual properties; and an off-site charge, reflecting use of system facilities handling stormwater flows from rights-of-way.
1. The onsite charge is calculated by multiplying the net new impervious area by a rate per thousand square feet of impervious area. In the case of groundwater flows directed into stormwater facilities, the charge is calculated based on the amount of impervious area necessary to produce an equivalent flow given average rainfall.
 2. The offsite charge is calculated in two parts: local access, and use of arterial streets.
 - a. The local access portion of the offsite charge is calculated by multiplying the length of the property's frontage by a per lineal foot rate. For properties on which there is existing development and for which a stormwater SDC has previously been paid, the local access portion will be waived.
 - b. The arterials portion of the offsite charge is calculated by multiplying net new vehicular trips by a rate per vehicular trip. Vehicular trips for a particular development are determined by the Transportation SDC Study, the ITE Manual, or an alternative study acceptable to the Bureau of Transportation.
 3. **Credits.** Credits may be granted for the onsite portion of the stormwater SDC in one of the following two cases:
 - a. Credits of up to 100 percent of the onsite portion of the stormwater SDC may be granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers or to the Columbia Slough. Only discharges that do not pass through City-financed stormwater facilities and meet all applicable water quality standards are eligible for credits. Credit applications must adequately demonstrate the satisfaction of these conditions. Development using stormwater facilities built under a public works permit that convey stormwater runoff directly to the Willamette or Columbia Rivers or the Columbia Slough without passing through other City

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stormwater facilities is eligible for up to 100 percent credit for the onsite charge.

- b.** A 100 percent credit may be granted for areas draining to facilities providing effective on-site retention for a 100 year storm event with a safety factor of two, defined as a rainfall intensity of 8.28" per hour per square foot of impervious area. Those applying for this credit must provide adequate documentation to demonstrate this additional retention capacity, including testing of infiltration facilities, and that on-site flows are directed to these facilities.
 - c.** No credits may be granted for the offsite portion of the stormwater SDC.
- H.** Partial and Full Exemptions for Affordable Housing Developments. Permanent affordable housing developments may be eligible for a waiver of sanitary and stormwater SDCs pursuant to Section 30.01.095.
- I.** Exemptions for Certain Accessory Dwelling Units. An accessory dwelling unit may be eligible for a waiver of sanitary and stormwater SDCs pursuant to Section 17.14.070.

17.36.050 User Charges.

(Amended by Ordinance No. 187926, effective September 2, 2016.) Sewer user charges are established and made effective as follows:

- A.** Timing. User charges are calculated on a routine basis, such as monthly, quarterly or annually.
- B.** Sanitary Sewer Services. The City calculates and collects user charges for sanitary sewer services from ratepayers who cause or permit the discharge of sanitary sewage from a property in their possession into the public sewer system. Charges for sanitary sewer services may include sanitary sewer volume charges, account service charges and penalties for non-payment or late-payment of sewer charges and other charges:
 - 1.** Residential dwellings. Residential dwelling units are assessed based on the volume of sewage discharged to the sanitary sewer system. The Director may elect to use water consumption as the basis of this calculation. To avoid including irrigation water usage in this calculation, the Director will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate will be made based on the ratepayer class of characteristics per administrative rule.
 - 2.** Non-residential occupancies. The City calculates charges for commercial, industrial, and all occupancies based on the amount of incoming water

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volume as measured by the City water meter, information from the water district serving the property, or by an approved meter that measures actual sanitary discharge volume.

3. Combined dwelling units and other. Where dwelling units and other occupancies use the same water supply, the City calculates charges for sanitary sewer service in the same manner as those for commercial, industrial, and all occupancies other than residential.
 4. Estimating wastewater discharges for mobile dischargers. User charges are applicable to all wastewater discharges to the City sewer system regardless of the source. In unusual circumstances where the wastewater is not from a fixed location, such as ships, barges, houseboats and other movable facilities or dwelling units, a method of determining the volume provided by the user may be used if approved by the Director. Otherwise, the Director estimates the volume of water to which user charges apply and this determination is final.
 5. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be determined by the amount of impervious area producing the contaminated stormwater plus the average rainfall or a discharge meter. The discharge will be charged based on sanitary sewer volume rates.
- C.** In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or from a partial supply in addition to that furnished by the City, residential ratepayers are assigned the class average volume for their alternative source water use. Commercial ratepayers must meter the private supply either as an inflow or a discharge in conformance to the provisions of this Chapter.
- D.** Meters required. Any meter or method used for calculation of a adjusted charge or credit is subject to the administrative or special meter charge for each such meter or method. The property owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and must comply with all provisions in this Title. Meters must be approved by the Director as to type, maintenance, calibration schedule, size and location before installation.
1. All meters must register in cubic feet.
 2. Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water for the purpose of obtaining reduced sewer charges must be connected in such a manner as to register only that portion of the water supply used for that purpose.

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3. Meters placed below the ground or pavement surface must have the top of the meter not more than 8 inches below the surface and must be enclosed in a standard water meter box and cover as used by the Portland Water Bureau. Meters located above the ground or floor level must not be more than 3-1/2 feet above the ground or floor level.
 4. All meters must be located in an area that is freely accessible at all times and that, in determination of the Director, does not present a danger to City employees.
 5. The owner of a meter must implement a program to ensure meter accuracy. The program should consider the manufacturer's periodic maintenance and calibration requirements. All maintenance and calibration records must be retained and available for review by City personnel.
 6. Failure of the owner, the owner's lessee, or others acting under the owner to maintain the meter in good working order constitutes a violation of this Chapter. During the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the basis of three times the normal water usage or in such an amount as deemed proper by the Director.
- E. Credits. A ratepayer must submit a written request for establishing reduced charges or credit for water not subject to sewer user charges. Requests must be received prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter. A request for credit must include a meter maintenance plan and a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water-using equipment, and the discharge point. Reduced charges or credits will not be given for any period prior to the date of approval. No reduced sewer charge may be given until the Director has approved the request.
1. Water not subject to sewer user charges. The Director may exempt from sewer user charges water that is used in a manufactured product such as ice, canned goods or beverages; or for water lost by evaporation or used in irrigation. To calculate the quantity of exempt water, a meter must be installed to the satisfaction of the Director.
 2. Clean water discharges. When a non-residential ratepayer requests approval for a temporary or permanent discharge of clean water to a public sewer system, the discharger must install meters or provide other verifiable and quantifiable information using a method approved by the Director to determine the volume of water to be discharged. Water such as that used for refrigerating or cooling purposes or condensed from steam and that has been put to no other use may be discharged into the sanitary system as clean water.

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- a. Clean water to storm sewer or other public drainage systems. Charges are calculated based on the clean water discharge-to-storm rate multiplied by the measured or estimated volume of water discharged to a public storm sewer or other public drainage system.
 - b. Clean water to sanitary or combined sewer systems. Charges are the same for other sewer uses and are calculated based on the non-residential sewer services rate multiplied by the measured or estimated volume of water discharged to a public sanitary or combined sewer.
 3. Conditions for revoking reduced charges or credits. The following conditions will nullify discounts and reinstate full user charges until such time as the owner or person in charge of the premises formally notifies the Director that the situation has been rectified.
 - a. Defective discharge meters. During the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed for the full amount of water passing through the supply meter and up to three times the supply flow provided by non-City resources. At no time may a reduced charge or credit be allowed retroactively, or for a period in which the meter is defective.
 - b. Failure to report. Failure to report on quantities of water subject to reduced charge or credit for 2 consecutive months is a violation of this Chapter. User charges must be paid on the full amount of water passing through the supply meter and up to three times the supply flow provided by non-City resources during these 60 days. At no time may a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.
- F. Stormwater Management Services. Ratepayers who receive a direct or indirect benefit from City stormwater management services are subject to the user charge. The ratepayer identified on the City utility billing account is assumed to be the user of stormwater management services and responsible for the user charge. If the property is not subject to other City utility charges, the Director will determine the ratepayer responsible for the user charge.
1. Billing Components. The user charge consists of the following components:
 - a. Stormwater On-Site. The user rate for the on-site component is 35 percent of the stormwater management services rate.

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- b. Stormwater Off-Site. The user rate for the off-site component is 65 percent of the stormwater management services rate.
 2. Basis for charge. User charges are calculated based on the user's proportionate share of City stormwater management services as estimated by the amount of impervious area on the user's property. Unless the property has been measured to the satisfaction of the Director, the property's impervious area is assumed to be equal to the average impervious area for the user's class. The following areas are included in a property's impervious area calculation for billing purposes: roofs; paved areas such as, but not limited to, driveways, parking lots, and walkways; and areas of the property that are covered by porous pavement. The following areas are not included in a property's impervious area calculation for billing purposes: rights-of-way that have been dedicated to the public and over which the City exercises regulatory jurisdiction and management; outdoor recreation areas owned by governmental bodies that are available to the general public, excluding parking lots and buildings; and areas covered by compacted soils and compacted gravels
 3. Dwelling units. The City uses the following class averages of impervious areas for calculating user charges for dwelling units located on a single property or tax lot:
 - a. One and Two Dwelling Units - 2,400 square feet
 - b. Three Dwelling Units - 3,000 square feet
 - c. Four Dwelling Units - 4,000 square feet
 4. Properties other than dwelling units or with five or more dwelling units. The City calculates the ratepayer's use of stormwater drainage system services based on the amount of impervious area on the site.
 5. Clean River Rewards. Clean River Rewards discounts are offered to increase ratepayer control over stormwater management charges and to advance City environmental goals. The program provides economic incentives, technical assistance, and environmental education to ratepayers who control and manage the quality and quantity of stormwater runoff on their private property.
- G. Portland Harbor Superfund Charge. The City calculates and collects user charges for the Portland Harbor Superfund Program. If the property is not subject to other City utility charges, the Director determines the ratepayer responsible for the Portland Harbor Superfund charge. This user charge appears as a line item on the City utility bill, and is the sum of the following two rate calculations:

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1. Sanitary Volume. This portion of the charge is the sanitary sewer service user charge multiplied by the Portland Harbor Superfund Sanitary Volume rate.
2. Impervious Area. This portion of the charge is the stormwater management services charge multiplied by the Portland Harbor Superfund Impervious Area rate.

17.36.060 Special User Charges.

(Amended by Ordinance No. 186902, effective December 26, 2014.) The following charges are applicable to only certain user groups and are assessed in addition to other user charges. Users may be subject to one or more of these charges. The current charge rates are provided on the BES annual rate ordinance.

- A. Extra-Strength Charge. Wastewater discharged to a City sewer, either directly or indirectly, is subject to an extra-strength charge if the discharge has a BOD or TSS in excess of concentration thresholds determined by the Director. The Director may establish concentration thresholds for other pollutants that are subject to extra-strength charges. Payment of an extra-strength charge does not excuse the discharger from complying with all other applicable provisions of Chapter 17.34 of this Code.
 1. Calculation of Charges. Extra-strength charges are based on the following:
 - a. The concentration of pollutants in excess of thresholds established by the Director and adopted by Council.
 - b. The total metered water supplied to the premises. The extra-strength charge may be reduced where commercial or industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters and the user provides a meter or other measurement method acceptable to the Director. For multiple tenant buildings with shared water service, extra-strength charges will be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.
 2. Methodologies for calculating extra-strength charges.
 - a. Measured Rolling Average. This method bases a user's rate on the average concentration of the ten most recent monthly concentration averages. Rolling averages are initiated with samples taken over a 5-day period unless otherwise specified by the Director. Samples must be taken daily at an approved sampling manhole or other location as determined by the Director.

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- (1)** Self-monitoring. A user may be authorized to submit monitoring data as a basis for rate calculations. Wastewater samples must be representative of the discharge.

 - (a)** Reports. Self-monitoring reports must include sufficient information to calculate the extra-strength rolling average.
 - (b)** All analytical data submitted for rate calculations must be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto as published in the Federal Register.
 - (c)** Laboratories analyzing for BOD must use approved seed in their analysis. Laboratory reports must indicate the use of approved City seed in order for the data to be used in extra-strength charge calculation. The Director may require a split of any independent sample collected by the user for the purpose of extra-strength charge calculation.
 - (2)** Additional sample requests. Any user subject to the measured rolling average method may request that BES collect additional samples. Requests must be submitted in writing. Full payment of re-sampling charges must be received prior to BES incorporating sampling results into the rolling average.

 - (a)** Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge to be split with the user, as provided for in administrative rule.
 - (3)** Non-routine Discharges. The Director may allow the exclusion of monitoring data from samples collected during a non-routine discharge from use in calculating a ratepayer's rolling average, using criteria defined in administrative rules.
- b.** Extra-strength class averages. The Director may establish a rate structure for users to be billed extra-strength charges based on the average discharge concentration of their business class. Businesses subject to class-average extra-strength charges will be eligible for rate reductions based on the verifiable implementation of approved

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best management practices, using criteria established by administrative rule.

- c. Other charge computations. If unusual effluent conditions make calculation by the measured rolling average or the extra-strength class-average method difficult or impossible, the Director may implement another method of sampling and computation. The Director may establish custom rates based on site-specific conditions per the criteria in administrative rule.
 3. Billing. Extra-strength charges are either included with the City utility bill or are billed separately by the City Auditor. These charges are enforceable and collectable in the same manner as water and sewer user charges. Failure to pay pursuant to Title 21 of this Code may be cause for termination of water and sewer services.
 4. Minimal charges; suspension. The Director may establish a minimum revenue threshold for periodic extra-strength charges using the rolling average method. The billing for all accounts with periodic extra-strength sewage charges below this minimum revenue threshold will be suspended or changed to the class average method until they increase beyond the revenue threshold again.
 5. Adjustments. The Director may adjust a user's charges where applicable at any time in accordance with the most recent monitoring analysis.
- B.** Building plan review charges. Charges are collected by the Bureau of Development Services on behalf of BES for the review of building plans and land use proposals to ensure compliance with requirements for sewage disposal, stormwater management, pollution prevention and source controls, and for determining routes of service.
- C.** Charges for Adoption of Nonconforming Sewer Lines. An owner of a property connected to the public sewer by a nonconforming sewer line in a public right-of-way may request that the City adopt the nonconforming line under Subsection 17.32.055 B.2. and associated administrative rules. Adoption charges will be assessed as provided by Subsection 17.36.040 A.3.d. unless the nonconforming line meets City standards as described in administrative rule.
- D.** Industrial Wastewater Permit Charges. Permitted users as identified in Chapter 17.34 must pay industrial wastewater permit charges based on the level of permit complexity, regulatory history, and amount of BES administrative oversight. Charge components are scaled based on whether an industrial discharger is a categorical industrial user, significant industrial user, or neither. Charges are calculated from the actual costs of BES staff to provide such services as data entry, permit administration, inspection, and permit processing for industrial users.

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- E.** Batch Discharge Charges. Users desiring City authorization for one-time discharges from their site must pay the batch discharge review charge. This charge reimburses the City for site research, system capacity, and pretreatment evaluation for requested discharges.
- F.** Discharge Authorization (DA) Charges. A user seeking City authorization for on-going discharges from their site or typical business activity must pay a discharge authorization review charge. This charge reimburses the City for site research, system capacity, and pretreatment evaluation for requested discharges. DA charges will be assessed on a sliding scale depending on the level of review necessary for submittals provided or required to approve the DA request.
- G.** Sampling Charges. A discharger requesting City sampling and analysis assistance to support discharge authorization, permit, or other compliance activities will receive a specific cost estimate from BES.
- H.** Sub-Meter Program Fees, Charges and Credits. A commercial ratepayer may elect or be directed to participate in the Sub-Meter Program to accurately assess sewer and stormwater management service user fees. A program participant is required to pay both the Water and the BES special meter charges for each meter in use, which are assessed on each billing cycle. Meter results will provide either credits or additional charges against the user's bill as described in the Sub-Meter Program administrative rules PPD item ENB-4.32.

17.36.070 Service Outside the City.

- A.** The City charges for the use of sanitary sewer and stormwater management services from properties outside the City based on annually established rates.
- B.** Determination of whether a property is outside the City. The Director determines whether any residential or business, industrial, commercial, institutional or other property is inside or outside of the City limits. For purposes of this Section, the property is outside of the City limits where 66.7 percent or more of the assessed valuation of the property is recorded in the records of the County Assessor as lying beyond the City limits.
- C.** The Director may require and enter into agreements for and on behalf of the City permitting connection and providing sanitary sewer or stormwater management services to commercial and industrial properties outside the City when the Director finds such service feasible and appropriate.

17.36.080 Collection of Charges.

- A.** All charges for services provided to a property are the responsibility of the ratepayer benefiting from or using City services at that property. This responsibility will

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attach to the ratepayer's subsequent City utility accounts and applies whether the ratepayer is the sole user of the services or furnishes them in turn to third parties.

- B.** Billing due dates. User charges are computed monthly, bimonthly, or quarterly, coincident with user charges for water service .
 - 1.** When billed with the utility bill, user charges are due and payable on the date provided on the water service bill. The City may prorate user charges for a portion of a utility billing period based on the effective date of the sanitary sewer or stormwater management service.
 - 2.** For ratepayers who do not receive water service from the City, user charges will be computed and billed monthly, bimonthly, or quarterly.
- C.** Collections. Upon determination by the Director that a charge is past due or otherwise delinquent, the City may avail itself of the full range of actions authorized by City Code.
- D.** Discontinuation of services. Charges not paid in accordance with the due date in the bill or invoice may be subject to water shutoff pursuant to Title 21 of this Code. The Director, with approval of the Commissioner-in-Charge, may also discontinue sanitary sewer service by disconnecting and plugging the sewer service line to properties whose delinquent user charges exceed \$10,000 for a period of 90 days or more. Ratepayers and property owners must be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection. Payment of the delinquent amount, including outstanding user charges or charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount remains the responsibility of the ratepayer. In the event a ratepayer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the ratepayer who originally incurred the charges.

17.36.090 Adjustment of Bills.

(Amended by Ordinance No. 187926, effective September 2, 2016.)

- A.** The Director may make an adjustment of up to \$500 to a ratepayer's utility account when it is deemed necessary for the proper conduct of the business of the Bureau to do so.
- B.** When the Director determines that a billing error has occurred, the Director may authorize an adjustment of the ratepayer's utility account for the period of the error, not to exceed 3 years from the date the error is identified.
- C.** Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end 6 months after the date a final bill was issued for the subject account. The

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Director may authorize an adjustment to the outstanding balance of a closed utility account more than 6 months after the issuance of the account's final bill if:

1. The ratepayer was billed for sanitary sewer services for a property that was not connected to the City's sewer system;
 2. The error is discovered after the 6 month deadline for adjustments to a final bill;
 3. The request is made in writing by the ratepayer of record at the time the billing error occurred; and
 4. The adjustment is limited to the sanitary sewer user charge.
- D.** Adjustments will be in the form of credits or additional charges to active utility accounts. The City may not issue refunds for billing adjustments unless approved by the Director. Refunds are chargeable to the Sewer System Operating Fund.
- E.** Ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a set period based on current City collection policies.

17.36.100 Inspection and Enforcement.

- A.** Right of Entry. To the full extent permitted by the law, the City has authority to enter all private and public premises at any time for the purpose of inspecting sources of potential or actual discharges to the City's sewers and drainage systems and to perform any other lawful act required by or authorized under this Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices as necessary to conduct sampling, inspection, testing, monitoring and metering operations to determine compliance with the requirements of this Chapter. City representatives shall not be required to sign any type of confirmation, release, consent, acknowledgement or other type of agreement as a condition of entry.
- B.** Conditions for Entry.
1. The City representative shall present appropriate credentials at the time of entry.
 2. The City representative shall comply with routine safety and sanitary requirements of the facility or site to be inspected as provided by the facility operator at the time of entry. The facility operator shall provide the City representative with any facility-specific safety protective equipment necessary for entry.

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- C.** Meter Tampering Unlawful. It is unlawful to install, change, bypass, adjust, or alter any metering device or any piping arrangement connected therewith as to show the quantity of water reaching the public sewer under City control to be less than actual quantity.
- D.** Sampling Tampering Unlawful. It is unlawful to tamper in any manner with City-owned or City-installed sampling equipment or samples therefrom.
- E.** Falsifying applications or records. Ratepayers shown to have falsified applications and records may be subject to enforcement action.
- F.** Enforcement Actions may include:
 - 1.** Withholding of City services;
 - 2.** Withholding of City permits;
 - 3.** Reversal of credits. Any credits awarded based on falsified data may be reimbursed to the City via additional charges on the City water and sewer bill.
- G.** Civil Remedies.
 - 1.** In addition to the remedies provided by any other provision of this Chapter, the City may obtain, in any court of competent jurisdiction, a judgment against a person or property failing to comply with the provision of this Chapter. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit charges, overhead costs, penalties, and other charges as determined by the Director.
 - 2.** In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may commence and maintain an action or proceeding in any court of competent jurisdiction to compel compliance with, or prevent by injunction, the violation of any provision of this Chapter.

17.36.110 Appeal.

(Replaced by Ordinance No. 186403; amended by Ordinance No. 186902, effective December 26, 2014.) A ratepayer, property owner or owner's agent may request modification of a BES assessment of a charge as described in this Chapter via administrative review with BES staff. After the requestor has exhausted all BES program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22. An appellant must pay a filing fee in the amount of the Code Hearing fee as part of the appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will reimburse the appellant for the full amount of the fee; and send a check to the appellant via certified mail.

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1. The permit application contains falsehoods or facts that cannot be verified;
 2. The applicant has failed to pay fees, assessments and interest as provided in Chapter 17.102;
 3. The applicant has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City; or,
 4. The applicant has had their permit revoked during the two years prior to the application. For purposes of this section, "applicant" includes any individual who was a managing partner, or who owned or controlled more than 20 percent of the voting interests in the permittee whose permit was revoked.
- I.** There shall be no right to renewal of a commercial collection permit; each application shall be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.
- J.** Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.
1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
 2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.240 Revocation or Suspension of Commercial Collection Permits.

(Amended by Ordinance No. 184288, effective January 7, 2011.)

- A.** The Director may suspend or revoke a commercial collection permit under the following conditions:
1. One or more of the permit conditions is being violated;
 2. The permittee is in violation of any of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling.
 3. The permittee has failed to pay fees and assessments as provided in Chapter 17.102.
 4. The permittee has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City.

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- B.** The Director shall consider the following criteria in determining whether to revoke or suspend the commercial collection permit due to violations of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling:
1. The nature and extent of the permittee's involvement in the violation;
 2. Whether the permittee was seeking any benefits, economic or otherwise, through the violation;
 3. Whether the violation was isolated and temporary, or repeated and continuous;
 4. The magnitude and seriousness of the violation;
 5. The relative harms of continued collection service from the permittee and the potential for service disruption;
 6. Whether any criminal prosecutions have occurred in regard to the violations; and
 7. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.
- C.** Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.
1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
 2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.250 Commercial Tonnage Fee.

(Amended by Ordinance Nos. 183828, 185349, 187771 and 189037, effective July 1, 2018.) Commercial permittees shall, when invoiced quarterly by the Director, pay a tonnage fee to the City. Fees shall be assessed up to \$12.60 per ton of commercial solid waste collected within the City and deposited in disposal facilities authorized by Metro. Payments shall be made within 30 days of the date of the invoice. Interest shall accrue at 1 percent per month on balances which remain unpaid as of 30 days after the date of invoice, compounded daily from the due date.

17.102.260 Registration Required for Independent Commercial Recyclers.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

**CHAPTER 17.103 - SINGLE-USE PLASTIC
CHECKOUT BAGS**

(Chapter replaced by Ordinance No. 185737,
effective March 1, 2013.)

Sections:

- 17.103.010 Purpose.
- 17.103.020 Definitions.
- 17.103.030 Authority of Director to Adopt Rules.
- 17.103.040 Checkout Bag Regulation.
- 17.103.050 Enforcement and Penalties.
- 17.103.060 Severability.

17.103.010 Purpose.

The purpose of this Chapter is to regulate the distribution of plastic bags at retail and food establishments. The distribution of plastic bags has significant, on-going harmful impacts upon the environment, including

- A. Plastic bags are a major source of litter.
- B. When littered, the material is detrimental to wildlife that ingests it.
- C. The materials used in plastic bags are persistent in the environment.

17.103.020 Definitions.

For purposes of Chapter 17.103, and any rules adopted thereunder, the following terms shall have the meanings specified in this Section.

- A. **“Director”** means the Director of the Bureau of Planning and Sustainability, or his or her authorized representative, designee or agent.
- B. **“Food provider”** means any person in the City that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.
- C. **“Grocery store”** means any business in the City with gross annual receipts of \$2,000,000 or greater, offering for sale items of food and perishable items as well as other household goods and supplies.
- D. **“Recycled paper bag”** means a paper checkout bag provided by a retail establishment or food provider to customers, meeting the following requirements:
 - 1. Contains a minimum of 40 percent recycled content; and,

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2. Is accepted for recycling in the City of Portland recycling program regulations under Chapter 17.102 of the City Code.
- E. “Reusable bag”** means a bag with handles that is specifically designed and manufactured for long-term multiple reuse and is
1. Made of cloth or other machine washable fabric; or
 2. Made of durable plastic that is at least 4.0 mils thick.
- F. “Retail establishment”** means any sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization located within the City that sells or offers for sale goods to a customer.
- G. “Single-use plastic checkout bag”** means a plastic bag that is provided by a retail establishment or food provider to a customer and is not a reusable bag. A single-use checkout bag does not include either of the following:
1. A bag provided by a pharmacist to contain prescription medication purchased by customers of the pharmacy;
 2. A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag; or,
 3. A plastic cover designed and used for protecting garments on a hanger.

17.103.030 Authority of Director to Adopt Rules.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- A.** The Director is hereby authorized to administer and enforce the provisions of this Chapter.
- B.** The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.
1. Any rule adopted pursuant to this Section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.
 2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review

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the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, the Director shall conduct additional public review, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director and with the City Auditor's Portland Policy Documents repository.

3. Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted by the Director without prior 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 not longer than one year (365 days). Within 5 business days of the adoption of an interim rule, the Director shall send notice of the rule to all the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments.
 - a. Neighborhood associations recognized by the City Office of Community & Civic Life,
 - b. District Coalitions recognized by the City Office of Community & Civic Life,
 - c. Business District Associations identified by the City Office of Community & Civic Life; and,
 - d. Persons on the Bureau of Planning and Sustainability list of parties interested in administrative rules.

17.103.040 Checkout Bag Regulation.

- A. As of March 1, 2013, the following shall provide only recycled paper bags or reusable bags as checkout bags to customers:
 1. Grocery stores; or,
 2. Retail establishments or food providers with greater than 10,000 square feet in specific store size.
- B. As of October 1, 2013, all retail establishments and food providers shall provide only recycled paper bags or reusable bags as checkout bags to customers.
- C. Violators of the requirements of Subsection 17.103.040 A. shall be subject to penalties as set forth in Section 17.103.050.

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17.103.050 Enforcement and Penalties.

- A.** Any retail establishment or food provider that violates this Chapter shall be subject to:

 - 1.** Upon the first violation, the Director shall issue a written warning notice to the retail establishment or food provider that a violation has occurred.
 - 2.** Upon subsequent violations, the following penalties shall apply:

 - a.** \$100 for the first violation after the written warning in a calendar year;
 - b.** \$200 for the second violation in the same calendar year; and,
 - c.** \$500 for any subsequent violation within the same calendar year.
 - 3.** No more than one penalty shall be imposed upon any single location of retail establishment or food provider within a 7-day period.
- B.** Upon making a determination that a violation of this code or regulations duly adopted pursuant to this Chapter 17.103 has occurred, the Director will send a written notice of the violation by mail to the retail establishment or restaurant specifying the violation and the applicable penalty as set forth in Subsection A.
- C.** Any store receiving a notice of violation must pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer in accordance with the procedures set forth in Section 22.10.030.

17.103.060 Severability.

If any Section, Subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter. The Council declares that it would have passed this Chapter, and each Section, Subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional, and, if for any reason this Chapter should be declared invalid or unconstitutional, then the remaining Section, Subsection, sentence, clause or phrases shall be in full force and effect.

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CHAPTER 18.03 - NUISANCE ABATEMENT

(Chapter repealed by Ordinance No. 171455,
effective August 29, 1997.)

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**CHAPTER 18.04 - STANDARDS AND
DEFINITIONS**

Sections:

- 18.04.010 Terminology and Standards.
18.04.020 Measurement of Sound.
18.04.040 Definitions.

18.04.010 Terminology and Standards.

All terminology used in this Title not defined below shall be in accordance with applicable publications of the American National Standards Institute (ANSI) in effect on the effective date of this Title.

18.04.020 Measurement of Sound.

(Amended by Ordinance Nos. 159276 and 175772, effective August 1, 2001.)

- A.** If measurements are made with a sound level meter, the meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this Title, a sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capacity.
- B.** If measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy shall be at least that called for ANSI standard 1.4-1971 for Type II instruments.
- C.** When the location or distance prescribed in this Title for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this Title or in other rules promulgated by the Noise Control Officer.
- D.** Procedures and tests required by this Title and not specified herein, shall be placed on file with the City Auditor.
- E.** For purposes of determining compliance with the measurable sound level requirements found in the Portland City Code, approved sound level meters shall utilize a Fast meter response setting. Slow sound level meter settings shall not be used for the purpose of determining compliance with the Portland City Code, unless directed by the Noise Control Officer.

18.04.040 Definitions.

(Amended by Ordinance Nos. 159276, 164010, 175772, 184101, 188959 and 189137, effective August 22, 2018.) The following words shall have the meanings ascribed to them in this Section:

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- A.** A-scale (dBA): The sound level in decibels measured using the A-weighting network as specified in ANSI S 1.4-1971 for sound level meters.
- B.** Ambient noise: The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- C.** City: The City of Portland, Oregon, or the area within the territorial City limits of the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.
- D.** Construction: Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
- E.** Decibel (dB): A unit of measure of sound (See sound pressure level).
- F.** Dwelling unit: A building or portion thereof intended for and regularly used for residential occupancy.
- G.** Dynamic braking device: A device, used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.
- H.** Emergency work: Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.
- I.** Frequency: The time of repetition of a periodic phenomenon, measured in Hertz (Hz) (formerly cps or cycles per second).
- J.** High noise impact events: Events or activities which are attended by at least 250 people, and which may reasonably be assumed to cause increases of 15 dBA or more in the ambient noise level of a residential or commercial use area.
- K.** Impulse sound: A single pressure peak or a single burst (multiple pressure peaks) for a duration of not more than one second as measured on a peak unweighted sound pressure measuring instrument, as specified in ANSI S1.4-1971.
- L.** Legal holidays: The days on which New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas day are fixed by State law.
- M.** Lot: Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting "platted lots" under the same ownership shall be considered a "lot." The lot line or boundary is an imaginary line at ground level

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which separates a lot and its vertical extension owned by one person from that owned by another.

- N.** Motor vehicle: Any land vehicle which is, or is designed to be, self-propelled or is designed or used for transporting persons or property.
- O.** Motor vehicle racing: Any motor vehicular activity conducted at a recognized auto racing facility, involving motor vehicles participating in, but not limited to practice, qualifying and racing sessions, tests, training, and all other competitive and non-competitive displays, whether by individual vehicles, or by groups of vehicles.
- P.** Narrow band sound: A sound whose frequencies occupy an octave band or less.
- Q.** Noise disturbance: Any sound which: a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.
- R.** Noise Sensitive Receiver: A person receiving noise at any residential use or dwelling place, schools, churches, hospitals and libraries.
- S.** Nonconforming use: A use of structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to Title 33 of this Code, but which is not a permitted use in the zone in which it is now located.
- T.** Octave band: An interval in Hertz between two frequencies having a ratio of 2:1. For purposes of this Title, octave band sound pressure levels shall be measured at any of the following center frequencies: 31.5, 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 Hz.
- U.** Offroad vehicle: Any motor vehicle operated off a public right-of-way.
- V.** Person: Any individual, association, partnership, or corporation including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the City of Portland.
- W.** Physical characteristics of sound: A descriptive term, encompassing the steady, impulsive or narrow band property of the sound, the level of the sound, and the extent to which it exceeds the background sound level.
- X.** Plainly audible (sound): Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.
- Y.** Public right-of-way: Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.

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- Z.** Sound level: In dBA, the frequency weighted sound pressure level measured on the A-scale of a sound level meter.
- AA.** Sound level meter: A sound level measuring device, either Type I or Type II, as defined by ANSI specification S 1.4-1971. A sound level meter for the purpose of this Title shall contain at least an A-scale and both fast and slow meter response.
- BB.** Sound pressure level: In decibels (dB), is 20 times the logarithm to the base 10 of the ratio of the pressure of a given sound to the reference pressure. The reference pressure is 20 micropascals per square meter.
- CC.** Steady sound: A sound which remains essentially constant (± 2 dB) during a two minute period of observation when measured with the fast response of the sound level meter. Steady sound shall apply only to sound sources which operate or can reasonably be expected to operate for at least 15 minutes out of any one hour period.
- DD.** Use: The purpose for which land or a building is arranged, designed, or occupied.
- EE.** Watercraft: Any vehicle operated upon or immediately above the surface of the water.
- FF.** Zone: A classification of area of the City of Portland as described in Title 33 of the City Code, relating to the use to which property may be put. For the purposes of this title, the zones are based upon the Land Use Zones, as defined in Title 33 as follows:

Category	Zones
Open Space	Open Space
Residential	Residential Farm/Forest
	Residential 20,000
	Residential 10,000
	Residential 7,000
	Residential 5,000
	Residential 2,500
	Residential 3,000
	Residential 2,000
	Residential 1,000
	High Density Residential
	Central Residential
	Residential Manufactured Dwelling Park
	Commercial Residential
	Institutional Residential
	Campus Institutional 1

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Commercial/ Mixed Use

Commercial/Mixed Use 1

Commercial/Mixed Use 2

Commercial/Mixed Use 3

Commercial Employment

Central Commercial

Campus Institutional 2

Industrial

General Employment 1

General Employment 2

Central Employment

General Industrial 1

General Industrial 2

Heavy Industrial

CHAPTER 18.12 - NOISES PROHIBITED

Sections:

- 18.12.010 Noise Disturbance Prohibited.
- 18.12.020 Specific Prohibitions.
- 18.12.030 Provisions if Measurement Is Made.

18.12.010 Noise Disturbance Prohibited.

It shall be unlawful for any person to willfully make, continue, cause or permit to be made or continued any noise disturbance within the City of Portland.

18.12.020 Specific Prohibitions.

(Amended by Ordinance Nos. 159276, 166951, 181539, 184101, 186216 and 189078, effective July 18, 2018.) The following acts are declared to be violations of this Title, but this enumeration shall not be deemed to be exclusive, namely:

A. Noisy animals.

1. It shall be a violation for any animal to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's property or keeper's property under conditions wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. This provision is not applicable to any animals located in a Specified Animal Facility or to livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land-use and zoning laws and regulations. Enforcement of this Subsection shall be the responsibility of Multnomah County Animal Control.
2. Animals located in a Authorized or Permitted Animal Facility. It shall be a violation for any animal located in a Specified Animal Facility, as defined in Portland City Code 13.05.005 G., or to any lawful livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land-use and zoning laws and regulations to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's or keeper's property under conditions wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. Enforcement of this Subsection shall be the

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responsibility of the Office of Community & Civic Life or another City entity designated by Council.

- B.** Sound producing or reproducing equipment. Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. so as to be plainly audible within any dwelling unit which is not the source of sound; or operating any such device on public property or on a public right of way so as to be plainly audible 100 feet or more from such device provided that a person operating any such device in a City park pursuant to a permit granted by the Commissioner In Charge of the Park Bureau shall be in violation only if the device is plainly audible at any point along the park boundary.
- C.** Parked motor vehicles. The parking of any motor vehicle of 10,000 pounds GCWR, or more, with the motor or attached auxiliary equipment in operation:
 - 1.** On a public right-of-way, except for reasons of an emergency nature, or
 - 2.** On private property in such a manner as to be plainly audible within any dwelling unit between the hours of 10:00 p.m. and 7:00 a.m.
 - 3.** This Subsection C shall not apply to: commercial construction equipment, the normal operation of vehicles designed and used for commercial transportation of passengers, and vehicles being loaded or unloaded.

18.12.030 Provisions if Measurement is Made.

If measurement is taken of a sound source, the provisions of Chapter 18.10 shall supersede this Section and shall be used to determine if a violation of this Title exists.

**CHAPTER 18.14 - EXEMPTIONS AND
VARIANCES**

Sections:

- 18.14.010 Exemptions.
18.14.020 Variances.

18.14.010 Exemptions.

(Amended by Ordinance No. 159276, effective January 24, 1987.) The following sounds are exempted from the provisions of this Title.

- A. Sounds caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment.
- B. Sounds caused by sources regulated as to sound production by federal law.
- C. Sounds not electronically amplified, created by athletic and entertainment events other than motor vehicle racing events.
- D. Sounds caused by agricultural and forestry operations within an FF zone of the City.
- E. Blasting, under permit.
- F. Sounds made by warning devices operated continuously for 3 minutes or less.

18.14.020 Variances.

(Amended by Ordinance Nos. 159276, 162098, 164010, 174718, 175772, 184101, 186216 and 189078, effective July 18, 2018.) Any person who owns, controls, or operates any sound source which does not comply with provisions or standards of this Title may apply for a variance from such standard(s) or provision(s).

- A. Application. The application shall be in a form acceptable to the Noise Review Board or the Noise Control Officer, and shall state the date, time, and location of the event or activity and the reasons for which the variance is being sought. The applicant may be required to supply additional information. The application shall not be considered received until all information has been supplied. It is the responsibility of the applicant to submit the application in proper form, and to allow sufficient time for review, as specified in Subsection 18.14.020 F.
- B. The application shall not be considered until the application fee is received. All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Office of Community & Civic Life.
- C. All applications will be first sent to the Noise Control Officer who, with the Chair of the Noise Review Board, shall determine the appropriate reviewing body. The

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criterion for this determination shall be: whether the noise impact is deemed significant in level or in numbers of persons or property affected. If the potential noise impact is judged not to be significant, the application will be reviewed by the Noise Control Officer. If the potential noise impact is judged to be significant, the review will be made by the Noise Review Board. The Chair of the Noise Review Board may delegate Board review and action to the Noise Control Officer if, in the exercise of his or her discretion, such delegation is in the City's interest.

- D.** Review of the application on its merit shall include consideration of at least the following:
 - 1.** The physical characteristics, times and durations of the emitted sound,
 - 2.** The geography, zone, and population density of the affected area,
 - 3.** Whether the public health, safety or welfare is impacted,
 - 4.** Whether the sound source predates the receiver(s), and
 - 5.** Whether compliance with the standard(s) or provision(s) from which the variance is sought would produce hardship without equal or greater benefit to the public.
 - 6.** Applicant's previous history, if any, of compliance or noncompliance.
- E.** Public notification. Notice of receipt of all applications to be reviewed by the Noise Review Board shall promptly be published in a newspaper of general circulation within the City. Notice shall also be given to affected neighborhood association(s), or owners and residents of property likely to be affected by the application, and to any person who has in writing requested notice of such application.
- F.** Time for review and decision. Applications to be reviewed by the Noise Control Officer shall be decided within 10 business days of receipt of the completed application. Applications to be reviewed by the Noise Review Board shall be decided within 45 business days of receipt of the completed application. Should the applicant require more accelerated review than that provided above, the process may be shortened to no more than 3 business days for review by the Noise Control Officer or 7 business days for review by the Noise Review Board, upon payment of an additional surcharge in the amount of the original application fee, and provided the Chair of the Noise Review Board and the Noise Control Officer conclude that such accelerated review is sufficient for evaluation, and in the City's interest.
 - 1.** Failure to reach decision within the times specified shall constitute automatic approval of the application, unless specifically waived by the

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applicant. If not waived, such approval shall expire within 180 days following such failure.

- G.** Applications reviewed by the Noise Control Officer, or the Noise Review Board may be granted, denied, or granted with conditions.
- H.** All decisions shall be in writing, and those made by the Noise Review Board shall state the facts and reasons leading to the decision and shall be made available to the applicant, and any other person who has requested such decision.
- I.** Appeals to City Council. A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows:

 - 1. Eligibility to appeal. A variance decision may be appealed by the applicant, his legal representative, any affected neighborhood association, or any person who has submitted oral or written testimony on the application.
 - 2. Appeal acceptance criteria. Notice of intent to appeal shall be in writing to the City Auditor's Office within 10 days of the effective date of the decision. The notice shall identify the decision that is being appealed, and include the appellant's name, address, and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including any alleged misapplication of City Codes.
 - 3. Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council.
 - 4. At the time of the hearing, the City Council may consider such new matter as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision.
- J.** All variances are subject to review upon complaint. Notice of review shall be provided to the variance holder, and shall state the date, time and place of the review. The permittee shall have the opportunity of hearing prior to any revocation. Decisions relative to the review of a variance shall follow the procedures specified in Sections 18.14.020 H, and I.
- K.** Violation of the terms of the variance shall be grounds for the revocation of the variance. The Noise Control Officer or any Police Officer of the City of Portland may summarily revoke or alter conditions of any variance. A request for an applicant or responsible parties to cease activities shall be considered an immediate request and does not allow the permittee or his/her agent to complete any additional work or activity. Activities in violation of the Portland City Code or an approved

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Noise Variance must cease immediately upon notification of the Noise Variance revocation.

CHAPTER 18.16 - ORDINANCE
ADDITIONAL TO OTHER LAW

Section:

18.16.010 Ordinance Additional to Other Law.

18.16.010 Ordinance Additional to Other Law.

The provisions of this Title shall be cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

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CHAPTER 18.17 - RULEMAKING

(Chapter added by Ordinance No. 175772, effective
August 1, 2001.)

Section:

18.17.010 Rulemaking.

18.17.010 Rulemaking.

(Amended by Ordinance Nos. 176955, 186216 and 189078, effective July 18, 2018.)

- A.** The Director has the authority to adopt administrative rules and supplemental regulations related to the provisions of this Title. The rules and regulations must be in conformance with the intent and purpose of this Title. The Director has the authority to administer such rules and regulations. Rules will be adopted according to the procedures 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.
 - 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.

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1. An interim rule may be adopted by the Director 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 will be effective for a period of not 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. 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 office of the Director. All final and interim rules will be available to the public at the Office of Community & Civic Life.
- E.** For the purposes of this Section, “Director” shall mean the Director of the Office of Community & Civic Life, or any duly authorized representative of the Director.

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**CHAPTER 18.18 - ENFORCEMENT AND
PENALTIES**

Sections:

- 18.18.010 Authority for Enforcement.
- 18.18.020 Violations.
- 18.18.030 Civil Penalties and Fees.
- 18.18.040 Citations.
- 18.18.050 Review by the Director.
- 18.18.060 Institution of Legal Proceedings.

18.18.010 Authority for Enforcement.

(Amended by Ordinance Nos. 159276, 175772, 176955, 186216 and 189078, effective July 18, 2018.) This Title shall be enforced by the Office of Community & Civic Life and by the Bureau of Police. Duly authorized agents of either of these bureaus shall have citation authority for purposes of enforcing this Title.

18.18.020 Violations.

(Replaced by Ordinance No. 175772, effective August 1, 2001.)

- A.** The following constitute violations of this Title:
 - 1.** Any failure, refusal or neglect to comply with any provision of this Title;
 - 2.** Allowing or causing a condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
 - 3.** Any failure, refusal or neglect to correct or cease any noise that does not comply with the provisions of this Title, after being required to do so by the Director or any Police Officer.
- B.** Each specific incident and each day of non-compliance will be considered a separate violation of this Title.

18.18.030 Civil Penalties and Fees.

(Replaced by Ordinance No. 175772, effective August 1, 2001.) A violation of this Title may result in assessment of civil penalties or enforcement fees, as provided below:

- A.** Civil penalties.
 - 1.** For each separate violation, a civil penalty of up to \$5,000 may be assessed.
 - 2.** In determining the amount of any civil penalty to be assessed, the Director will consider the following:
 - a.** The nature and extent of the responsible party's involvement in the violation;

TITLE 21 - WATER

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CHAPTER 21.04 - DEFINITIONS

(Chapter replaced by Ordinance No. 182053,
effective August 15, 2008.)

Sections:

21.04.010	Administrator.
21.04.020	Applicant.
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21.04.160	Service Connection.
21.04.170	System Development Charge.
21.04.180	Volume Rates.
21.04.190	Water User Charges.
21.04.200	Wholesale Distributor.

21.04.010 Administrator.

For the purposes of this Code, Administrator refers to the person in charge of the Portland Water Bureau, or the Administrator's designee.

21.04.020 Applicant.

The party applying for water or water related services.

21.04.030 Backflow Assembly Installation Requirements.

Standards developed by the Bureau, consistent with the administrative rules of the State of Oregon, which guide the approval of backflow prevention assembly installation.

21.04.040 Backflow Prevention Assembly.

An approved assembly which prevents water that has been delivered to a property from flowing back into the City water distribution system (premise isolation) or from reversal of flow within premise piping (point of hazard isolation).

21.04.050 Base Charge.

A daily fixed charge. For fire line service, the charge will be based on the size of the metered connection.

21.04.060 Billing Period.

The time between two consecutive meter reading dates or such other time period used for billing purposes.

21.04.070 Bureau.

The Portland Water Bureau (Water Bureau or Bureau of Water Works), being the official agency of the City of Portland that supplies water to the City and administers the sale of water outside the City.

21.04.080 Chief Engineer.

The Chief Engineer is a Licensed Professional Engineer in charge of the Bureau engineering staff. The Chief Engineer, or the Chief Engineer's designee, is responsible for establishing, maintaining, and enforcing engineering and technical standards for design and construction of the water system.

21.04.090 Commissioner-in-Charge.

The elected member of the Portland City Council responsible for the supervision and control of the affairs and property of the Bureau, as authorized in Chapter 2 of The Charter of the City of Portland.

21.04.100 Distribution Mains.

Water pipelines located in streets, public ways, or private rights-of-way or easements which convey potable water to service connections and hydrants.

21.04.110 Main Extension.

The extension of water distribution mains beyond previously existing facilities.

21.04.120 Premises.

Integrated land area including improvements thereon undivided by public thoroughfares and under single or common ownership where all parts of the premises are operated under the same management.

21.04.130 Ratepayer.

Any party legally responsible for payment of water or water related service supplied by the Bureau in accordance with established rates and charges.

21.04.140 Rates.

The rates or amounts fixed by the annual water rate ordinance of the Portland City Council to be charged for water service supplied by the Bureau.

21.04.150 Service Branch.

An unused service pipe from the distribution main to the future meter location.

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21.04.160 Service Connection.

The pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and to the property line. Where the water service meter is on private property, service connection is the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and the angle meter coupling on service connections of 1-inch or less and through the downstream meter valve on service connections of more than 1-inch.

21.04.170 System Development Charge.

A charge imposed upon each new service connection and on increases in the size of old connections within the City limits.

21.04.180 Volume Rates.

A variable charge which appears on the water bill based on the amount of water used per 100 cubic feet, or fraction thereof.

21.04.190 Water User Charges

Charges billed to ratepayers for water usage, including but not limited to, water volume and base charges.

21.04.200 Wholesale Distributor.

Any water district, city, water company, association, or other agency that purchases water from the City on a wholesale basis for further distribution or sale.

**CHAPTER 21.08 - EXTENSION OF WATER
MAINS**

Sections:

- 21.08.010 Location of Mains.
- 21.08.020 Distribution Main Extensions Inside City; Cost Sharing.
- 21.08.030 Fair Share Reimbursement.
- 21.08.040 Extending Distribution Mains Outside the City.
- 21.08.050 Adequate Mains Before Street Improvement.
- 21.08.060 Installation of Adequate Distribution Mains Inside the City.
- 21.08.070 Council Authorization for Laying Water Mains.

21.08.010 Location of Mains.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** Water mains are to be installed within public right-of-ways. The Chief Engineer of the Portland Water Bureau may authorize construction of a public main within a private tract of land dedicated and utilized as a private street. The City shall be granted an easement of sufficient width, as determined by the Chief Engineer. The easement agreement shall be on a form approved by the Chief Engineer, and it shall allow 24-hour unobstructed access to operate and maintain the public water system within the private street. The Chief Engineer or the Administrator shall determine the necessity to cross private land with a public main.
- B.** Water main extensions shall be installed a minimum of 5 feet past the closest property line of the parcel to be served.
- C.** If the Chief Engineer determines that an application for water service cannot be met because there is no main or the mains are inadequate for the demands projected, the person denied service may apply for the construction or improvement of mains to allow the service. Upon such application, the Chief Engineer shall prepare a cost estimate for the work to be performed, using such cost factors as the Chief Engineer determines are accurate and appropriate for the job. In order to receive water service, the applicant is obligated to pay for the costs assessed by the Portland Water Bureau for water main or main extensions to provide adequate flow to the site, using the most direct route through the public right of way for the main to reach the desired site, as determined by the Chief Engineer.
- D.** The Portland Water Bureau retains the right to use a larger main than required to serve the applicant's demands (although, at a minimum, any applicant is responsible for a main at least 6 inches in diameter) or an alternative route for the main. If the Portland Water Bureau installs a larger main or chooses an alternative route, the Portland Water Bureau shall assume the costs in excess of that required to serve the applicant's site using the most direct route in the public right of way and the size of main necessary for the applicant's demand.

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21.08.020 Distribution Main Extensions Inside City; Cost Sharing.

(Amended by Ordinance Nos. 181715 and 182053, effective August 15, 2008.)

- A.** Except for purposes of improving an inadequate main as provided in Section 21.08.060 or if the Portland Water Bureau shares costs as provided herein, an applicant for a new or improved main shall pay the full costs of the new or improved main.
- B.** The Administrator of the Portland Water Bureau shall adopt by rule a methodology of cost sharing with applicants for the installation of new or improved water mains, main extensions, and fire hydrants installed by the Portland Water Bureau in the public right of way when the total cost of the project required for the applicant does not exceed \$125,000. In no case shall the Portland Water Bureau's share of these costs exceed 50% of the total cost of a project, or a maximum share of \$62,500, whichever is less. In developing the cost sharing methodology, the Administrator shall consider the following criteria:

 - 1.** Public and private benefit derived from proposed privately financed water system improvements
 - 2.** Rate impacts
 - 3.** Availability of Portland Water Bureau budgetary funds
- C.** Notwithstanding and in lieu of the cost sharing authorized by Section 21.08.020 B., if an applicant's request for a single new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the provisions of Section 21.08.060 shall apply to establish allocation of costs.
- D.** At the discretion of the Chief Engineer, the cost of the project or components of the project shall be offered to the applicant at either a set price or time and materials basis. The Portland Water Bureau shall accept a deposit of 20% of the estimated cost for preliminary engineering work, the balance due prior to actual construction. For projects accepted by the applicant on a time and materials basis, if the actual cost of the main or main extension and the laying thereof is greater than the estimated cost, the applicant shall pay the difference to the Portland Water Bureau. Payment shall be deposited to the Water Operating Fund and transferred to the Water Construction Fund. If the actual cost is less than the estimated cost, the excess shall be refunded to the applicant. In determining actual costs, allowance shall be made for overhead expenses in accordance with the provisions of the City Code and the Annual Water Rate Ordinance. Determination of the amount to be paid or refunded after construction of the main shall be made by the Administrator, subject to appeal to the City Council, and the decision of the Council shall be final.

- E.** In no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.
- F.** In all cases the size of mains and main extensions and the specifications for laying the same shall be determined by the Chief Engineer, and water mains and main extensions within the City shall be installed solely by the City, except as otherwise provided herein and shall be the property of the City.
- G.** The developer of a new residential subdivision within the City may petition the Chief Engineer for permission to construct water mains and appurtenances within the limits of the subdivision. Water mains may also be installed in private streets subject to prior approval of the Chief Engineer and subject to all conditions contained in this Title. However, the costs of all such mains and appurtenances in subdivisions and private streets shall be borne by the applicant, including but not limited to planning, design, plan review, construction, inspection and project management, and may not request cost sharing provided in Section 21.08.020 for the mains and appurtenances. Any water mains or appurtenances that are placed in public rights of way shall become the property of the Portland Water Bureau. The Portland Water Bureau shall connect the privately constructed water facilities to the public main. Costs of connection shall be borne by the applicant unless the connection cost is less than \$125,000, in which case the costs shall be shared under standards developed pursuant to Section 21.08.020 A.
- H.** The Administrator may adopt administrative rules and procedures necessary to carry out the provisions of this chapter.
- I.** The effective date of this Chapter is July 1, 2007. The provisions of Section 21.08.020 shall be applied retroactively to projects which did not include a city cost share and were accepted and paid for by the applicant after June 30, 2007.

21.08.030 Fair Share Reimbursement.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** An applicant or applicants who pay for all or a portion of a new main or main extension may be reimbursed a portion of the cost of installation from other applicants who subsequently seek service from that main. To qualify for reimbursement, the main must be within the City of Portland, the date of application for service must be within 10 years of the water main or main extension's installation date, and the property for which service is sought must not have been owned by the applicant who paid for the main or main extension.
- B.** If the Portland Water Bureau elects to cost share with the applicant under Section 21.08.020 in the cost of installation of new main or main extension, the applicant shall not qualify for any reimbursement.

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- C. When reimbursement is warranted, the Portland Water Bureau shall collect a pro rata share of the cost of the main installation from each customer who, within ten years of the main installation, subsequently connects to the main and make an equivalent reimbursement payment to the individual who paid for the main. Pro rata shares for payment by new customers and reimbursement shall be calculated as follows: The initial cost of main installation shall be divided by the total length of the main, in feet. The per-foot cost of the main shall then be multiplied by the frontage length of the new service applicant's property, in feet, times 50 % [(cost of installation divided by total length) X frontage X 0.50 = payment]. The required payment shall be reduced for depreciation at the rate of 2 1/2 % per year, computed from the date of the main installation to the date of application for service.

21.08.040 Extending Distribution Mains Outside the City.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Any person desiring a main extension outside the City may make written application for construction of a water main. The Chief Engineer may approve of the main extension if it does not unreasonably impair water supply or pressure to existing services, whether inside or outside the City, and cannot reasonably be served through any other supplier.

The Chief Engineer shall determine if the water main extension is to be designed and constructed by the City, or if permission is to be granted for private design and construction of the main. If privately constructed, the work shall conform to Portland Water Bureau specifications. Upon Bureau inspection and acceptance of the new water system, the Bureau shall make connection to the existing water system. After acceptance by the City, the water main extension shall become the property of the City.

If the Bureau is to lay the main extension, the applicant shall pay to the Bureau the estimated cost thereof prior to construction. The cost includes the cost of any bond or other security required by any subdivision of government having jurisdiction over the location of the main extension. If the actual cost, including overhead expenses computed in accordance with the provisions of the finance regulations of City Code exceeds the amount prepaid, the applicant shall pay the difference to the Bureau. If the actual cost computed as herein prescribed is less than the amount prepaid by the applicant, the difference shall be refunded. When the applicant requests a set price for such installation, the Bureau shall establish a price based on the estimated cost and in no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

The City shall not be responsible for any change or enlargement of the main or main extension outside the City, and shall not be responsible for any portion of the cost of relaying or changing the main or main extension because of subsequent improvement of any public work.

Application for connection of property outside the City to City water main or main extension shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacies, whether attributable to prior or future connections or extensions, and shall be deemed a covenant that the applicant shall comply with all provisions of this Title and the rules and regulations of the Bureau and must have prior approval of the Portland City Council.

21.08.050 Adequate Mains Before Street Improvement.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The Chief Engineer of the Portland Water Bureau may require that adequate water mains be installed in accordance with the provisions of this Title prior to street improvement.

21.08.060 Installation of Adequate Distribution Mains Inside the City.

(Amended by Ordinance No. 182053, effective August 15, 2008.) If a petition for a new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the applicant may wait until the main is enlarged by the City. If petitioner wants the main enlarged sooner than the City's timetable the petitioner may request that the City adjust the timetable and replace the main without delay. The Administrator together with the Chief Engineer will review this request. If the Administrator and Chief Engineer decide, in their discretion, to grant the request to enlarge the main, the petitioner shall pay a portion of the cost of enlarging the main. The Bureau will pay all remaining costs. The portion of the main paid by the City is sixty-five percent (65%) unless that figure is changed by the annual water rate ordinance. All requirements of Section 21.08.030 "Fair Share Reimbursement" will apply except that the full cost of the main will not be charged to the petitioner.

21.08.070 Council Authorization for Laying Water Mains.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Council or its administrative officers may cause to be laid or installed at City expense, whatever pipelines, extensions, enlargements at the time of initial main installation or subsequently, interconnections, pumps, tanks, reservoirs, dams, works, and appurtenances which are found by the Administrator and the Commissioner-In-Charge to be necessary, advantageous, or convenient. This shall not be deemed to confer any right or privilege upon any person or premises to have a water main laid at sole City expense. The portion of the cost of any main and the laying thereof installed to serve residential premises or area only, and laid after August 1, 1957, which is in excess of the cost of a 6 inch ductile iron main and the laying thereof, shall be deemed allocable to water supply. Such allocation shall be paid from the Water Construction Fund at City expense except where Portland Fire & Rescue requires larger flows for fire protection requirements, those costs shall be at the applicant's expense.

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CHAPTER 21.12 - WATER SERVICES

Sections:

- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.040 Cancellation of Application for Service.
- 21.12.050 Service Branch Installation and Removal.
- 21.12.060 New Service Where Change in Size or Relocation is Desired.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside City.
- 21.12.090 Permit for Temporary Service.
- 21.12.100 Annual Fire Hydrant Permit.
- 21.12.110 Installation of Service Pipes from the Main to the Property Line.
- 21.12.120 Connections to the Water Service.
- 21.12.130 Service and Maintenance Responsibility.
- 21.12.140 Water Pressure at Service.
- 21.12.150 Damage through Pipes and Fixtures.
- 21.12.160 Bureau Authority to Disconnect a Property Due to Potential Damage to Water System or To Another Property's Facility.
- 21.12.170 Use of Private Water and City Water.
- 21.12.180 Disconnection of Service When Charges Have Not Been Paid.
- 21.12.190 Reactivation of Abandoned Service.
- 21.12.200 Leaking or Unused Services.
- 21.12.210 Master Metering of More Than One Water Service.
- 21.12.220 Fire Protection Service.
- 21.12.230 Permit and Report Required to Do Plumbing Work.
- 21.12.240 Service Location Change.
- 21.12.250 Location of Meters Inside City.
- 21.12.260 Water Service in Basements within the Public Right-of-Way.
- 21.12.270 Ownership of Meters.
- 21.12.280 Damaged Meters Owned by the City.
- 21.12.290 Meter Area and Access To Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.
- 21.12.330 Approval and Release of Easements and Real Property.
- 21.12.340 Identification of Meter Readers and Inspectors.

21.12.010 Service to Property Adjacent to Water Main.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Property within the City and adjacent to a City water main may be served subject to the provisions of this Code, and the annual water rate ordinance.

To obtain water service, the service connection must be along the frontage of the property to be served and be adjacent to a public or private street in which there is a public water

main. With the exceptions noted in this section, water service shall not be provided by means of an easement. With the approval of the Chief Engineer, water service may be provided from a main within an existing easement. The service must be within the easement and must be readily accessible for maintenance and meter reading. The Chief Engineer may approve of a water service within an easement across a separate parcel of land if the parcel the applicant desires to serve has no frontage along a public right-of-way. The applicant must provide a copy of the recorded easement at the time of application for service.

If application is made for service from a water main less than 6 inches in diameter, the connection shall be deemed temporary unless such main was designated as a permanent main. In any case, such connection shall not entitle the person or premises to have said main replaced with a larger main at City expense. The application for service from a 4-inch main or smaller shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacy, whether attributable to prior or future connections or extensions. The application shall be deemed a covenant that the applicant will comply with all the provisions of this Title and the rules and regulations of the Bureau.

Property outside the City, but adjacent to a City main, may be served with the approval of the Chief Engineer and the Administrator, subject to all the provisions of this Section and Chapter 21.28 Outside City Services and Wholesale Distributors. This service shall be a special contract service and not provided by the City as a common utility service, as described in Section 21.28.010 "Individual Water Services Outside the City."

21.12.020 Size of Service Connection.

Whenever an application for water service is received, the Administrator or the Chief Engineer shall have authority to reject such application if in the judgment of the Chief Engineer, the service and meter size applied for is expected to be less than or greater than the size necessary for estimated use by the premises of the applicant. In such event, the Administrator or the Chief Engineer shall specify the appropriate size of service line and size and type of meter. The service size as determined by the Chief Engineer shall not be a warranty of sufficiency for pressure or volume of water to be afforded the premises. No service connection less than 3/4-inch in size shall be installed. The installation of any required backflow prevention assembly may cause the pressure and or volume of water to be less than the distribution system is able to supply through a specific service. It is the responsibility of the applicant to demonstrate that he or she has calculated the effect of installing required backflow prevention assemblies.

21.12.030 Application for Installation or Removal of Water Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The property owner shall make written application for permits to connect with or disconnect premises from the City water system on forms provided by the Portland Water Bureau in which the applicant shall specify the location and the use for which the service is required, and shall agree to abide by the rules and regulations of the Bureau.

The applicant for all services 1 inch and larger shall submit the water flow requirements at the time of request. Applicants for smaller services shall provide water flow requirements when requested. The applicant for water service to commercial or industrial development

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shall submit a site utility plan at the time of the request that indicates the size and type of service required and the distance of the service to the nearest property line.

An application for a permit to connect premises with the City water system for service to a new building or structure shall not be accepted for filing unless a building permit has been issued for such building or structure as provided in the building regulations of the City. No permit shall be issued unless the conditions set forth in this Title relating to main extensions have been met, if applicable. Any permit issued to connect premises with the City water main shall not entitle the permittee to a connection to the main until it is laid adjacent to the premises of the owner. Acceptance of fee for the permit shall not waive any of the conditions set forth in this Title nor grant specific right of connection. Any service connection made outside the City limits must receive prior approval of the Portland City Council.

21.12.040 Cancellation of Application for Service.

An applicant may request in writing that an application for service be canceled up to the time that the service is installed. The Bureau will refund the application fee, except for any portion of the fee needed to cover Bureau costs for partial processing of the application or for actual work done on partial installation. The Bureau shall retain costs for any work already performed plus a 15 % fee for handling and overhead as a service charge. A service that has not been installed within 6 months of the date of application, at the direction of the applicant, shall be canceled and the fee less the accrued costs shall be returned to the applicant.

21.12.050 Service Branch Installation and Removal.

Service branches may be installed by the Bureau, or by a developer with the prior written approval of the Administrator or Chief Engineer, when the Administrator or Chief Engineer determines that such installation will benefit the City. See Section 21.16.160 "Service Installation Fees." If an application is not made for service within 5 years of branch installation, the Bureau may disconnect the service branch at the main. If service is requested after 5 years from date of installation, and has not previously been removed, the Water Bureau shall determine the condition of the service branch. The applicant shall pay for the cost of renewal of the service branch, if required.

21.12.060 New Service Where Change in Size or Relocation is Desired.

(Replaced by Ordinance No. 182053, effective August 15, 2008.)

- A.** When a new smaller or larger sized service is desired at the same property and the Chief Engineer concurs that the requested size is appropriate:
 - 1.** For each new larger sized service, an old service will be removed without charge.
 - 2.** For a new smaller or same sized service, the charge to remove an old service is provided in the annual rate ordinance.

3. Charges to remove inactivated service branches larger than $\frac{3}{4}$ " are provided in the annual rate ordinance.
- B. Charges to install the new services are provided in the annual rate ordinance.
- C. If the Bureau has identified a service as being defective, a new service of the same or smaller size may be substituted at no charge to the applicant at the time the defective service is being replaced provided there is written authorization. However, if application for a larger service is received, the applicant will pay the difference between the two sizes, and credit for the System Development Charge (see Section 21.16.170 "System Development Charge") will be applied for cost of the meter for the service being removed as herein provided.
- D. If service is relocated or changed in size, proper backflow protection must be installed as outlined in the Code Section 21.04.030 "Backflow Assembly Installation Requirements." The cost of backflow protection shall be the responsibility of the property owner.

21.12.070 Separate Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Unless otherwise provided in this section, a separate service shall be required to supply water to each separate parcel of land and to each house or building under separate ownership upon the same parcel. A parcel is considered separate when partitioned by a different ownership, street, or public way.

Unless otherwise provided hereunder, a separate service shall be required for each house or building even if under one ownership and on the same lot or parcel of land. A single service may be provided for multiple units under single ownership. A single service may be approved by the Chief Engineer for multiple units which are individually owned when there is a contract with the Portland Water Bureau specifying who shall be responsible for all water bills and charges. Otherwise, multiple units which are individually owned must have a separate service to each unit.

The Bureau may limit the number of houses or buildings or the area of land under one ownership to be supplied by one service connection or meter.

Two or more houses or buildings under one ownership and on the same lot or parcel of land may be supplied through a single service meter, if approved by the Administrator or Chief Engineer. If the property on which the houses or buildings are located is divided by sale, a separate water service shall be obtained for each ownership prior to the sale.

Notwithstanding terms to the contrary in this section, a property owner may request, and the Chief Engineer may authorize, continuation of water service, through existing lines, to the owners of property divided by sale, if the divided parcels will continue to share use of existing water lines and mains, as they did prior to the sale and which were in compliance with the provisions of Title 21 at the time of the sale. Authorization will not be granted if there is a change in size or location of any of the existing water services.

In addition, the party requesting exemption from the standard requirement, described above, must provide the Administrator with a document that has been recorded, the purpose

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of which is to authorize all users of the common lines and mains to access those lines as necessary, for installation, maintenance and repair of the common system, said rights to run with the land.

The service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made. When property provided with a service is subdivided, the service connection shall be considered as supplying the parcel of land which it directly enters. See Section 21.12.010 "Service to Property Adjacent to Water Main" for allowed location of water service.

21.12.080 Service to Property Partially Outside City.

Where service is requested for a property partially inside and partially outside of the City limits, service may be provided if the principal structure is on the portion of the property inside the City limits, and within the urban growth boundary of the City. Should other structures be in said portion of the property outside the City, the Bureau may provide service through separate services and meters and shall charge rates in accordance with outside City service. Such services shall be installed at the expense of the owner of the premises.

21.12.090 Permit for Temporary Service.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.) The Portland Water Bureau may issue a permit for a temporary water service to a site that has no long-term need of a permanent water service. Use of a temporary service shall not exceed one (1) year from the date of installation if it is a conventional metered service and ninety (90) days if supply is from a fire hydrant. The Portland Water Bureau may grant a one (1) year time extension, for a total maximum term of two (2) years from the date of installation of the conventional metered service for a government agency project which occurs within or adjacent to the City's right-of-way property and requires temporary irrigation service.

The permittee desiring temporary service shall make application to the Portland Water Bureau and shall declare the intended purpose of the service and shall specify the location of the service, the length of time needed, the volume of water required and the peak flow rate anticipated.

If temporary service is allowed, the Portland Water Bureau will install a service at the expense of the permittee, or allow the temporary use of a fire hydrant as a source of supply. If the Water Bureau installs a temporary service, the permittee shall utilize it as if it were a normal permanent service. If supply is from a fire hydrant, the permittee must continuously follow the established rules and regulations governing the use of a fire hydrant, as detailed in Section 21.24.020 "Fire Hydrants", as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. The permittee must meter or accurately gauge usage of water from a fire hydrant and report that usage to the Water Bureau. The permittee must not use water from another fire hydrant than specified in the permit without prior written approval of the Water Bureau. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose.

All temporary water services are required to have a minimum of a double check valve assembly installed for backflow protection. The backflow assembly must be installed at the service connection to the property. All costs associated with backflow prevention assemblies will be the responsibility of the owner or applicant.

21.12.100 Annual Fire Hydrant Permit.

The Water Bureau may, upon application, issue a permit for the use of fire hydrants as a source of water for commercial enterprises or governmental agencies that have continuous need of water at various locations throughout the City. Sufficient need must be shown to preclude obtaining water from a single permanent service. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose. Annual fire hydrant permits are renewed for the calendar year, beginning in January. The cost for an annual permit not issued in January shall be prorated. The cost for an annual permit is set in the annual water rate ordinance. The permittee, and all employees who obtain water from fire hydrants, must continuously follow the rules and regulations governing the use of fire hydrants, as detailed in Section 21.24.020 "Fire Hydrants," as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. All water trucks used by the permittee must be inspected for proper backflow protection equipment every three (3) years by a Water Bureau Water Quality Inspector.

21.12.110 Installation of Service Pipes from the Main to the Property Line.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau shall perform all work for installation of a water service within the existing public right-of-way or within an easement except as detailed in Section 21.12.130 "Service Maintenance Responsibility." The Chief Engineer and the Administrator may allow a developer to install all or part of a water service in a subdivision currently under construction. No work by others shall occur on a water service if the Water Bureau has accepted the main for operation and maintenance. Installation and maintenance of the water system on private property is regulated by Title 25, Plumbing Regulations, as administered by the Bureau of Development Services. Responsibilities for maintaining the water service are found in Section 21.12.130 "Service and Maintenance Responsibility."

21.12.120 Connections to the Water Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) No connections to the water service shall be made between the main and the property line if in a public street, or the easement line if in a private street or an easement, unless performed or authorized by the Chief Engineer. No hose connections for domestic use shall be allowed within the public or private street where the hose connections are accessible to the public.

21.12.130 Service and Maintenance Responsibility.

(Amended by Ordinance No. 182053, effective August 15, 2008.) This section clarifies whether it is the responsibility of the Portland Water Bureau or the property owner to maintain, repair, or replace sections of the water supply system. Responsibilities for

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installation are found in Section 21.12.110 "Installation of Service Pipes from the Main to the Property Line."

- A.** For domestic and irrigation services:
 - 1.** If the connection is 1 inch or smaller, the Bureau is responsible for that section that is through the meter and the angle meter coupling. The property owner is responsible for that portion downstream from the angle meter coupling.
 - 2.** If the connection is larger than 1 inch, the Bureau is responsible for that section that is through the meter and the meter valve. The property owner is responsible for that portion downstream from the meter valve.
- B.** For fire service, the Bureau is responsible for that section that is from the main through a valve between the curb and property line. The property owner is responsible for that portion downstream from the valve between the curb and property line. The property owner is responsible for the repair of any facilities within the public right-of-way that are damaged as a part of his or her maintenance or repair work.

When a service pipe at the proper grade is damaged or destroyed by contractors or others in the performance of street work or where service pipes are damaged by electrolysis, the person, contractor, or company responsible for such damage or destruction shall be billed by the Portland Water Bureau for the cost of repairing or replacing such pipes on the basis of the cost plus overhead, as provided in the finance regulations of Title 5 of the City Code.

21.12.140 Water Pressure at Service.

(Amended by Ordinance Nos. 176955 and 182053, effective August 15, 2008.) The Portland Water Bureau's goal is to provide water pressure to the property line in the range of 40 pounds per square inch (psi) to 110 psi. The State of Oregon Department of Human Services rules dictate that a water service must provide a minimum of 20 psi at the meter. Pumps, elevated reservoirs and tanks and pressure reducing valves are utilized to provide pressure in the range of 40 psi to 110 psi where possible or practical. The Bureau of Development Services, Plumbing Division, through Title 25 of the City Code, regulates pressure on private property and requires a pressure reducing device for on-site domestic water systems that receive water at greater than 80 psi.

If the pressure to the service is within the range of 20 psi to 40 psi, the water user may choose to install a booster pump system on the premises to improve the working of the private plumbing system. The property owner or ratepayer is responsible for the installation, operation and maintenance of any pressure boosting system. The addition of a booster pump will require an appropriate backflow prevention assembly be installed on the water service, on private property, and directly adjacent to the property line, as required by City Code Section 21.12.320.

The Portland Water Bureau does not guarantee that water can be provided continuously at a particular pressure or rate of flow. Varying demands on the system and the requirement to change operations affect the flow and pressure available to the service.

21.12.150 Damage through Pipes and Fixtures.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The Portland Water Bureau shall in no case be liable for damages caused by water running from open or faulty fixtures or pipes installed by the property owner.

21.12.160 Bureau Authority to Disconnect a Property Due to Potential Damage to Water System or To Another Property's Facility.

(Amended by Ordinance No. 182053, effective August 15, 2008.)

- A. The Portland Water Bureau may disconnect a property if it determines that the operation, location or configuration of the facilities or the meter used to provide service
 - 1. poses a hazard to the City system or City employees or to the system or facilities of other properties;
 - 2. causes pressure surges; or
 - 3. creates other hazards that are detrimental to operating the City water system or the water system or facilities of another property.
- B. If the Bureau determines that such operations present a significant hazard, the property may be disconnected without prior notice. The Bureau will notify the property owner or ratepayer of the disconnection as soon as is reasonably possible and explain the necessity of the action taken. Before the water service is reconnected, the property owner must provide the Bureau assurance that changes have been made that will preclude a recurrence of the hazardous condition.
- C. Where a hazard exists, but potential damage is not judged to be imminent, the Bureau shall give the property owner prior notice of the intent to disconnect. The Bureau shall state the reason for the disconnection, and offer an opportunity to be heard on why the operation is not detrimental or hazardous.

21.12.170 Use of Private Water and City Water.

Owners of buildings desiring to use both the City water supply and a supply of water other than that furnished by the Bureau may obtain water service only upon the following conditions. An approved backflow prevention assembly must be installed on the service connection to the premises as outlined in the Bureau's "Backflow Assembly Installation Requirements." If water from a supply other than that provided by the Bureau is found without proper backflow protection the City water supply to the premises shall be immediately shut off with or without notice. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection, or

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potential cross connection has been completely and permanently eliminated or that an approved backflow prevention assembly commensurate to the degree of hazard has been installed on the service connection to the premises, and the assembly has been inspected, tested, and registered with the Bureau.

21.12.180 Disconnection of Service When Charges Have Not Been Paid.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) The Bureau may disconnect a water service at the meter when base charges are not paid. If base charges are not paid for a period of one (1) year, the Bureau will consider the service abandoned and may disconnect the service at the main. The Bureau may disconnect a leaking service at the main sooner than 1 year if payment has not been made.

21.12.190 Reactivation of Abandoned Service.

(Amended by Ordinance Nos. 179978, 180120 and 182053, effective August 15, 2008.) A property owner may apply to the Portland Water Bureau to reactivate an abandoned service where the meter has not been removed pursuant to Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid." Existing pipe and connections may be used if the Bureau determines them to be in sound condition and adequate for the intended use. The Bureau may require installation of a backflow prevention assembly on reactivated services.

The applicant shall pay for replacement of the existing piping and/or connection if the piping and/or connection is unfit for use and base charges have not been continuously paid. The applicant shall pay the full installation fee if the service is desired at a different location than existing or if they desire a service that requires a larger pipe and connection. The applicant must pay the current service activation fee to reinstall a meter on the service.

21.12.200 Leaking or Unused Services.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Where there is a leak within the public right-of-way or within a Water Bureau easement between the main and the meter of a domestic service, or between the main and the valve behind the curb of a fire service, the Bureau shall make all repairs free of charge. However, if the leak is on a service for which the base charge or other charges are not being paid, the Bureau will cut out the service at the main. Where a water service pipe has been disconnected from the main, the owner of the premises previously serviced shall obtain a new permit and pay for a new service connection whenever a water service is desired. Services replaced because of leaks shall be renewed in the same size as the service removed, subject to the provisions which allow a property owner to request a change of service size (see Section 21.12.060 "New Service Where Change in Size or Relocation is Desired.") The Water Bureau may require the installation of an approved backflow prevention assembly when this new service is approved.

21.12.210 Master Metering of More Than One Water Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Upon approval by the Chief Engineer, the Portland Water Bureau may permit the master metering of more than one water service. In such case, the owners or occupants of the premises served shall

designate one of their number who shall, through written agreement with the Bureau, be responsible for the payment of all water charges and the acceptance of service of all water related notices. This person shall be liable for all water related charges until the agreement is terminated or a written agreement is established with another party. In the event payment for water charges is not made in full when due, the Bureau may terminate the service pursuant to normal procedures, in spite of the tender of partial payment by any other owner or occupant of the premises so served.

21.12.220 Fire Protection Service.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.) Water through a fire service shall be used only to extinguish a fire on the inside and the outside of the structure(s) that it serves and to test the fire system. A fire service is specifically not to be used for domestic, maintenance, or irrigation purposes.

The Portland Water Bureau shall install and maintain a meter for a fire service of less than 2 inch. A fire service 2 inch and larger that supplies only a fire system shall be equipped with a detector metering device that is part of the backflow prevention assembly. This assembly shall be installed and maintained by the property owner. In addition, the Bureau shall install and maintain a metering device on a fire service that has private on-site fire hydrants, hose systems or other appurtenances that would allow the unauthorized use of water through the fire system for purposes other than to extinguish a fire. A service that supplies water for multiple needs, such as for domestic use and for fire suppression, shall be fully metered and shall comply with the requirements of Section 21.12.030 "Application for Installation or Removal of Water Service."

Backflow protection which complies with Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection" is required on all fire services. All costs associated with providing backflow protection are the responsibility of the property owner.

To avoid unauthorized use of a fire protection system the Bureau will require the owner to install an approved full-flow meter under the following conditions:

- A. The existing detector metering device registers use of water for purposes other than to extinguish a fire or to test the system, or;
- B. Connections have been added to a system provided with a detector meter or detector double check valve assembly.

When full-flow metering is required because of unauthorized use, the Bureau shall charge the property owner or ratepayer for installing the meter, the meter vault, and shall assess a system development charge based on the size of the service. The Bureau policy for additional charges for unauthorized use of water from a fire protection system is established in Section 21.16.200 "Charges for Unauthorized Use of Fire Protection Services."

21.12.230 Permit and Report Required to Do Plumbing Work.

(Amended by Ordinance No. 176955, effective October 9, 2002.) It is unlawful for any plumber or other person to make connections, installations, replacements, extensions, or

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repairs to any City water service pipe, or to connect one service pipe with another service pipe, or extend a pipe from one building to another building, or to turn water on or off at any premises without having first obtained permission in writing from the Administrator or Chief Engineer. Such changes may require the installation of an approved backflow prevention assembly, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." After the issuance of a permit to a plumber or other person authorized by the plumbing inspector to do plumbing work, the permittee shall make a report in writing to the Plumbing Division of the Bureau of Development Services of all connections, attachments, and extensions made in accordance with the permit within 3 days after completion of work.

21.12.240 Service Location Change.

When the service connection of any premises does not come from the main in front of the premises, the Bureau shall, when a main is laid in front of said premises, after notifying the owner or tenant thereof, provide a service connection to the new main without charge and at the same time, cut the old service connection. The property owner shall be responsible for the building connection to the new service. When services are relocated the Bureau may require installation of backflow protection, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection."

21.12.250 Location of Meters Inside City.

(Amended by Ordinance No. 182053, effective August 15, 2008.)

- A.** Within the City, the water meter shall be located in or adjacent to street area where the Bureau fixes such location, except where a City water main is already located in an easement upon private property. For service within easements the Bureau may allow location of a water meter on or adjacent to such existing line, if necessary easements for the meter installation are offered to and accepted by the City.
- B.** Unless this requirement is waived in a particular circumstance in the discretion of the Chief Engineer, and except as provided in City Code Section 21.12.260, all water meters must be outside any buildings on the premises and must be safely accessible by Water Bureau staff 24 hours a day for reading, testing, servicing, or replacement.

21.12.260 Water Service in Basements within the Public Right-of-Way.

(Amended by Ordinance No. 182053, effective August 15, 2008.)

- A.** A metered water service and associated piping and equipment installed within a building's basement that extends into the public right-of-way must be enclosed to prevent damage to the building and its contents. The owner of the property served, at the owner's expense, shall fabricate and install a waterproof vault that encloses the entire water service from the wall penetration to the backside of the meter assembly and separates it from other premises infrastructure, such as electrical panels, wires, and equipment.

- B.** If a metered water service and associated piping and equipment installed within a building's basement that extends into the public right-of-way is found to exist without the proper waterproof vault, the Chief Engineer will notify the property owner of the requirements described in this Section. The property owner is responsible for having the vault designed and installed within the time allowed by the Chief Engineer. The Chief Engineer may allow additional time for the installation for extenuating circumstances and may, in his discretion, require a waiver and indemnity as provided in Subsection D. below, in return for the grant of additional time. If the property owner does not have the vault installed within the time allowed by the Chief Engineer, the Chief Engineer will deem that a hazard exists and service to the property may be disconnected as provided in Section 21.12.160.
- C.** The owner must provide the waterproof vault's design plans for review and acceptance by the Chief Engineer of the Portland Water Bureau. The vault shall be designed and installed according to the Portland Water Bureau requirements so that Portland Water Bureau staff may safely access the meter and associated equipment 24 hours a day and so that the meter and associated equipment can be read, tested, serviced, and removed from the sidewalk area above. The vault shall be designed and installed to support the meter assembly and the full weight of water that may fill the vault. At the owner's expense, the Portland Water Bureau shall furnish a frame and cover for the meter vault, which will be installed by the owner. The vault shall be constructed of material that resists corrosion or be protected by a corrosion resistant coating. The owner shall be responsible for the integrity of the vault and shall maintain it to keep it free of corrosion and in a clean condition. The owner shall provide a penetration through the outside basement wall for installation of the service and shall seal the opening after installation of the pipe. The owner shall seal all openings of the vault except those leading to the sidewalk area.
- D.** Except in cases of new services, the owner of the property together with affected lessees, if any, as an alternative to compliance with this Section, may execute for the benefit of the City an agreement, in a form satisfactory to the Chief Engineer and City Attorney,
- 1.** waiving any claim for damages for personal injury or property damage against the City and its officers, agents, and employees arising out of non-compliance with the requirements of this Section and
 - 2.** defending and holding harmless the City and its officers, agents, and employees against any claim by any person for damages for personal injury or property damage arising out of non-compliance with the requirements of this Section.

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21.12.270 Ownership of Meters.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.) All new services will have meters provided and installed by the Bureau; except sewer meters, commercial, domestic and irrigation submeters, and as provided for fire protection in Section 21.12.220 "Fire Protection Service." The cost of the meters plus installation shall be charged to the property owner requesting the new service. The new meters shall be owned by the Bureau. The Bureau shall assume all repair, maintenance, and future replacement responsibilities for the new meters. Where private meters exist, that are used by the Water Bureau for billing purposes, the Bureau shall perform all future repair, maintenance, and replacement work at no charge to the owners. If the private meter is determined to be obsolete, the Bureau shall replace the privately owned meter with a new Bureau-owned meter at no charge to the owner. The Bureau shall assume all responsibility for the cost of future meter repair or replacement. As outside areas are annexed to the City, privately owned meters that are used by the Portland Water Bureau for billing purposes shall be repaired or replaced on an as-needed basis with new Bureau-owned meters at no expense to the owner. All annexed services will be required to meet the backflow protection requirements, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." All costs of adding backflow protection shall be the responsibility of the property owner.

21.12.280 Damaged Meters Owned by the City.

Whenever a meter owned by the City is damaged by hot water or damaged by the carelessness or negligence of the owner or occupant of the premises, or others, the Bureau will repair the meter and charge the bill against the property served or to the person or persons responsible for the damage. The cost of the repairs shall be as prescribed in the annual water rate ordinance.

21.12.290 Meter Area and Access To Be Clear.

Bureau personnel must have access to read and maintain water meters. It is unlawful to block meter access. It is unlawful for any person to store or maintain any goods, merchandise, material, or refuse, or install equipment over, under, or within 6-feet of any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau. It is unlawful to park a motor vehicle over, upon, or in such a manner as to prevent access to any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau regardless of whether such Bureau property is located on public or private property. Whenever it is necessary to enter a building to read the meter or work on the water connections, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the entrance of the building to the meter. Shrubs and landscaping shall not obstruct reading of the meter. Any obstructions may be trimmed or removed by the Bureau, and the owner or occupant and the premises may be charged as prescribed in the finance regulations, Title 5 of the Portland City Code.

21.12.300 Shut Off Because of Defective Installation of Meters.

Whenever water meters inside the City are found by the Bureau to be without adequate support, or with defective plumbing, or without shut-off equipment necessary to permit

meter tests by the Bureau, or where through earth movements or subsidence, pipe bends, or connections have become faulty or are not tight, then the Bureau shall notify the owner to remedy the condition within 10 days from the date of notification. Where the notice has been given specifying the repairs or alterations to be done, then if the repairs or alterations are not completed within the time allowed, the water service shall be shut off until the repairs or alterations are completed. The Administrator may allow additional time for completion of repairs or alterations for extenuating circumstances.

21.12.310 Authority for Testing and Repairing Meters.

The Bureau may test and/or repair any meter on services supplied directly or indirectly by the Bureau at any time without application from the property owner and for this purpose may upon notice temporarily shut off the water. If a meter which is larger than 1 inch on City lines requires repairs, the Bureau shall give notice to the property owner or user and immediately place said meter in good working order. If the meter is not repairable due to wear, obsolescence or parts that are not available, the Bureau will replace the meter in accord with Section 21.12.270 "Ownership of Meters."

21.12.320 Contamination of the City Water Supply and Requirements for Backflow Protection.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.)

- A.** Contamination of the City Water Supply. Except as required for operation of the water system, it is unlawful for any person to introduce or permit the introduction of any substance or pollution or contamination of any kind into the City water supply system. As to the reservoir portion of the City water supply system, also see PCC 14A.30.150 Misuse of Reservoirs.
- B.** Backflow Protection. Property owners or users of City water may be required to install backflow protection in order to protect the water supply system.
 - 1.** Authority to Require Backflow Protection. Oregon State Administrative Rules Chapter 333 (OAR 333) require water suppliers to "undertake programs for controlling, and eliminating cross-connections." These programs are for the purpose of preventing pollution and contamination resulting from inadequate backflow protection. These State regulations apply to "Community Water Systems" which include the City of Portland's water system. Through this section the Bureau adopts by reference OAR 333. The Bureau's detailed requirements are found in the document entitled "Backflow Assembly Installation Requirements" and is available from the Bureau. Backflow prevention assemblies are approved for use in Oregon by the State of Oregon (see "Approved Backflow Prevention Assembly List" available from the Bureau and the State of Oregon). As required by OAR 333, the Bureau shall require an approved backflow prevention assembly when the Bureau determines that: a complete physical separation from the City water system is not practicable or necessary; adequate

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inspection for cross-connection cannot be readily made; or there exists a possibility of backflow contamination resulting from special conditions, use, or equipment. The Bureau may require an approved backflow prevention assembly to be installed for new construction, where buildings or structures are remodeled, or where tenant improvements are made.

2. Requirements for Testing Assemblies and Maintaining Backflow Protection. All assemblies must be tested immediately after installation or if the assembly is moved or repaired. Assemblies must also be tested at least once a year, on a schedule to be determined by the Bureau, or more frequently as determined necessary by the Bureau to provide adequate backflow protection. Tests shall be performed by a tester who is certified by the State of Oregon. Copies of the test results shall be provided to the water user or the owner of the premises and to the Bureau. Backflow prevention assemblies which are not functioning properly shall be repaired promptly and retested or replaced. The water user or owner of the assembly will be responsible for all associated costs of repair, testing and replacement.
3. Authority to Deny or Discontinue Service When Backflow Protection is Inadequate. As required by OAR 333, where the Bureau has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, the Bureau shall deny or discontinue service. The Bureau may also deny or discontinue service to a premise whenever an assembly is found to be malfunctioning or is not being properly maintained, tested, or repaired. Service shall not be provided or reestablished until adequate and approved backflow protection is installed and/or tested, or the cause of the hazard is otherwise eliminated.

21.12.330 Approval and Release of Easements and Real Property.

(Added by Ordinance No. 182053; amended by Ordinance No. 185346, effective June 22, 2012.)

- A. Easements: The Chief Engineer has sole authority to approve, accept and amend on behalf of the City Council easements, permits, rights-of-way, former rights-of-way and related documents needed for the construction and management of the water system of the City of Portland when payment or consideration to the property owner and/or affected party does not exceed the limits set forth in City Charter Section 8-104. The Chief Engineer has sole authority to release easements, permits, rights-of-way, former rights-of-way and related documents no longer needed for public water system purposes. For street vacations or non-exclusive Portland Water Bureau easements, such release will not impair the needs of other bureaus or agencies of the City.

- B.** Real Property Excluding Easements: When acting jointly, the Chief Engineer and the Administrator may approve, accept and amend on behalf of the City Council contracts and related documents for real property interests, excluding easements, needed for the construction and management of the water system of the City of Portland when payment or consideration to the property owner and/or affected party does not exceed the limits set forth in City Charter Section 8-104. The Chief Engineer and the Administrator of the Portland Water Bureau may dispose of other real property interests and related documents no longer needed for public water system purposes.
- C.** Lease and License Agreements: The Administrator may approve, accept, and amend on behalf of the City Council, leases, licenses, permits, or other similar agreements for use by others of Water Bureau property upon such terms and conditions as the Administrator deems to be in the best interest of the City and when approved as to form by the City Attorney.

21.12.340 Identification of Meter Readers and Inspectors.

(Added by Ordinance No. 182053, effective August 15, 2008.) Each employee of the Portland Water Bureau going onto private premises for purposes such as, but not limited to, reading, inspecting, or testing any metering device installed under the provisions of this Title shall wear identification from the Bureau in a conspicuous place upon the exterior of his or her clothing. The identification will be shown upon demand of any owner or person in charge of the premises entered.

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CHAPTER 21.16 - RATES AND CHARGES

Sections:

- 21.16.010 Annual Water Rates.
- 21.16.020 Annual Statement To Be Filed.
- 21.16.030 Billing Responsibility.
- 21.16.040 Delinquent Utility Bills.
- 21.16.070 Work Orders.
- 21.16.080 Dates and Places of Payment.
- 21.16.090 Deposit and Application.
- 21.16.100 Deposit of Money Received.
- 21.16.110 Bureau May Contract for Collection of Revenues.
- 21.16.120 Collections, Adjustments and Refunds.
- 21.16.130 Adjustments on Account of Leaks.
- 21.16.140 Authority to Estimate Bills.
- 21.16.150 Testing Meters.
- 21.16.160 Service Installation Fees.
- 21.16.170 System Development Charge.
- 21.16.180 Water Connection Assistance.
- 21.16.190 Charges for Water Used to Extinguish a Fire.
- 21.16.200 Charges for Unauthorized Use of Fire Protection Service.
- 21.16.220 Billing and Collection for Others by Contract.

21.16.010 Annual Water Rates.

The Portland City Council approves and sets water rates for each fiscal year that will provide an estimated income to equal expenses and debt service relating to water bonds. (Section 11-105 of the Portland City Charter). The Bureau prepares the proposed annual water rate ordinance and the City Attorney reviews the ordinance. The Bureau files the ordinance with the Auditor not later than May 20 of each year.

21.16.020 Annual Statement To Be Filed.

An annual detailed statement of its income and expenditures shall be made and signed by the Administrator and shall be filed with the Auditor, who shall preserve the same among the files of his or her office. This annual report shall include a statement of the financial condition and pertinent engineering data of the Bureau of Water Works.

21.16.030 Billing Responsibility.

(Replaced by Ordinance No. 182053; amended by Ordinance No. 185521, effective August 24, 2012.) The ratepayer responsible for payment of water charges shall be the property owner as verified in county tax records, the water user occupying the property, or the party otherwise in possession or control of the property. A property owner may become obligated for charges for furnishing water to the user by accepting responsibility for payment thereof or by agreement with the Portland Water Bureau.

Water charges are billed daily, regardless of whether the property has no structure on it or if the structure is occupied or vacant. The property owner, or the party otherwise in

possession or control of the property, is responsible for all water charges while a property is vacant.

When a single meter serves multiple dwellings or living units at a property, the property owner(s) shall be responsible for the charges related to water use at the premises unless a party who is not the owner confirms with the Bureau the acceptance of that responsibility in a manner that conforms with Bureau policy.

Either a property owner or a renter may notify the Bureau of the date to open or close an account for a renter. The Bureau will honor the first date on which the request was received to open or close the account. The Bureau will change this date if agreed to by all other affected parties. The Bureau will not mediate a dispute between landlord and renter regarding the dates when billing responsibility changes. The property owner is responsible for all water charges when no renter has accepted responsibility for water charges. If neither a renter nor owner notifies the Bureau that a renter has left tenancy and the Bureau determines by a visit to the property that the property is vacant, water charges shall commence on that date and shall be applied to the owner.

Where a ratepayer has a delinquent bill for one premises, this delinquency shall be a charge against this ratepayer (for water obtained) at any of his or her other premises served by the Bureau.

When a property is sold, the seller is responsible for all water charges until the date the buyer is entitled to possession. If there is a dispute between the seller and the buyer about the date of possession, the Bureau will use Multnomah County taxation records to verify the legal recording date.

21.16.040 Delinquent Utility Bills.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.)

- A. The Portland Water Bureau shall have the authority to shut off water service to any property when any charge to a ratepayer's account has not been paid within 10 days after that charge is due and payable.

Before water service is shut off for nonpayment the Portland Water Bureau shall give written notice to the service address provided by the water user as well as to the mailing address of the property owner or the party who has agreed with the Bureau to accept responsibility for payment. Such notice shall state the anticipated date when the water will be shut off, as well as informing the ratepayer of his or her right to request an administrative review, and the procedure for requesting the review, to challenge the shut off.

It is the obligation of the water user or responsible party to ensure that the Water Bureau has the most current and accurate address for the user or responsible party. There is no obligation on the part of the Bureau to determine if the address provided is the best or the most current address.

Once service is shut off, water shall not be provided again until all outstanding obligations for water provided to that user have been paid, or arrangements for

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payments have been made with the Water Bureau, including additional charges as established in the annual water rate ordinance.

The Portland Water Bureau may, but is not obligated to, allow for continuation of water service for a specified period of time prior to payment of outstanding charges if it is determined that the lack of water will endanger health or cause substantial hardship. The continuation of water service may also be allowed when the delinquent ratepayer is willing to enter into a payment arrangement satisfactory to the Bureau for payment of all delinquent amounts on that ratepayer's account. However, if the charges are not paid as agreed, then the water may again be shut off and not turned on again until the outstanding charges are paid in full or arrangements for payments are made with the Bureau.

The Portland Water Bureau may institute legal proceedings and contract with third parties for the collection of delinquent water bills and charges. The Bureau may require that a deposit be made with the Bureau to ensure payment of future water bills and charges.

- B.** When the delinquent bill includes user charges for sanitary sewer and stormwater management services, the Portland Water Bureau shall collect such charges pursuant to Section 21.16.040.

When the delinquent bill does not include charges for water service, delinquent user service charges for sanitary sewer and stormwater management services shall be collected by any legal means pursuant to Sections 3.24.020 and 3.24.030.

21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.

(Repealed by Ordinance No. 182053, effective August 15, 2008.)

21.16.060 Responsibility for Water Charges When Property Changes Ownership.

(Repealed by Ordinance No. 182053, effective August 15, 2008.)

21.16.070 Work Orders.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Work orders for main extensions, service connections, and meter installations for which a deposit or charges are or may be made under this Title, shall be established by the Engineering Services Group of the Bureau.

21.16.080 Dates and Places of Payment.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) Charges for water use will be computed, and bills mailed, on a schedule determined by the Portland Water Bureau. The billing schedule will be kept on file by the Bureau. The water bill, with a due date, will be payable at either the Bureau or at authorized locations established by written agreement with the Bureau.

21.16.090 Deposit and Application.

(Amended by Ordinance No. 182053, effective August 15, 2008.) An application, deposit, or both, for water service may be required from all new ratepayers, ratepayers whose service has been shut off for nonpayment, or those persons with unsatisfactory credit who are requesting service. Unsatisfactory credit is defined as not meeting credit and collection industry standards or having service shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the Portland Water Bureau may result in discontinuance of service.

21.16.100 Deposit of Money Received.

(Amended by Ordinance No. 182053, effective August 15, 2008.) All monies collected or received by the Portland Water Bureau for the use and consumption of water or otherwise will be deposited with the bank designated by the Treasurer of the City. The Treasurer shall keep the same separate and apart from the other funds of the City in funds to be known as the Water Fund and the Water Construction Fund, and pay it out only on checks signed by the Mayor, countersigned by the Auditor, and not otherwise.

21.16.110 Bureau May Contract for Collection of Revenues.

The Commissioner-In-Charge of the Bureau and the Auditor are hereby authorized to enter into contracts for periods not to exceed 5 years with such persons or corporations as may be selected by the Administrator for the collection of water revenue for the City. The contracts shall provide for compensation for collection and may cover certain expenses related to revenue collection. The contracts shall require that a bond be furnished by the collection agent or the City, at the City's option, the premium for such bond may be paid for by the City. The bond shall be conditioned upon the performance of such contract, and shall be in such form as may be satisfactory to the Administrator and the City Attorney.

21.16.120 Collections, Adjustments and Refunds.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) Water user charges will be computed monthly, bimonthly or quarterly and billed by the Portland Water Bureau.

All payments for water user charges shall be made to, and adjustments and refunds made by, the Portland Water Bureau. The Bureau shall ensure that charges and credits are posted to ratepayer accounts.

- A.** The Portland Water Bureau may make adjustments, pay refunds or waive fees and charges where it is deemed necessary for the proper conduct of the business of the Bureau. Adjustments shall be in the form of credits or additional charges to an active account. When the adjustment is a credit to a ratepayer who has no active account, a refund shall be issued if the ratepayer can be located.

When a billing error occurs, the Bureau may authorize an adjustment of the water service account to correct the error. Adjustments may not exceed a period of three years from the date the Bureau received notice of the error. Eligibility for an

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adjustment on an account shall end six months after the date a final bill was issued for that account.

If a current ratepayer was not billed because the Bureau was not notified of his or her responsibility for payment, the Bureau shall issue the bill from the date the ratepayer became responsible for the bill as described in Section 21.16.030 Billing Responsibility.

- B.** Water system ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a period of time based on current City collection policies.
- C.** The Portland Water Bureau may establish administrative rules with the Bureau of Environmental Services governing the adjustment, refund or waiver of user charges including but not limited to sanitary sewer and stormwater management services.

21.16.130 Adjustments on Account of Leaks.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) The Portland Water Bureau may make adjustments to water use charges where a leak exists in the water system on the property side of the meter. Reasonable efforts must be made within 30 days after the leak was detected to locate the leak and initiate repairs and have repairs completed within 90 days of notification.

21.16.140 Authority to Estimate Bills.

(Amended by Ordinance No. 182053, effective August 15, 2008.) When a meter fails to register accurately, the Portland Water Bureau shall charge for water based on the historic usage of water at the premises. Estimated bills may also be issued if a meter reading cannot be recorded because the meter is inaccessible due to, but not limited to, inclement weather; overgrowth or other obstruction; failure to locate; or illegal usage bypasses the meter. Adjustments to the estimated bill shall be made consistent with the provisions of Section 21.16.120 "Collections, Adjustments and Refunds."

21.16.150 Testing Meters.

(Amended by Ordinance No. 182053, effective August 15, 2008.) When any water ratepayer makes a complaint that the bill for any particular billing period is excessive, the Portland Water Bureau will, upon request, reread the meter and inspect the service for leaks. Should the ratepayer then desire that the meter be tested, he or she shall make a deposit as prescribed in the annual water rate ordinance to cover the cost of making the test. If the tested meter is found to register 3% or more higher than the actual water flow through the meter, the deposit will be refunded and the Bureau shall estimate the excess consumption and make an adjustment in the form of a credit on the bill immediately preceding and/or the current bill. In such instances the Bureau shall repair or replace the meter. If the tested meter is found to read within 3 % of the actual water flow through the meter, the Bureau will keep the deposit to cover the expense of the test.

21.16.160 Service Installation Fees.

The fees for installing and/or activating water service up to and including 1-inch in size shall be as provided in the annual water rate ordinance and shall be paid prior to service installation.

The fees for installing services greater than 1-inch shall be based on the Bureau's costs plus overhead, as provided in the finance regulations, Title 5 of the Code of the City of Portland. The applicant may choose to pay either a set price based on the Bureau's estimate or the actual cost of the installation. If the applicant accepts the Bureau's estimate as the set price these costs must be paid before the Bureau will perform the work. After a set price has been established, the Bureau will not refund or adjust installation charges unless changes in installation or location are requested by the applicant.

If the applicant chooses to pay the actual costs plus overhead he or she shall submit a deposit equal to the estimated cost before the Bureau will begin the work. When the estimated cost differs from the actual for labor, materials, and overhead the deficit shall be charged to the applicant or any excess payment shall be returned to the applicant.

In addition to the service installation fees, an applicant for new service must pay the System Development Charge, as described in Section 21.16.170 "System Development Charge" and as set in the annual water rate ordinance. If the service branch has been installed by a developer as allowed in section 21.12.110 "Installation of Service Pipes from the Main to the Property Line," the applicant will be charged for only the applicable system development charge and any charge for service activation as set in the annual water rate ordinance.

21.16.170 System Development Charge.

(Amended by Ordinance Nos. 182053, 183448 and 189050, effective August 1, 2018.) An applicant for a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes and affordable housing pursuant to Section 30.01.095, shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service") or for certain accessory dwelling units (See City Code Section 17.14.070).

21.16.180 Water Connection Assistance.

(Replaced by Ordinance No. 181715; amended by Ordinance No. 183447, effective July 1, 2010.) The City may provide water connection assistance to eligible property owners based on criteria established each year by City Council in the Annual Rate Ordinance. The Administrator may adopt administrative rules and procedures necessary to implement the water connection assistance criteria described in the Annual Rate Ordinance.

The City may grant payment deferrals and loans to property owners to finance City water system development charges, as provided in City Code Chapter 17.14 Financing Systems Development Charges. The Administrator may adopt administrative rules and procedures necessary to implement the deferred payment and loan programs.

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21.16.190 Charges for Water Used through a Fire Protection Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) No charge shall be made for water used to extinguish a fire. Except as otherwise noted in this section, a property owner may use water from the City to test the fire protection system. Water used to pressure test a fire protection system will be registered on detector check metered firelines, or estimated on unmetered firelines. Flow testing a fire protection system requires that the Bureau install a metering device on the service to register the water used.

Water used for testing a service for fire protection shall be charged at the commodity rates prescribed in the Water Rate Ordinance, as annually adopted by the City Council. Sewer charges will normally not be assessed for water used to test a fire protection system. Testing that results in a volume of water that is determined to have a measurable impact on the sewer system may subject that service to a sewer charge.

Testing of a fire service may not be conducted in a manner that will degrade the public water system. Flow testing through a fire service shall not reduce the pressure in the main less than 50% of maximum static pressure and shall in no case reduce the pressure below 30 lbs per sq. in. In this regard, prior to testing large flows, the individual conducting the test shall consult with the Bureau to determine limits of flow and to develop methods that may mitigate any detrimental effects on the public water system. Repeated testing of a fire service that violates a Bureau-approved testing program or affects the average daily water system conditions by more than allowable will result in a reclassification of the type of service and the collection of a System Development Charge.

21.16.200 Charges for Unauthorized Use of Fire Protection Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) A fire service is to be used to extinguish a fire, and is specifically not to be used for domestic, maintenance, or irrigation purposes. (See Section 21.12.220 "Fire Protection Service.")

There are progressively increasing charges for unauthorized use of water supplied through firelines. There is a commodity charge of three times the normal rate for water for the first unauthorized use, and ten times the normal rate for all later unauthorized uses. If unauthorized use continues, the Bureau shall install a full-flow meter and bill the property owner for the full costs of the meter as well as System Development Charges. These policies and procedures are further detailed in the annual water rate ordinance.

21.16.210 Billing and Collection of Sewer User Charges.

(Repealed by Ordinance No. 182053, effective August 15, 2008.)

21.16.220 Billing and Collection for Others by Contract.

The Bureau may bill and collect for user fees and services provided by other public and private entities as established by contracts approved by City Council. All revenue collected for other entities will be deposited in separate accounts.

**CHAPTER 21.20 - TURNING ON OR
SHUTTING OFF**

Sections:

- 21.20.010 Application To Turn On Water.
- 21.20.020 Temporary Shut Off.
- 21.20.030 Unlawful To Turn On Water Without Authority.
- 21.20.040 Charges for Service Pipes Connected Without Permit.
- 21.20.050 Authority To Shut Off Service.

21.20.010 Application To Turn On Water.

Applications to turn on water must be signed by the owner and agent of the property involved and must be filed with the Bureau before they become effective.

21.20.020 Temporary Shut Off.

(Amended by Ordinance Nos. 179978, 180917 and 182053, effective August 15, 2008.)
An owner or tenant may request by telephone, in writing, or in person that the Bureau temporarily discontinue water service. Fire protection service may only be discontinued upon written request of the owner and approved by Portland Fire & Rescue. Base charges will continue during temporary shut off.

21.20.030 Unlawful To Turn On Water Without Authority.

It is unlawful to use or permit use of City water through a service that has been shut off. Should the water be turned on without authority from the Bureau, the Bureau may stop water service either by shutting off the water at the main, by removing the meter, or by any other appropriate method.

The charge for removing the meter and the charge for replacing the meter shall be in accordance with the annual water rate ordinance. The charge for stopping water service by any other method and the charge for subsequent restoring of the water service, shall be as provided in the Title of the City Code which addresses finance regulations. All such charges shall be charged to the user and when the delinquent user occupies the premises, water shall not again be furnished to the premises until the charges are paid.

21.20.040 Charges for Service Pipes Connected Without Permit.

When premises or additional premises are connected without the application prescribed in Section 21.20.010 "Application to Turn On Water." the premises may be charged as prescribed in the annual schedule of water rates and the service may be shut off by order of the Administrator. In case water shall be turned off as provided in this Section, the same shall not be turned on again until all rates and charges against the premises have been paid in full.

21.20.050 Authority To Shut Off Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The Bureau reserves the right at any time, without notice, to shut off the water supply for repairs, extensions or any other reason. The Bureau shall not be responsible for any damage, such as the bursting of

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boilers, the breaking of any pipes or fixtures, stoppage, or interruption of water supply, or any other damage resulting from the shutting off of the water.

**CHAPTER 21.24 - RULES AND
REGULATIONS**

Sections:

- 21.24.020 Fire Hydrants.
- 21.24.030 Water for Naval Vessels in Harbor.
- 21.24.040 Access to Premises for Inspection.
- 21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.
- 21.24.060 Emergency Loan of Materials.
- 21.24.070 Impairment of Service to Other Properties.
- 21.24.080 Administrative Rules, Procedures and Forms.
- 21.24.090 Enforcement.

21.24.010 Animals Prohibited on Watershed or City Property.

(Repealed by Ordinance No. 183540, effective March 12, 2010.)

21.24.020 Fire Hydrants.

(Amended by Ordinance Nos. 180917 and 181715, effective April 2, 2008.) It is unlawful for any person to operate, alter, change, remove, disconnect, connect with, or interfere in any manner with any fire hydrant owned or used by the City without first obtaining written permission from the Portland Water Bureau. Penalties for unauthorized use of a fire hydrant are set in the annual water rate ordinance. The provisions of this Section shall not apply to Portland Fire & Rescue of the City.

Public fire hydrants are available for use of the Fire Department in the suppression of fire within the City. No other use of public hydrants shall be allowed except as provided in this Section and in Section 21.12.090 "Permit for Temporary Service," and 21.12.100 "Annual Fire Hydrant Permit." The Portland Water Bureau may permit short-term use of specified hydrants for activities such as tree spraying, street cleaning, ditch settling, building demolition, and related uses at the discretion of the Administrator, however, in each instance, a permit is required. A Temporary Permit may be issued by the Portland Water Bureau for a period not to exceed 90 days, and an Annual Permit shall be issued for one year. Upon application the permittee must present a Chapman type (slow closing) gate valve to the Portland Water Bureau to be tagged with a valid permit listing applicant's name, expiration date, and authorized locations. The permittee shall be responsible for compliance with all city, state, and federal rules, regulations, and guidelines regarding the proper use and disposal of water. Rates and charges for usage will be specified in the annual water rate ordinance. Backflow protection shall be required on all potential hazards to the public water supply as determined by the Administrator or Chief Engineer.

All fire hydrants connected to the Portland Water Bureau's water system within the City and within the public right-of-way or an approved easement are the responsibility of the Portland Water Bureau for installation and maintenance. Any hydrant connected to the system outside the City must be installed at the petitioner's expense, but shall be maintained by the Portland Water Bureau. The petitioner shall be required to pay all expenses for additional hydrant installations to meet requirements of Portland Fire & Rescue and in all instances the Chief Engineer shall have final review and approval authority.

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The Portland Water Bureau may elect to allow a contractor to install to Portland Water Bureau standards, fire hydrants as part of his or her Subdivision under Section 21.08.020 “Distribution Main Extensions Inside the City.” The developer must install these hydrants at his or her expense and transfer ownership to the Portland Water Bureau at such time as the main and appurtenances are accepted by the Portland Water Bureau to become part of the City system.

21.24.030 Water for Naval Vessels in Harbor.

(Amended by Ordinance No. 180120, effective June 9, 2006.) The Bureau is authorized to furnish water to any visiting naval war vessel of the United States or to any visiting naval war vessel of any foreign country entering the harbor in the City, without payment. All such connections shall require an approved backflow prevention assembly.

21.24.040 Access to Premises for Inspection.

To the full extent permitted by law, employees of the Bureau shall have free access, at proper hours of the day, to all parts of buildings and premises for the purpose of inspecting the condition of the water pipes and plumbing fixtures to determine whether cross-connections or other structural or sanitary hazards exist, and the manner in which the water is being used. Whenever the owner of any premise supplied by the Bureau restrains authorized City employees from making such necessary inspections or refuses access therefor, water service may be refused or discontinued.

21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.

It is unlawful for any person, without authority from the Bureau, to willfully damage, connect to, operate, alter, or otherwise tamper with any City water main, service, meter, meter box, hydrant, valve, or any other facility owned or operated by the Bureau.

21.24.060 Emergency Loan of Materials.

The Administrator may approve emergency loan of operating materials and equipment on a temporary basis to other governmental agencies, including water districts and municipalities, at their expense upon their written request, if such loan does not adversely affect the operation of the Bureau.

21.24.070 Impairment of Service to Other Properties.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Where the use of water is intermittent or where such use produces extreme volume or fluctuations that may impair service to other properties, the Portland Water Bureau may require a property owner or his or her agent to provide, at his or her own expense, suitable equipment to reasonably limit fluctuations in use and pressures.

21.24.080 Administrative Rules, Procedures and Forms.

(Added by Ordinance No. 181715, effective April 2, 2008.)

- A.** The Administrator of the Portland Water Bureau may adopt, amend and repeal administrative rules, procedures, and forms pertaining to matters within the scope of this Title and consistent with the provisions of this Title.
- B.** Any adoption, amendment or repeal of a rule pursuant to this section requires a public review process. Notice shall be published in a newspaper of general circulation in the Portland metropolitan area not less than forty-five, nor more than sixty, days before such public review process. The notice shall include the place and time of any public meeting on the proposal, the description and purpose of the proposal, the location at which copies of the full text of the proposal may be read or obtained, and the name of the person at the Portland Water Bureau to whom written comments or questions about the proposal may be directed.
- C.** Forty-five days after publication of the notice, the Administrator shall record oral and written testimony concerning the proposed rule(s) at a public hearing. The Administrator has the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for conduct of the hearings, to hear evidence and to preserve order. The Administrator may continue any such hearing to another date.
- D.** After considering comments received during the public review process and other relevant matters, the Administrator taking into consideration the comments received during the hearing shall either adopt the proposal, modify or reject it.
- E.** Unless otherwise stated, all rules are effective upon adoption by the Administrator of the Portland Water Bureau and shall be filed in the office of the Administrator of the Portland Water Bureau and in the Portland Policy Documents repository described in Chapter 1.07. Notice of the adopted rule(s) shall be published in a newspaper of general circulation in the Portland metropolitan area within fourteen days of adoption.
- F.** Notwithstanding paragraphs B. – E. of this section, an interim rule may be adopted without prior notice upon a finding by the Administrator that failure to act promptly shall result in serious prejudice to the public interest. Any rule adopted pursuant to this paragraph shall be effective for no longer than 180 days.

21.24.090 Enforcement.

(Added by Ordinance No. 181715, effective April 2, 2008.)

- A.** Persons who fail to comply with the requirements or prohibitions of Title 21 or rules adopted under Section 21.24.080 are subject to enforcement actions by the City of the Portland.
- B.** Violations.

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1. A violation occurs when any requirement or prohibition of Title 21 or rules adopted under Section 21.24.080 are not complied with.
 2. Each separate occasion is considered a separate violation. The Portland Water Bureau shall issue only one violation per prohibited use per day.
- C.** Enforcement. In enforcing any of the requirements or prohibitions of Title 21 or rules adopted under Section 21.24.080, the Administrator may:
1. Issue warning notices;
 2. Issue notices of violation and orders to comply;
 3. Institute an action before the Code Hearings Officer;
 4. Impose civil penalties, in an amount not to exceed \$500 per day or as otherwise specified elsewhere in Title 21 or the annual rate ordinance. These penalties shall be imposed for each day a violation continues to exist against any individual or business who does not comply with the provisions of this Title. Each failure to comply shall be deemed a separate violation;
 5. Order the installation of facilities required by this Title as a condition of providing water service; or
 6. Terminate water service.
- D.** Appeal of enforcement action. A water user may appeal the Administrator's action within 30 days from the date the notice of enforcement is mailed, in accordance with procedures and timelines set out in Title 22 of the Portland City Code. Such an appeal must include a copy of the action that is the subject of the appeal, must state the basis for the appeal, and must be filed with the Code Hearings Officer and the Portland Water Bureau.

**CHAPTER 21.28 - OUTSIDE CITY SERVICES
AND WHOLESALE DISTRIBUTORS**

(Chapter replaced by Ordinance No. 182053,
effective August 15, 2008.)

Sections:

- 21.28.010 Individual Water Services Outside City.
21.28.020 Water Supply to Wholesale Distributors by Contract.

21.28.010 Individual Water Services Outside City.

- A.** The Portland Water Bureau may furnish water to properties outside the Portland city limits, charging rates fixed by the Council in the annual water rate ordinance.
- B.** Subject to the provisions of Section 21.12.010 "Service to Property Adjacent to Water Main," Section 21.12.270 "Ownership of Meters," and Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection," the property owner must purchase a water service and meter of approved size and design, which shall be located where required by the City, and an approved backflow prevention assembly may be required.

- C.** Each individual applicant for a water service connection outside of the City shall make application to the Water Bureau upon a form containing the following agreement:

"Application is hereby made by the owner of the property address for a water service connection outside the City of Portland, Oregon.

If this service is allowed it will be a special contract service. The ratepayer at the premises described above shall pay the rate listed in the annual water rate ordinance for service outside the Portland city limits.

The quantity of water supplied by this service may be reduced or the service entirely discontinued at any time for any reason by order of the Administrator, including circumstances under which water apportionment is ordered per City Code Section 21.32.010. Except when limitations are imposed under City Code Chapter 21.32 or in case of emergency, the Administrator shall give at least 60 days' notice in writing before service is discontinued. That notice is to be delivered at the premises or at the last known address of the owner."

- D.** The Bureau may suspend temporarily the delivery of water for the purpose of making repairs or improvements to its system.
- E.** During any emergency, the Bureau may, consistent with and subject to existing contractual obligations, apportion the available water supply in that manner which

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appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.

- F.** Ratepayers located outside City boundaries are subject to all applicable provisions of City Code Title 21 and the Portland Policy Documents. The Administrator may make their service subject to any other reasonable conditions the Administrator deems appropriate or proper.

21.28.020 Water Supply to Wholesale Distributors by Contract.

When authorized by contract to do so, the Portland Water Bureau may furnish water to wholesale distributors, as defined in Code Section 21.04.120, within and without City boundaries. The Mayor and the Commissioner-in-Charge of the Bureau may enter into and execute contracts or agreements to supply water to wholesale distributors, subject to relevant provisions of the Charter and in accordance with the rates established by the Council.

Subject to its contractual obligations, the Bureau may suspend temporarily the delivery of water for the purpose of making repairs or improvements to its system and, during any emergency, the Bureau may apportion the available water supply in that manner which appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.

**CHAPTER 21.32 - WATER CONSERVATION
MEASURES**

(Chapter replaced by Ordinance No. 182053,
effective August 15, 2008.)

Sections:

21.32.010 Water Supply and Curtailment Policy.

21.32.010 Water Supply and Curtailment Policy.

It is the policy of the City of Portland through the Portland Water Bureau to provide clean, healthful, and plentiful water. Circumstances beyond the City's control, however, including weather conditions, natural catastrophe or the actions of others on the City's water supply system or sources may make it necessary to apportion the City's water. When a water shortage exists or is imminent or any other emergency arises or is imminent which threatens to disrupt or diminish the municipal water supply, the City may allocate water among users. In doing so, the City shall allocate water or curtail the use of water taking into account such issues as public health and safety, community economic conditions, the financial and operational needs of the water system, and existing wholesale contractual obligations. The Administrator of the Portland Water Bureau may, consistent with this section, adopt, amend, or rescind rules, procedures, and forms to establish a water allocation or curtailment program to be implemented in times of actual or imminent water shortage or emergency. Such rules shall be promulgated under the procedures described in City Code Section 21.24.080.

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CHAPTER 21.35 - WELLHEAD PROTECTION

(Chapter added by Ordinance No. 177668, effective
July 1, 2003.)

Sections:

- 21.35.010 Establishment of Wellhead Protection Area.
- 21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.
- 21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.
- 21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.
- 21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.
- 21.35.060 Enforcement.
- 21.35.070 Inter-Agency Cooperation.
- 21.35.080 Building and Site Permit Review and Approval.

21.35.010 Establishment of Wellhead Protection Area.

The Bureau of Water Works is authorized to establish wellhead protection areas in order to regulate the storage, handling, use and transportation of materials that could contaminate groundwater. The Bureau of Water Works shall establish the boundaries of wellhead protection areas based on the best available information about the dynamics of the aquifers that existing and future wells tap, the time-of-travel of hazardous materials and other relevant factors. The Bureau shall publish a map of all designated wellhead protection areas, shall certify copies to other city bureaus, and shall make such maps available to the public upon request and otherwise take steps, in its discretion, to publicize the availability of the maps to residences and businesses within the wellhead protection area. The Bureau of Water Works may alter the boundaries of a wellhead protection area if the information on which existing boundaries are based changes. Proposed changes to a wellhead protection area shall be adopted by rulemaking.

21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.

- A. The Bureau of Water Works shall have the authority to designate materials as hazardous and to require all persons or businesses possessing or using hazardous materials within the wellhead protection area to make annual reports to the Bureau concerning the types and quantity of hazardous materials stored, handled, used or transported, the storage and containment provisions for hazardous materials, and related information, including but not limited to a site plan indicating the location of hazardous materials manufactured, generated, stored or used, information indicating the location of drains, capacities of containment systems, drainage utility shut-off, and topographical information. If the Bureau of Water Works establishes reporting requirements, persons or businesses shall submit required information to the Bureau of Water Works in accordance with the schedule established in the Reference Manual. If another bureau is designated to receive reports on behalf of

the Bureau of Water Works, and if it is deemed practical by both bureaus, reporting requirements and reports may be combined.

- B.** Failure to submit a complete report within the timeframe established in the Reference Manual constitutes a violating and shall be subject to enforcement pursuant to Section 21.35.050 of this Chapter.

21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.

(Amended by Ordinance No. 180917, effective May 26, 2007.)

- A.** Initial standards for the storage, handling, use and transportation of hazardous materials are contained in the Well Field Wellhead Protection Program Reference Manual, adopted as administrative rules concurrently with this Code. The Bureau of Water Works shall have the authority hereafter to promulgate rules to set or amend standards, including the standards found within the Reference Manual, for the storage, handling, use and transportation of hazardous materials that may be used within the wellhead protection area. The Bureau's authority to set standards shall extend to designation of materials as hazardous to groundwater quality, to storage, handling use, transportation, and containment of such materials both inside and outside structures, including equipment or devices for preventing and controlling spills or releases of such materials beyond containment vessels. Rules adopted under this Section of the water code shall be compiled in the Reference Manual.
- B.** Upon the effective date of this Chapter, existing businesses and individuals not in compliance with the standards set pursuant to this Chapter of the Code, shall bring their operations into compliance with applicable standards in accordance with the schedule established in the Reference Manual.
- C.** Within 15 months of the program effective date, the Water Bureau shall collect information on the number of existing, non-conforming businesses that will be required to upgrade operations to comply with the requirements of Subsection 21.35.030 B. Data gathered by the Water Bureau shall include information on the specific scope and extent of improvements required pursuant to Subsection 21.35.030 B. and shall be collected during routine inspections performed by Portland Fire & Rescue.
- D.** The Water Bureau and Bureau of Environmental Services shall evaluate collected information, in consultation with affected business and property owners, and business organizations to determine if improvements required by Subsection 21.35.030 B. are protective of water quality within the Wellhead Protection Area and Columbia Slough watershed. The Water Bureau and Bureau of Environmental Services will report to Council the results of this evaluation before January 1, 2005.

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E.

1. Site plans or permits for projects to bring existing non-complying operations into compliance with the standards of this Chapter and the Reference Manual shall not be subject to additional review by Bureau of Environmental Services to address source control issues of the City Stormwater Management Manual (SWMM).
2. The exemption from Bureau of Environmental Services review in Subsection 21.35.030 E.1., shall not apply where a business or property owner cannot manage increased stormwater resulting from modifications required to comply with the wellhead protection requirements entirely on-site. If such drainage cannot be managed on-site and will drain to a City sewer, a City sewer easement, or a City right-of-way, the permit shall have a BES source control review to assess impact to the Columbia Slough which may result in additional source protection measures beyond the Reference Manual Best Management Practices to address the increases in stormwater drainage. The requirements of Subsection 21.35.030 E.2. shall remain in effect until January 1, 2005.

Nothing in this provision shall exempt any site plan or permit from stormwater management requirements contained in sections of the Stormwater Management Manual that are not related to source control (source control requirements are currently contained in Chapter 4) or from future source control review criteria that may become required by state or federal law beyond the scope of requirements in the 2002 SWMM.

Nothing in this provision shall exempt any person from the requirements of City Code Chapter 17.34 related to industrial wastewater discharges to the City's sewer system or from the requirements of the NPDES permit program.

21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.

(Amended by Ordinance No. 180917, effective May 26, 2007.)

- A. The Bureau of Water Works may conduct inspections of businesses that store, handle, use or transport hazardous materials to ascertain compliance with the standards of this Chapter, including but not limited to the types, quantities and locations of hazardous materials, primary and secondary containment facilities, and the existence of spill prevention and spill control equipment or devices. For purposes of exercising this authority, the Bureau shall adopt policy regarding the necessary qualifications for those who conduct inspections and the frequency, priority, and type of inspection of businesses based on, among other things, the

degree of risk to water quality in the well field, history of violations, characteristics of the use, and the availability of budgeted funds and staff.

- B.** Inspections may be initiated as the result of a complaint or referral, at any time the Bureau has reason to believe there is a violation, or as defined by a routine schedule for compliance. Inspections and re-inspections will be used to determine if an operation is in compliance with this Chapter.
- C.** Inspections may involve a review of equipment, structures and operating practices; records or plan review; interviews with operators; and photo documentation. As such, businesses shall allow representatives of the Bureau, upon presentation of credentials, to:

 - 1.** Inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the provisions of this Chapter;
 - 2.** Enter the premises where hazardous materials are being managed, or where records may be kept under the provisions of this Chapter. The owner/operator must make necessary arrangements to allow access without delay; and
 - 3.** Have access to and copy, at reasonable times, any records that must be kept under the provisions of this Chapter.
- D.** If a business refuses or declines to allow an inspection or re-inspection under Subsections 21.35.040 C.1.-3., the Water Bureau may seek an administrative warrant from Multnomah County Circuit Court to conduct such inspection or re-inspection.
- E.** After inspection and upon finding that all standards of this Chapter have been met, the Bureau of Water Works shall issue a Certificate of Inspection to each business inspected under this Chapter, as provided in Section 21.31.050.
- F.** In the event an inspection reveals a violation of the standards of this Chapter that cannot be resolved or corrected during the course of the inspection, the Bureau of Water Works shall follow the procedures set forth under Section 21.35.060, as applicable.
- G.** The Water Bureau may enter into interagency agreements with Portland Fire & Rescue or other city bureaus, or contract with other governments or private parties, to conduct inspections inside the Portland city limits. Subject to Council approval, the Water Bureau may enter into contracts with private entities or intergovernmental agreements with other municipal corporations for inspections in those portions of the wellhead protection area outside the City of Portland boundaries.

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21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.

- A.** A Certificate of Inspection shall be valid until a subsequent inspection or review or until it is revoked.
- B.** A Certificate of Inspection shall be kept on the premises at all times and be available for review by Bureau of Water Works personnel or other authorized City personnel.
- C.** A Certificate of Inspection shall contain the following information:
 - 1.** The address of the occupancy or facility, including exterior space utilized for storage, handling, use or transportation of hazardous materials;
 - 2.** The name and address of the person or business occupying the facility; and
 - 3.** A statement that the described occupancy complies with the applicable regulations and policies.
- D.** The issuance of a Certificate of Inspection does not suspend the applicability of any water regulations.
- E.** The Certificate of Inspection is issued to the business owner/operator for the existing use at the location specified in the Certificate. It is not transferable.

21.35.060 Enforcement.

(Amended by Ordinance Nos. 180917 and 182053, effective August 15, 2008.)

- A.** Violations. It shall be a violation to store, handle, use or transport hazardous materials in a manner contrary to the standards set by the Bureau of Water Works.
- B.** Warning Letter.
 - 1.** The Bureau may issue a Warning Letter that informs an individual or business of a violation, and the consequences of the violation or continued noncompliance. The letter may state the actions required to resolve the violation and may specify a reasonable time by which compliance is to be achieved.
 - 2.** As part of a Warning Letter, and depending on the number or gravity of violation(s), the Bureau may require an individual or business to prepare and submit a Compliance Plan that establishes a reasonable timeframe for correcting the violation(s) or the implementation of alternative storage, handling, use, transportation, or containment practices that are capable of satisfying the standards of this Chapter. A Compliance Plan shall be subject

to review and approval of the Bureau of Water Works, or a designated bureau.

3. If an individual or business fails to take the steps necessary to come into compliance within the period specified in the Warning Letter, the Bureau may take further enforcement action pursuant to Subsection 21.35.060 C.

C. Orders to Cure Violations, Civil Liability, Nuisances.

1. If an individual or business fails to come into compliance in the time specified in a previously issued Warning Letter, or within a timeframe established in an approved Compliance Plan, the Bureau may issue an Order to Cure the violation and establish a final date for resolving the violation, after which Subsections 21.35.060 D. and E. may be invoked. Failure to comply with an Order to Cure shall be a violation of law.
2. If the Water Bureau finds that there is an imminent danger of a release of hazardous materials into the environment resulting from the violation of standards governing the storage, handling, use and transportation of a hazardous material, the Bureau may declare that a nuisance exists and may issue, without prior notice, an Order to Cure requiring immediate action to be taken to halt any activity causing such imminent danger, and directing the individual or business to immediately take steps correct any conditions contributing to the danger.
3. If the individual or business subject to an Order to Cure issued pursuant to this section does not comply with the Order, the Bureau may:
 - a. Revoke a Certificate of Inspection;
 - b. Order the individual or business to cease the storage, handling, use or transportation of hazardous materials that are the subject of the violation until such time as the violation is corrected;
 - c. Issue a Civil Penalty pursuant to Subsection 21.35.050 D.; or
 - d. Undertake to correct any conditions contributing to the imminent danger of a release of hazardous materials into the environment. The costs of such action will be charged to the individual or business subject to such Order.
4. The person or business subject to an Order to Cure issued under this Chapter may appeal said Order under City Code Subsection 31.10.080 C. in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code,

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except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.10.080 C.5.

5. Should hazardous material be released as a result of a violation, or as a result of a failure to correct a violation, the individual or business responsible for such spill shall be civilly liable for all costs incurred by the City associated with cleaning up such release and all costs of any other City action reasonably determined to be necessary by the City to contain, control or clean-up the release or to protect the well field from contamination.

D. Civil Penalty.

1. In addition to any other fee or civil liability provided by law, the Bureau of Water may impose a civil penalty in an amount not to exceed \$500 per day or two times the re-inspection fee that would otherwise have been collected, whichever is greater, for each day a violation continues to exist against any individual or business who does not comply with the provisions of this chapter. Each failure to comply with a separate regulatory standard shall be deemed a separate violation.
2. Any civil penalty imposed pursuant to this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Bureau of Water or designated bureau. The notice referred to in this Subsection shall be sent by registered or certified mail and shall include:
 - a. A reference to the particular Sections of the Chapter or Code Section or Reference Manual involved;
 - b. A short and plain statement of the matters asserted or charged;
 - c. A statement of the amount of the penalty or penalties imposed; and
 - d. A statement of the right of the person to request a hearing.
3. The owner or operator of a facility subject to this Section who is ordered to pay a civil penalty in accordance with this Section shall have the right to appeal the imposition of or amount of the penalty as provided by City Code Subsection 31.10.080 C. of this Code in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.01.080 C.5.

- E. Legal Action. The City may bring an action in a court of proper jurisdiction, including the Circuit Court of Multnomah County and the Federal District Court for the District of Oregon, to enforce any order to cure issued under this Chapter,

collect any penalty assessed under this Chapter, or recover any costs incurred pursuant to Subsections 21.35.060 C.3. and 5.

F. Re-inspection Fees.

- 1.** Any individual or business found in violation of law or any order under this Chapter and who fails to correct such violation or comply with such order within 30 days after receiving written notice from the Bureau of Water to do so, shall be charged and required to pay a re-inspection fee of:
 - a.** \$100 if violations remain uncorrected at the time of the first re-inspection,
 - b.** \$200 if violations remain uncorrected at the time of the second re-inspection,
 - c.** \$400 for the third and subsequent re-inspections if violations remain uncorrected at that time.
- 2.** Re-inspection fees shall be in addition to any fees established by Council or the Water Bureau by rulemaking in the Well Field Wellhead Protection Program Reference Manual. Any person or business so charged a re-inspection fee that believes that the charges are inappropriate may appeal such charges pursuant to City Code Subsection 31.10.080 C. in the same manner that an order of the Fire Marshal may be appealed. If the Water Bureau enforces this chapter through interagency agreement with Portland Fire & Rescue or another bureau, the fees charged by that bureau shall be in lieu of the fees described in this paragraph.

21.35.070 Inter-Agency Cooperation.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Bureau of Water Works may enter into inter-agency agreements with Portland Fire & Rescue or other City bureaus to inspect premises, issue Certificates of Inspections, enforce standards, or otherwise administer this Wellhead Protection Code. If inter-agency agreements are made to enforce standards, and if circumstances make it practical, the Certificates of Inspection issued under this chapter shall be combined with any certificates of inspection or equivalent issued by the bureau enforcing this chapter.

21.35.080 Building and Site Permit Review and Approval.

No City building permit or other permit for site alterations, construction, building alterations, repairs, or other work involving or affecting the storage, handling, use, transportation, or containment of hazardous materials may be issued without the prior review and approval of the Bureau of Water Works. The Bureau of Water Works may approve any such permits only upon a finding that the activity proposed conforms with this

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Chapter and rules promulgated under this Chapter. Such plan review shall be conducted pursuant to City of Portland rules and practices for development review.

21.35.090 Rulemaking.

(Repealed by Ordinance No. 182053, effective August 15, 2008.)

**CHAPTER 21.36 - BULL RUN WATERSHED
PROTECTION**

(Chapter added by Ordinance No. 183540, effective
March 12, 2010.)

Sections:

- 21.36.010 Designation of Bull Run Watershed Closure Area.
- 21.36.020 Prohibition of Entry Without Permit.
- 21.36.030 Prohibited Actions Within the Bull Run Watershed Closure Area.
- 21.36.040 Enforcement.
- 21.36.050 Bull Run Watershed Protection Policy.

21.36.010 Designation of Bull Run Watershed Closure Area.

(Amended by Ordinance No. 186839, effective November 7, 2014.) Pursuant to authority granted by ORS 448.295 to ORS 448.325 and the Portland City Charter, there is hereby designated a Bull Run Watershed Closure Area (Closure Area) within which the limitations and restrictions of this Chapter 21.36 of the Portland City Code shall apply. The Closure Area shall consist of all land, by whomever owned, within the Closure Area boundaries outlined on a map dated October 2014, entitled "Portland City Code Chapter 21.36, Bull Run Watershed Closure Area" and attached to Ordinance No. 186839 as Exhibit B. The map has been created, shall be maintained, and shall be made available for public review by the Water Bureau.

21.36.020 Prohibition of Entry Without Permit.

(Amended by Ordinance No. 186839, effective November 7, 2014.)

- A.** Except for authorized employees of the U.S. Forest Service, Bureau of Land Management and Portland Water Bureau or as provided in Subsection B below, it is unlawful for any person to enter into or be upon land within the Closure Area without a valid entry permit issued by the U.S. Forest Service, Bureau of Land Management or the Portland Water Bureau. The Water Bureau shall post suitable signs of this limitation at all points of road entry into the Closure Area and at such other locations along the boundary of the Closure Area as it deems advisable.
- B.** Entry permits are not required:
 - 1.** To hike on the Pacific Crest National Scenic Trail #2000 and the Huckleberry Trail #617;
 - 2.** For law enforcement or emergency response personnel on official business; or
 - 3.** For persons accompanied by authorized employees of the U.S. Forest Service, Bureau of Land Management or Portland Water Bureau.

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- C.** The Water Bureau Administrator shall designate those Water Bureau employees who are authorized to enter the Closure Area and those employees who are authorized to issue entry permits.

21.36.030 Prohibited Actions Within the Bull Run Watershed Closure Area.

(Amended by Ordinance No. 186839, effective November 7, 2014.)

- A.** Except to hike on the Pacific Crest National Scenic Trail #2000 and the Huckleberry Trail #617, it is unlawful to engage in any activities in the Closure Area that are not authorized by:
 - 1.** An entry permit or;
 - 2.** An employee of the U.S. Forest Service, Bureau of Land Management, or Portland Water Bureau authorized to issue permits or to be in the Closure Area.
- B.** It is unlawful for any person to permit domestic animals to run at large within the Closure Area.

21.36.040 Enforcement.

(Amended by Ordinance No. 186839, effective November 7, 2014.)

- A.** Violation of Sections 21.36.020 or 21.36.030 on land owned by the federal government within the Closure Area is punishable upon conviction by a fine or imprisonment as a Class C Misdemeanor pursuant to ORS 161.615 and 161.635 in accordance with ORS 448.305(3). Each unlawful act is chargeable as a separate violation for each occurrence. (Entry into federal land within the Closure Area is also a violation of 18 USC §1863, which carries punishments of imprisonment up to 6 months and fines up to \$5,000.)
- B.** Violation of Sections 21.36.020 or 21.36.030 on land owned by the City lying within the Closure Area is punishable upon conviction by a fine or imprisonment as a Class C Misdemeanor pursuant to ORS 161.615 and 161.635 in accordance with ORS 448.305(3). Each unlawful act is chargeable as a separate violation for each occurrence.
- C.** The Administrator of the Portland Water Bureau may appoint Water Bureau employees as Closure Area enforcement officers as provided for in ORS 448.315 to enforce Code Sections 21.36.020 and 21.36.030. Prior to assuming his or her duties, each employee designated as a Closure Area enforcement officer shall take an oath of office specified by the Administrator. While on duty, the employees authorized to enforce this Code shall wear in plain sight a badge as required by ORS 448.315. Appointment by the Administrator as a Closure Area enforcement officer shall also make the employee appointed a “person in charge” of City

property within the Closure Area for purposes of Code Section 5.36.115 and grant the employee authority to order persons to leave City property.

- D.** Closure Area enforcement officers shall have authority to order persons to leave the Closure Area and to issue citations for violation of this Code.
- E.** The Circuit Court of Multnomah County, Clackamas County and Hood River County shall have jurisdiction to try and determine any prosecution brought under this Code for violations occurring within the respective boundaries of those counties.
- F.** The Administrator may also pursue enforcement of any violation of Sections 21.36.020 or 21.36.030 pursuant to Section 21.24.090.

21.36.050 Bull Run Watershed Protection Policy.

- A.** In General. The primary purpose of City management of City lands and facilities within the Closure Area shall be the continued production of pure, clear, raw, potable water for municipal purposes. Subject to the limitations of Subsection 21.36.050 B, management for other purposes and objectives, such as generation of hydroelectric power, transmission of electric energy or telecommunications, protection of environmental quality and wildlife habitat, conservation education, and scientific inquiry, is allowed, only if such management is consistent with the accomplishment of the primary management purpose, consistent with the special forest protection standards of adjacent federal lands found in the federal Bull Run Management Act, P.L. 95-200, as amended, and performed in compliance with obligations imposed by federal, state, and local law.
- B.** Specific Land Use Limitations. City lands in the Closure Area shall not be developed or used for recreational purposes. Except as necessary for protection, enhancement, operation or maintenance of the water supply system and facilities for electric power generation and transmission, City lands shall not be developed or used for residential, industrial or commercial purposes.
- C.** Tree Cutting Limitation. Tree cutting or removal, including salvage, shall not occur on City lands within the Closure Area except for the following purposes:
 - 1.** For the protection or enhancement of water quality; or
 - 2.** For the protection, enhancement, or maintenance of water quantity for City use; or
 - 3.** For the construction, expansion, protection or maintenance of municipal water supply facilities; or

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4. For the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or of hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.
- D.** Ownership of Bull Run Land and Infrastructure. City land and infrastructure within the Bull Run Watershed Closure Area that is integral to the delivery of municipal water shall not be transferred to any private entity. City land and infrastructure within the Bull Run Watershed Closure Area that is integral to the delivery of municipal water shall not be transferred to any public entity unless the transfer is approved by ordinance passed by City Council.
- E.** Public Notice of Bull Run Watershed Activities
 1. Each quarter the Water Bureau shall update as necessary and make publicly available a list of ongoing, routine activities conducted or permitted by the Water Bureau involving the presence of persons in the Closure Area. A non-exclusive exemplary list of such activities includes activities to divert, test, and protect water for municipal supply and for hydroelectric power generation, construction and maintenance of facilities, including roads and trails, educational or management tours, and data collection for regulatory or management purposes. At a minimum, the Bureau shall post the list of routine activities on its government web site, along with a contact number or email address by which citizens can obtain additional information on listed activities.
 2. Each quarter during the fiscal year, the Water Bureau shall update as necessary and make publicly available a list of:
 - a. All Water Bureau capital projects within the Closure Area that are in the planning or design stage or whose construction has already commenced;
 - b. All non-routine City activities or activities permitted by the City that involve or will involve the presence of persons in the Closure Area and which are in the planning or design stage or which have already commenced.
 3. At a minimum, the Bureau shall post the list of projects and activities described in Subsection 21.36.050 E.1. and Subsections 21.36.050 E.2.a. and b. on its government web site, along with a contact number or email address by which citizens can obtain additional information on listed projects.

fence no less than 6 feet high maintained until the new construction has progressed sufficiently to remove any hazards to the public. Such period of time is not to exceed 30 days. For regulations on the use of public streets and protection of pedestrians during demolition see Chapter 24.40 of this Title.

24.55.150 Definitions.

(Added by Ordinance No. 187017; amended by Ordinance Nos. 188802, 189012 and 189078, effective July 18, 2018.)

- A.** Demolition. Demolition means removal of all exterior walls above the foundation.
- B.** Major Residential Addition. Major residential addition means adding more than 500 square feet of new interior space and expanding the structure's footprint or envelope. The new interior space does not include areas of existing space within the building envelope.
- C.** Major Residential Alteration. Major residential alteration means removing 50 percent or more of the exterior walls above the foundation.
- D.** Recognized organization. Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Community & Civic Life.
- E.** Demolition Manager. Demolition manager means the person designated by the property owner or demolition permit applicant who will be responsible for implementing and overseeing the Demolition Plan and who will be the contact person for BDS and other regulatory agencies regarding the Demolition Plan. The Demolition Manager must have knowledge regarding erosion and sediment control, site control, and proper handling of materials generated from the demolition activities. The Demolition Manager is a "responsible party" as defined in this Section 24.55.150.
- F.** Demolition Plan. Demolition plan means the plan signed by the Demolition Manager that outlines the techniques and equipment that the Demolition Manager will use on the demolition site to control dust and debris generated during the demolition activities. The Demolition Plan must also include the anticipated timeframe for the demolition, a description of the site control measures set forth in Section 24.55.205 C. and monitoring processes that will be followed on the site before, during, and after the demolition activities, details of pedestrian protection where required, and a description of how the site will be secured against accessibility by any unauthorized persons. The Demolition Plan must include erosion and sediment control measures required by this Chapter 24.55, Title 10 and Chapter 17.39 of the Portland City Code, the City of Portland Erosion and Sediment Control Manual, the City of Portland Source Control Manual, and any other City of Portland regulations governing erosion, sediment control, stormwater control, or

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wastewater generated from the demolition activities covered by this Section 24.55.205. The Plan must also include contact information for the Demolition Manager.

- G.** Mechanical demolition activities. Mechanical demolition activities means pulling down any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery.
- H.** Deconstruction. Deconstruction means demolition via the systematic dismantling of a structure or its parts, typically in the opposite order it was constructed, which can include the selective use of heavy machinery.
- I.** Full deconstruction. Full deconstruction means systematically dismantling 100% of the building, including finishes, core, shell, frame, mechanical, electrical, and plumbing fixtures and only using machinery to move and process materials once they are removed.
- J.** Lead-containing. Lead-containing means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter, 0.5 percent by weight, or 5,000 parts per million (ppm).
- K.** Responsible party. Responsible party means the property owner or person authorized to act on the owner's behalf and any person causing or contributing to a violation of this Title.

24.55.200 Residential Demolition Delay - Housing Preservation.

(Amended by Ordinance Nos. 171455, 176955, 187017, 187711, 188259, 188802 and 189012, effective June 13, 2018.)

- A.** Purpose. The residential demolition delay provisions are intended to allow an adequate amount of time to help save viable housing in the City while recognizing a property owner's right to develop or redevelop property. The regulations provide an opportunity for public notice of impending residential demolitions and coordination of the efforts of various City bureaus. The regulations also encourage seeking alternatives to demolition. The provisions accomplished this through a two part process:
 - 1.** a 35 day notice period during which demolition is delayed, and
 - 2.** a possible 60-day extension of the demolition delay period.
- B.** Where the delay applies. The residential demolition delay regulations of this Section (24.55.200) apply to sites with residential structures that are regulated under the Oregon Residential Specialty Code and that are located in areas with a residential Comprehensive Plan Map designation. The regulations only apply to

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accordance with the final approved grading plan and the required reports have been submitted.

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CHAPTER 24.75 - UNIFORM BUILDING ADDRESS SYSTEM

(Chapter added by Ordinance No. 161984, effective
July 1, 1989.)

Sections:

- 24.75.010 Uniform System.
- 24.75.020 Size and Location of Building Numbers.
- 24.75.030 Administration.
- 24.75.040 Owner Responsibility.
- 24.75.050 Alteration of Building Number - Improper Number.
- 24.75.060 Building Defined.
- 24.75.070 Enforcement.

24.75.010 Uniform System.

(Amended by Ordinance No. 188995, effective July 6, 2018.)

- A.** There is established a uniform system of numbering all buildings in separate ownership or occupancy in the City dividing the City into six addressing districts. In establishing the system Williams Avenue, Naito Parkway, View Point Terrace and Tryon Creek State Natural Area and the centerline of the Willamette River southerly from Oregon Street and northerly from Clay Street, shall constitute the north and south base line from which the numbers on all buildings running easterly and westerly from said streets shall be extended each way, upon the basis of one number for each ten feet of property frontage, wherever possible, starting at the base line with the number 1 continuing with consecutive hundreds at each intersection, wherever possible.
- B.** All even numbers shall be placed upon buildings on the southerly side of streets, avenues, alleys and highways, and all odd numbers shall be placed upon buildings on the northerly side of streets, avenues, alleys and highways. Burnside Street shall constitute the east and west base line from which the numbers on all streets running north and south from said streets shall be extended each way, upon the basis of one number for each 10 feet of property frontage, wherever possible, starting at the base line with number 1 and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon buildings on the easterly side of streets, avenues, alleys, and highways, and all odd numbers upon buildings on the westerly side of said streets, avenues, alleys, and highways. Freestanding buildings on private streets which are separately owned or occupied shall be separately numbered so as to most closely conform to this system. Each portion of a building which is separately owned or occupied and has a separate entrance from the outside shall have a separate number assigned to it.

- C. Suffixes to Building Numbers. Where building address requirements exceed numbers available within the numbering system, the Director may use the suffix “A”, “B”, “C”, etc. as may be required to provide the numbering required by this Chapter.

24.75.020 Size and Location of Building Numbers.

All numbers placed in accordance with this Chapter shall be permanently affixed to a permanent structure and of sufficient size and so placed as to be distinctly legible from the public way providing primary access to the building. All numbers shall be posted as nearly as possible in a uniform place and positioned on the front of each building near the front entrance. Where outside illumination is provided, the numbers shall be placed so as to be illuminated by the outside light. In instances where building mounted numbers are not distinctly visible from a public way, a duplicate set of numbers shall be permanently affixed to a permanent structure at the primary entranceway to such property. If, in the judgment of the Director, the numbering, sequence, legibility, size or location does not meet the requirements as set forth above, the property owner or agent therefor shall be notified and within 30 days shall make such changes as required in the notification.

24.75.030 Administration.

The Director shall assign address numbers, keep records of address assignments, and exercise such other powers as are necessary to carry out the provisions of this Chapter.

24.75.040 Owner Responsibility.

Whenever any new building is erected, modified, or occupied in a manner requiring an address assignment, the owner or owner’s agent shall procure the correct address number or numbers designated by the Director and pay required fees.

The owner or agent shall prior to occupancy or within 30 days of assignment, whichever occurs later, place the assigned address number(s) upon the building or in a manner and location as provided in this Chapter.

24.75.050 Alteration of Building Number - Improper Number.

It is unlawful for any person to cause or knowingly permit a building number to be displayed which is different than that assigned pursuant to this Chapter. It is unlawful for any person to own or have possession of a building which does not display the number assigned pursuant to this Chapter in the manner provided by this Chapter.

24.75.060 Building Defined.

As used in this Chapter, “building” is any structure used or intended for supporting or sheltering any use or occupancy.

24.75.070 Enforcement.

The Director shall provide written notices to the owner of any building in violation of the provisions of this Title. The notice shall state the violations existing and specify the owner has 30 days to obtain compliance.

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In the event the owner fails or neglects to comply with the violation notice in the prescribed time the Director may gain compliance by:

- A.** Instituting an action before the Code Enforcement Hearings Officer as provided in Title 22 of the City Code, or
- B.** Causing appropriate action to be instituted in a court of competent jurisdiction, or
- C.** Taking such other action as the Director deems appropriate.

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- 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

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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; amended by Ordinance No. 189071, effective July 18, 2018.)

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.

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,

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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 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.

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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.
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, the fee-in-lieu per gross residential and residential related square foot (GSF) of the proposed development is:

1. For developments in zones outside the Central City Plan District

Fee per GSF on or before December 31, 2018	
	\$19

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Fee per GSF after December 31, 2018
\$23

2. For developments in zones within the Central City Plan District

Fee per GSF
\$27

3. For Bonus FAR in non-residential developments

Fee Schedule for Bonus FAR for non-residential occupancy/use
\$24 per square foot of Bonus FAR

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- B.** Exception for land use regulations. Amendments to provisions contained in Chapters 32.10 through 32.38 must follow the procedure required under state law as described in Chapter 33.835, Goal, Policy, and Regulation Amendments.

32.10.070 Severability.

If any word, sentence, section, chapter or any other provision or portion of this Title or rules adopted hereunder is invalidated by any court of competent jurisdiction, the remaining words, sentences, sections, chapters, provisions, or portions will not be affected and will continue in full force and effect.

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CHAPTER 32.12 - AUTHORITY AND SCOPE

Sections:

- 32.12.010 Authority.
- 32.12.020 Exemptions.
- 32.12.030 Prohibitions.

32.12.010 Authority.

(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A.** Responsibility. This Title will be administered and enforced by the Director of the Bureau of Development Services (BDS).
- B.** Administration. The Director will administer the code as set forth under Chapters 32.60 through 32.68. The Director may implement procedures, forms, and written policies for administering the provisions of this Title.

32.12.020 Exemptions.

(Amended by Ordinance Nos. 178946, 182962, 188959 and 189137, effective August 22, 2018.) The following are exempt from the regulations of this Title, but may be subject to other portions of the City Code:

- A.** Signs which are not visible from a right-of-way or another property; however signs located within malls and atriums must comply with all provisions of this Title except Chapters 32.30 through 32.38;
- B.** Signs inside a building. However:
 - 1.** In the OS, RF through RH, RMP, CI1, CR, and IR zones, illuminated signs in windows are not exempt; and
 - 2.** Signs located within malls and atriums must comply with all provisions of this Title except Chapters 32.30 through 32.38;
- C.** Signs carved into a building;
- D.** Signs required by federal or state law if the sign is no more than 32 square feet in area or is painted directly on pavement;
- E.** Flags;
- F.** Signs required by city law if the sign is no more than 32 square feet in area. Such signs include building addresses, development review or construction review public notices, and commercial parking facility postings;
- G.** Painted wall highlights;

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- H.** Illuminated wall highlights;
- I.** Public Art as defined in Chapter 5.74; and
- J.** Permitted Original Art Murals as defined in Title 4.

32.12.030 Prohibitions.

The following are prohibited and existing ones must be removed:

- A.** Signs containing strobe lights;
- B.** Abandoned sign structures;
- C.** Signs placed on or painted on a motor vehicle or trailer parked with the primary purpose of providing signs not otherwise allowed by the code;
- D.** Permanent balloon signs;
- E.** Outdoor, portable electric signs;
- F.** Signs that imitate or resemble official traffic lights, signs or signals or signs that interfere with the effectiveness of any official traffic light, sign or signal;
- G.** Signs that focus or flash a beam of light into the eyes of a driver of a motor vehicle upon a right of way within 200 feet from such sign; and
- H.** Signs erected, constructed or structurally altered that are required by Section 32.62.010, Permit or Registration Required to have a permit that were erected, constructed or altered without a permit.

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**CHAPTER 32.20 - APPLYING THE CODE
LANGUAGE**

Sections:

- 32.20.010 General Rules For Reading and Applying the Code Language.
32.20.020 Terms.
32.20.030 Applying the Code to Specific Situations.

32.20.010 General Rules For Reading and Applying the Code Language.

(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A.** Reading and applying the code. Literal readings of the code language will be used. Regulations are no more or less strict than as stated. Application of the regulations that are consistent with the rules of Chapters 32.20 through 32.24 are non-discretionary actions of the Director of BDS to implement the code. The action of the Director of BDS is final.
- B.** Situations where the code is silent. Proposals for signs where the code is silent, or where the rules of this chapter do not provide a basis for concluding that the sign is allowed, are prohibited.

32.20.020 Terms.

- A.** Defining words. Words used in the sign code have their dictionary meaning unless they are listed in Chapter 32.22, Definitions. Words listed in the Definitions chapter have the specific meaning stated, unless the context clearly indicates another meaning.
- B.** Tenses and usage.
- 1.** Words used in the singular include the plural. The reverse is also true.
 - 2.** Words used in the present tense include the future tense. The reverse is also true.
 - 3.** The words "must," "will," and "may not" are mandatory.
 - 4.** "May" is permissive.
 - 5.** "Prohibited" means that an adjustment, conditional use, or other land use review may not be requested in order to allow a modification to the regulation in question.
 - 6.** When used with numbers, "Up to x," "Not more than x" and "a maximum of x" all include x.

CHAPTER 32.30 - GENERAL

Sections:

- 32.30.010 Purpose.
- 32.30.020 Official Zoning Maps.
- 32.30.030 Uses, Use Categories, and Structure Types.

32.30.010 Purpose.

The regulations contained in Chapters 32.30 through 32.38 are land use regulations which work in combination with Title 33, Planning and Zoning, to implement Portland's Comprehensive Plan. The standards contained in Chapters 32.32 through 32.34 encourage signs to be compatible with the distinct character of specific areas of the city by regulating the size, placement, and features of signs by base zone, overlay zone, and plan district. Chapter 32.34 includes standards that encourage signs that further the objectives of certain land use categories.

32.30.020 Official Zoning Maps.

The boundaries and locations of all base zones, overlay zones, plan districts, and historic resource designations referenced in Chapters 32.30 through 32.38 are shown on the City's Official Zoning Maps. See Title 33, Planning and Zoning for additional information.

32.30.030 Uses, Use Categories, and Structure Types.

In some cases, sign regulations are applied based on the land use or use category of a site, or structure type on the site. All of these are described or defined in Title 33, Planning and Zoning.

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CHAPTER 32.32 - BASE ZONE REGULATIONS

Sections:

- 32.32.010 Standards in the Residential Zones, Campus Institution 1, Commercial Residential, and Open Space Zone.
- 32.32.020 Standards in the Commercial/Mixed Use, Campus Institution 2, Employment, and Industrial Zones.
- 32.32.030 Additional Standards in All Zones.

32.32.010 Standards in the Residential Zones, Campus Institution 1, Commercial Residential, and Open Space Zone.

(Amended by Ordinance Nos. 176469, 188959 and 189137, effective August 22, 2018.)

- A. General standards. The standards for permanent signs in the RF through RH zones and for the RMP, IR, CI1, CR and OS zones are stated in Table 1. The sign standards for the RX zone are stated in Table 2. All signs must conform to the regulations of Section 32.32.030.

Table 1 Standards for Permanent Signs in CI1, CR, IR, OS and RF Through RH Zones [1]					
Use Category/Structure Type[2]	Number of Signs	Max. Sign Face Area	Types of Signs Allowed	Maximum Sign Height	Additional Signs Allowed [3]
Household Living/ Houses, Duplexes, Attached Houses.	1 per site	1 sq. ft.	Fascia, Painted Wall Freestanding	Top of wall, or 10 ft. whichever is less. 6 ft.	lawn signs, directional signs
Household Living/ Townhouse, Multi-dwelling Group Living, Day Care, Nonresidential category uses not listed below.	1 per building	10 sq. ft.	Fascia, Awning, Painted Wall Freestanding	Top of wall 10 ft.	lawn signs, directional signs
Subdivisions, PUDs, Houseboat Moorages, Mobile Home Parks, Agricultural Uses. [4]	1 per entrance	32 sq. ft.	Monument	10 ft.	lawn signs, directional signs
Parks and Open Areas [5]	1 per street frontage	10 sq. ft.	Monument	10 ft	lawn signs, directional signs
Colleges, Community Service, Medical Centers, Religious Institutions, Schools, Commercial Outdoor Recreation, Major Event Entertainment, and uses in Commercial and Industrial use categories.	The sign standards of the RX zones applies. See Section 32.32.020.				

Notes:

- [1] Temporary signs are regulated by 32.32.030 K, Temporary Signs.
- [2] See 32.30.030, Uses, Use Categories, and Structure Types.
- [3] These signs are allowed in addition to other signs when they meet the standards of 32.32.030 H.-J.
- [4] These signs are allowed in addition to those for individual buildings.
- [5] Signs in, or adjacent to and facing, a sports fields associated with Parks and Open Areas are subject to the standards of the RX zone. See 32.32.020.

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- B.** Sign features. Signs in the RF through RH zones and in the RMP, IR, CI1, CR, and OS zones, except for those subject to the RX zone sign standards, are subject to the standards of this subsection. Illuminated signs placed in windows are subject to these sign regulations. Extensions into the right-of-way are prohibited. Changing image sign features are prohibited and only indirect lighting is allowed.

32.32.020 Standards in the Commercial/Mixed Use, Campus Institution 2, Employment, and Industrial Zones.

(Amended by Ordinance Nos. 176469 and 188959, effective May 24, 2018.)

- A.** General standards and sign features. The standards for permanent signs and sign features in the C, E, and I zones are stated in Tables 2 and 3. All signs must conform to the regulations of Section 32.32.030.

Table 2 Standards for Permanent Signs in Nonresidential Zones and RX Zone [1]			
		CE, CM3, EG1&2, EX, IG1&2, IH	CI2, CM2, CX CM1, RX
Signs Attached to Buildings			
Size Allocation	<ul style="list-style-type: none"> • 1 sq. ft. per 1 ft. of primary bldg. wall if a freestanding sign is also on the same street frontage • 1-1/2 sq. ft. per 1 ft. of primary bldg. wall if there is no freestanding sign on the same street frontage 	Same	Same
Maximum Number	No limit within size allocation	Same	Same
Maximum Area Per Sign	200 sq. ft.	100 sq. ft.	50 sq. ft.
Min. Guaranteed Sign Area For A Ground Floor Tenant Space	32 sq. ft.	Same	Same
Types Allowed			
Fascia, Awning, Marquee, Pitched Roof, Painted Wall	Yes	Yes	Yes
Projecting	Yes, but no projecting signs if a freestanding sign is also on the same street frontage	Same	Same
Rooftop	No	No	No
Freestanding Signs			
Maximum Number	1 per site or 1 per 300 ft. of arterial street frontage and 1 for each additional 300 ft. or fraction thereof [2].	1 per arterial street frontage [3]	1 per arterial street frontage [3]
When Not Allowed	Not allowed if there is already a projecting sign on the same site frontage, or if existing signs attached to buildings exceed the limit of 1 sq. ft. to 1 ft. of primary building wall	Same	Same
Size Allocation For All Freestanding Signs	1 sq. ft. per 1 ft. of arterial street frontage. Local street frontage can be used if there are not arterial site frontages.	Same	Same
Size Limit	200 sq. ft.	100 sq. ft.	50 sq. ft.
Maximum Height	25 ft. [4]	20 ft. [4]	15 ft. [4]
Additional Signs Allowed [5]			
Directional Signs, Portable Signs, Lawn Signs	See Subsections 32.32.030 G-J		

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Yes = Allowed
No = Prohibited

Notes:

- [1] Temporary signs are regulated under 32.32.010 K, Temporary Signs.
- [2] On sites with frontages longer than 300 feet, sign area earned from the first 300 feet may not be used on the second sign. For example, a 350 foot street frontage may have a 200 sq. ft. and a 50 sq. ft. freestanding sign. Regional Trafficways that are not also Major City Traffic Streets are not considered arterial streets for purposes of this Title.
- [3] Where a site has no arterial street frontage, one freestanding sign is allowed.
- [4] This height limit is for the total height of the combined sign face and sign structure.
- [5] These signs may be allowed in addition to signs attached to buildings and freestanding signs when they meet the standards of 32.32.030 G-J.

Table 3 Sign Features for All Signs In Table 2 CE, CI2, CM2, CM3, CX, EG1&2, EX, IG&2, IH		
		CM1, RX
Changing Image Sign Features (see 32.32.030.D)	Yes [1]	No[2]
Lighting	Direct, Indirect, or Internal	Same
Maximum Distance Extending Into R-O-W (see 32.32.030.C)	6-1/2 ft. or 2/3 of distance to roadway, whichever is less	Same
Maximum Area Extending into R-O-W (see 32.32.030.C)	30 sq. ft.	Same

Yes = Allowed

No = Prohibited

Notes:

- [1] Changing image sign features are allowed in the CE, CI2, CM2, CM3, CX, EG1 &2, EX, IG1 &2, and IH zones if they meet the standards of 32.32.030 D., Changing image sign features.
- [2] Changing image sign features are prohibited in the RX, CI1, and CM1 zones; except, changing image sign features are allowed in these zones if the sign is in, or adjacent to and facing, a sports field and meets the standards of 32.32.030 C, Changing image sign features.

B. Signs adjacent to freeways or bridges. The following regulations supersede those stated in Tables 2 and 3.

- 1. Freeways.** For purposes of this title, freeways are Regional Trafficways that are not also classified as Major City Traffic Streets by the Transportation Element of the Comprehensive Plan. These are the I-5, I-84, I-205, I-405 freeways, US Highway 30 between I-405 and NW Nicolai, and US Highway 26 west of the I-405 freeway.
 - a.** Sign faces that are within 100 feet of a freeway right-of-way, and that are visible from the freeway, may not exceed 200 square feet in area. Adjustments or modifications to the standard of this Subparagraph are prohibited.
 - b.** Freestanding signs that are facing and within 100 feet of a freeway right-of-way or its on- and off-ramps are prohibited. Freestanding signs that are beneath the level of the surface of the roadway are allowed.
 - c.** Changing image signs that are facing and within 100 feet of a freeway right-of-way or its on-and off-ramps are prohibited.

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Changing image signs that are beneath the level of the surface of the roadway are allowed.

2. Bridges.

- a.** Sign faces within 100 feet of the Willamette River bridges or bridge approach ramps shown in Figures 11a-e, or within 100 feet of the Columbia River or Columbia Slough bridges or bridge approach ramps, and that are visible from the bridge or bridge approach ramp, may not exceed 100 square feet in area.
- b.** Freestanding signs that are within 100 feet of the Willamette River bridges or bridge approach ramps shown in Figures 11a-e, or within 100 feet of the Columbia River and Columbia Slough bridges and bridge approach ramps are prohibited. Freestanding signs that are beneath the level of the surface of the roadway are allowed.
- c.** Changing image signs that are within 100 feet of the Willamette River bridges or bridge approach ramps shown in Figures 11a-e, or within 100 feet of the Columbia River and Columbia Slough bridges and bridge approach ramps are prohibited. Changing image signs that are beneath the level of the surface of the roadway are allowed.

- C. Pedestrian districts.** In pedestrian districts as shown by the Arterial Streets Classification of the Transportation Element of the Comprehensive Plan, the sign standards of the Central Commercial (CX) zone apply.

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Figure 11a
Willamette River Bridges and Approach Ramps

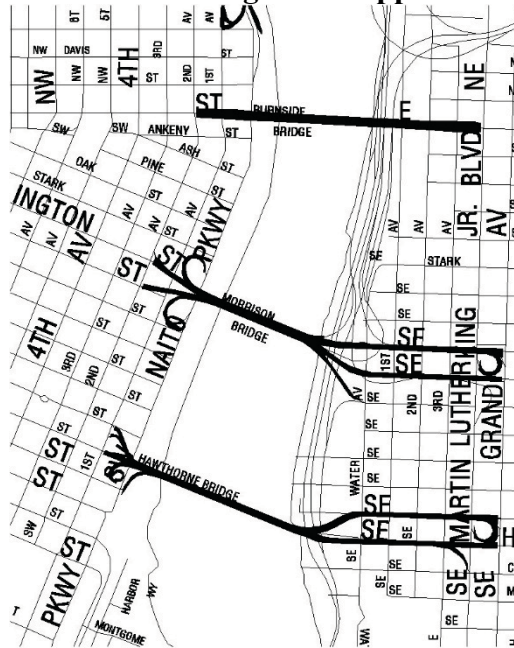


Figure 11b
Willamette River Bridges and Approach Ramps

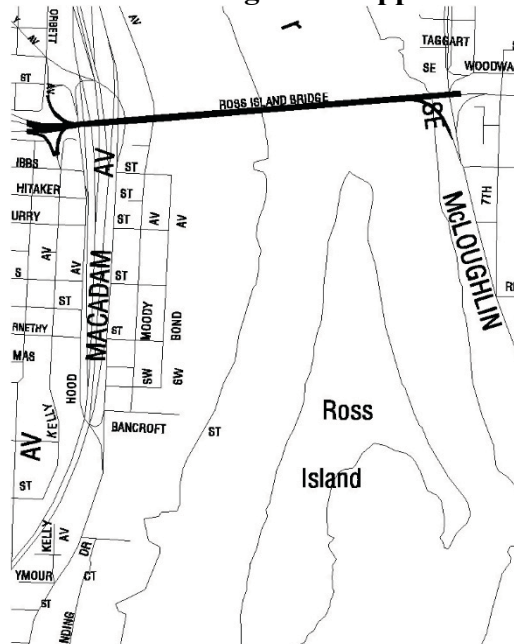


Figure 11c
Willamette River Bridges and Approach Ramps

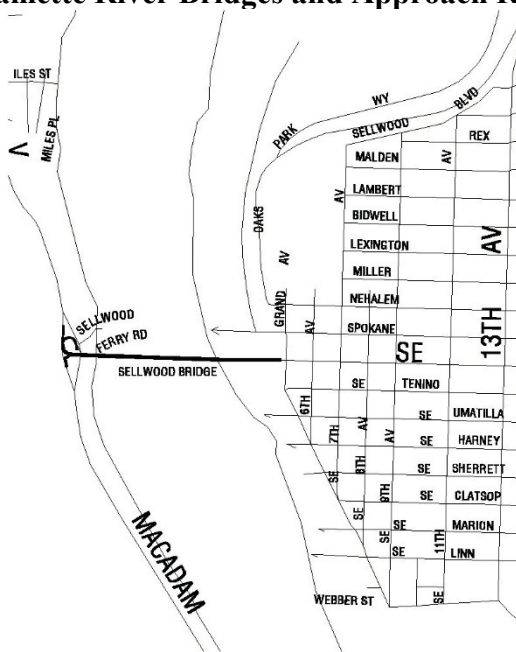
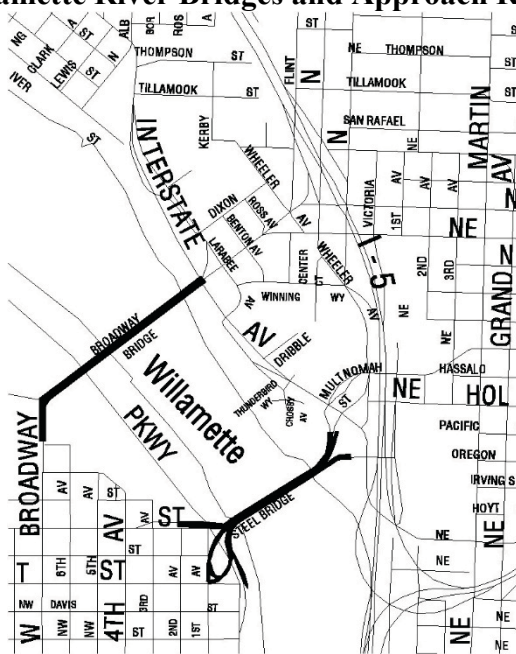


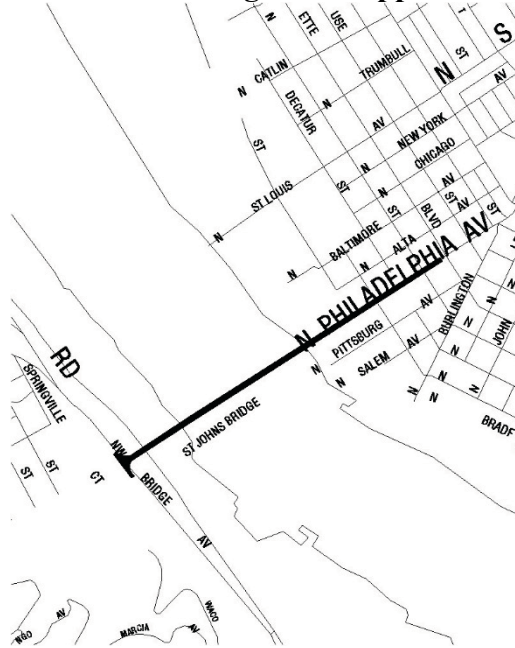
Figure 11d
Willamette River Bridges and Approach Ramps



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Figure 11e
Willamette River Bridges and Approach Ramps



32.32.030 Additional Standards in All Zones.

(Amended by Ordinance Nos. 176469, 185915 and 188959, effective May 24, 2018.)

- A.** Where these regulations apply. These regulations apply to all signs regulated by this title.
- B.** Sign placement. All signs and sign structures must be erected and attached totally within the site except when allowed to extend into the right-of-way by this Title.
- C.** Signs extending into the right-of-way. The standards of this subsection apply to permanent signs that are erected on private property and that extend into the right-of-way and portable signs that are in the right-of-way.

 - 1.** Projecting signs. Projecting signs that extend into the right-of-way must meet the following standards:

 - a.** Distance into the right-of-way.

 - (1)** Where allowed, signs may extend into the right-of-way 6 ½ feet or 2/3 of the distance to the roadway, whichever is less. However, in no case may signs extend within 2 feet of the roadway.

CHAPTER 32.54 - STROBE LIGHTS

Section:

32.54.010 Strobe Lights Prohibited.

32.54.010 Strobe Lights Prohibited.

Strobe lights that are visible beyond the property line are prohibited. Existing strobe lights visible beyond the property line must be removed.

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CHAPTER 32.60 - GENERAL

Sections:

- 32.60.010 Interpretations and Clarifications.
32.60.020 Rulemaking.

32.60.010 Interpretations and Clarifications.

- A.** The Director may issue interpretations on the meaning and intent of all chapters of this Title except Chapters 32.10 through 32.38. Such interpretations will conform to the purposes of this Title.
- B.** Where language in Chapters 32.10 through 32.38 is ambiguous or unclear, the Director may issue a statement of clarification as set out in Subsection 33.700.070 B. of the Zoning Code.

32.60.020 Rulemaking.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- A.** The Director has the authority to adopt administrative rules and supplemental regulations related to the provisions of Chapters 32.40 through 32.68 of this Title. The rules and regulations must be in conformance with the intent and purpose of this Title. The Director has the authority to administer such rules and regulations. Rules will be adopted according to the procedures 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 Community & Civic Life 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.

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- 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. An interim rule may be adopted by the Director 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 will be effective for a period of not 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 Community & Civic Life. 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 Director. All final and interim rules will be available to the public at the Development Services Center.

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CHAPTER 32.62 - PERMITS AND REGISTRATION

Sections:

- 32.62.010 Permit or Registration Required.
- 32.62.020 Application Requirements.
- 32.62.030 Review of Applications and Issuance of Permits.
- 32.62.040 Expiration.
- 32.62.050 Suspension or Revocation.

32.62.010 Permit or Registration Required.

(Amended by Ordinance No. 176469, effective July 1, 2002.)

- A.** General. No person, firm or corporation can erect, mount, install, construct, enlarge, structurally alter, move, display or electrify or connect a sign or awning, or cause the same to be done without first obtaining an awning permit, a sign permit or sign registration as provided in this section. Certain installations are exempt from permit or registration. Exemption from permit or registration does not grant authorization for any sign, sign structure or awning to be erected or structurally altered in violation of the provisions of this Title. Permanent signs that were not erected prior to November 18, 1998 nor were erected subject to a valid permit subsequent to that date, must be removed March 31, 2001, or the owner of such sign must obtain a valid permit.

The following are exempt from permit and registration:

1. Lawn signs;
2. Non-electrified directional signs;
3. Temporary banners meeting the following standards:
 - a. Up to three banners are allowed per lot in all zones;
 - b. Each banner may be no larger than 32 square feet in area; and
 - c. No more than one banner can be hung on each building wall or on each separate structure.
4. Temporary fascia signs that are installed for 360 or fewer days;
5. Temporary freestanding signs that are installed for 360 or fewer days;
6. Temporary portable signs; and