UPDATE INFORMATION

Vols. I & II – Portland City Code

December 31, 2019 – Quarterly Update

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Previous Update Packet September 30, 2019

CODE OF THE CITY OF PORTLAND, OREGON
Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
4th Quarter 2019 (December 31, 2019)

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TITLE 5 - REVENUE AND FINANCE

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CHAPTER 5.04 - FUNDS

Sections:

5.04.010 Provisions Made For.

In addition to funds created in accordance with the provisions of the Charter, there shall be the funds set forth in this Chapter and such other funds as from time to time may be provided for by ordinance.

5.04.020 Sundry Trusts Fund.

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019.) The Sundry Trusts Fund, created by Ordinance No. 118746, passed by the Council July 1, 1964, shall contain accounts for trust monies which neither belong in the Trustees' Fund nor require an individual trust fund. The following accounts are authorized for the Sundry Trusts Fund:

A. Animals for zoo account. (Repealed by Ordinance No. 150375, effective September 11, 1980.)

B. Civic Emergency Account. This account shall receive the City's share of the annual allocation from the Civic Emergency Fund under ORS 463.170. Expenditures shall be limited to athletic, recreational, educational, or charitable purposes. The Accounting Division on behalf of the Mayor and the Auditor is authorized to draw on this account when requisitions are presented approved by the Mayor, and one other Commissioner;

C. Elephant Purchase Account. (Repealed by Ordinance No. 150375, effective September 11, 1980.)

D. Health Protection Account. (Repealed by Ordinance No. 150375, effective September 11, 1980.)

E. Recreation Account. (Repealed by Ordinance No. 150375, effective September 11, 1980.)

F. Rose Test Garden Account. This account shall be administered in accordance with Ordinance No. 110776; passed by the Council September 23, 1959. The Accounting Division on behalf of the Mayor and the Auditor is authorized to draw checks on this account when requisitions are presented approved by the Commissioner In Charge of the Bureau of Parks;

G. Oaks Pioneer Park Museum Account. This account shall be administered in accordance as hereinafter provided:

affordable housing projects, primarily from proceeds from General Obligation Bonds approved under measure 26-179 and resources provided by other governmental entities.

5.04.580 Fire Capital Fund.

(Added by Ordinance No. 189560, effective June 12, 2019.) The Fire Capital Fund is hereby created to support the repair, replacement, and renewal of Portland Fire & Rescue's capital assets, including facilities, apparatus, and equipment.

5.04.590 Citywide Obligations Reserve Fund.

(Added by Ordinance No. 189808, effective December 18, 2019.) The Citywide Obligations Reserve Fund is hereby created to create a reserve for known Citywide obligations and allow the City to better plan for these costs.

CHAPTER 5.08 - PAYMENT OF SALARIES, WAGES AND EXPENSES

Sections:

5.08.010 Biweekly Pay Period.

All officers and employees of the City shall be paid for time earned and allowed under provisions of this Code. Such payments shall be biweekly. A pay period shall hereafter comprise 14 calendar days. Thursday, October 1, 1953, will be the first day and Wednesday, October 14, 1953, will be the last day of the first pay period; thereafter, each pay period will commence on Thursday and extend through the Wednesday of the second week.

5.08.020 Preparation and Certification of Biweekly Time Reports.

(Amended by Ordinance Nos. 132896, 136888, 147197, 180917 and 189452; effective May 10, 2019.)

A. It shall be the duty of the head of each appropriation unit to cause to be prepared, to approve, and to certify biweekly time reports for employees whose time deviates from standard biweekly hours and standard cost centers or when an employee is not to be paid, and cause the same to be transmitted to Central Payroll.

Biweekly time reports are not necessary for employees who worked their standard hours and whose time gets charged to the standard cost center. A payroll warrant will be automatically written for active employees whose standard time gets charged to their standard cost centers. However, each bureau manager shall submit a certification to the Accounting Division to the effect that all employees who will be paid and for whom no time report is submitted, did in fact, render the services to be paid.

TITLE 7 - BUSINESS LICENSES

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7.02.005 Short Title.

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

7.02.010 Fees for Revenue.

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

7.02.020 Conformity to State Income Tax Laws.

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

7.02.100 Definitions.

(Amended by Ordinance Nos. 184597, 187339, 189389 and 189794, effective December 12, 2019.) The terms used in this Chapter are defined as provided in this section or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

A. "Division" means the Revenue Division of the City of Portland, Oregon Bureau of Revenue and Financial Services, along with its employees and agents.

B. "Bank" has the same meaning as used in ORS 706.008(1).

C. "Business tax" means the tax owed by a taxfiler for any particular license tax year.

D. "Business" means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain, or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

E. "Certificate of Compliance" means the document (or license) issued to a taxfiler upon full compliance with the Business License Law for the license tax year in question.

F. "Controlling Shareholder" means any person, alone or together with that person's spouse, parents, and/or children, who, directly or indirectly, owns more than five (5) percent of any class of outstanding stock or securities of the taxfiler. The term "controlling shareholder" may mean the controlling shareholder individually or in the aggregate.

G. "Day" means a calendar day unless otherwise noted.

H. "Director" means the Director of the Revenue Division or his or her designee.

I. "Doing Business" means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.

J. "Employee" means any individual who performs services for another individual or organization and whose compensation is reported by an IRS Form W-2.

K. "In Compliance" means that:

1. a non-exempt business has filed and paid the current year's required business tax; or

2. a non-exempt business has filed and paid the previous year's required business tax and has met the current year filing requirements; or

3. an exempt business has filed the required income verification; or

4. a new business has filed a completed registration form and is otherwise in compliance with all provisions of the Business License Law.

L. "Income" means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before

any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

M. "Individual" means a natural person, including natural persons who report their income to the State of Oregon in a joint personal state income tax return. In such case, the term "individual" shall refer to the joint taxfiler.

N. "Large Retailer" means a business that:

1. is subject to the Portland Business License Tax;

2. has total gross income, as reported per Section 7.02.610, from Retail Sales of $1 billion or more in the tax year; and

3. has Portland gross income, as reported per Section 7.02.610, from Retail Sales of $500,000 or more in the tax year.

4. the term "Large Retailer" does not include:

a. any manufacturer or other business that is not engaged in Retail Sales within the City;

b. any contractor as defined under ORS 701.005(5);

c. any entity operating a utility within the City;

d. any cooperative recognized under state or federal law; or

e. a federal or state credit union

O. "License Tax Year" means the taxable year of a person for federal or state income tax purposes.

P. "Net Operating Loss" means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.

Q. "Non-business Income" means income not created in the course of the taxfiler's business activities.

R. "Notice" means a written document mailed first class by the Division to the last known address of a taxfiler as provided to the Division in the latest registration form or tax return on file with the Division.

S. "Ownership of Outstanding Stock or Securities" means the incidents of ownership which include the power to vote on the corporation's business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.

T. "Person" includes, but is not limited to, an individual, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

U. "Qualified Groceries" means food products that qualify for purchase under the U.S. Department of Agriculture Supplemental Nutritionals Assistance Program ("SNAP").

V. "Qualified Medicine or Drugs" means any medicine, drugs, or medical devices that are regulated by the U.S. Food and Drug Administration as a medicine or drug.

W. "Qualified Health Care Services" means any services that involves the provision of health care to the public, including but not limited to doctor, medical clinic and hospital visits and all related services, health insurance, and any care provided by senior care facilities or rehabilitation facilities. This definition includes but is not limited to all services defined as "health care services" under ORS 750.005(5).

X. "Qualified Residential Garbage or Recycling Services" means any services provided by a business that are governed by PCC 17.102.140 or PCC 17.102.170.

Y. "Qualified Retirement Plan" has the same meaning as prescribed in IRC § 401.

Z. "Received" means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.

AA. "Registration Form" means the initial form that establishes a taxfiler's account with the Division.

BB. "Retail Gross Revenue" means Retail Sales excluding the deductions outlined in Subsection 7.02.500 F.3.

CC. "Retail Sale" means a sale to a consumer for use or consumption, and not for resale. Retail Sale also includes but is not limited to the sale of services, including but not limited to retail banking services.

DD. "Tax return" means any tax return filed by or due from the taxfiler, including an annual exemption request form.

EE. "Tax Year" means the taxable year of a person for Federal and/or State income tax purposes.

FF. "Taxfiler" means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

7.02.110 Income Defined.

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

A. Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business license tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.

B. If one or more persons are required or elect to report their income to the State of Oregon for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single license certificate will be issued to the person filing such return. In such cases, "income" means the net income of the consolidated, combined or joint group of tax filers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.

C. The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Division to determine the correct income of the taxfiler through examination under Section 7.02.260.

7.02.200 Administration.

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

A. The Division is responsible for administering the Business License Law. Authority granted to the Director may be delegated, in writing, to another employee within the Bureau.

B. The Division may, upon request, interpret how the Business License Law applies, in general or for a certain set of circumstances.

C. Nothing in this Chapter precludes the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.

7.02.210 Administrative Authority.

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

A. The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.

B. The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.

C. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.

D. At the public hearing, the Director or designee will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Division's office. Copies of all current rules will be made available to the public upon request.

E. Notwithstanding Subsections C. and D. of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

7.02.220 Presumption of Doing Business.

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

A. Advertising or otherwise professing to be doing business within the City; or

B. Delivering goods or providing services to customers within the City; or

C. Owning, leasing, or renting personal or real property within the City; or

D. Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this Chapter. Property may be personal, including intangible or real in nature; or

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

7.02.230 Confidentiality.

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

A. The disclosure of the names and addresses of any persons that have a Division account;

B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;

C. The filing of any legal action by or on behalf of the Division to obtain payment on unpaid accounts; or

D. The assignment to an outside collection agency of any unpaid account balance receivable, provided that the Division notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the Division.

7.02.240 Persons to Whom Information May be Furnished.

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

A. The Division may disclose and give access to information described in Section 7.02.230 to an authorized representative of the Department of Revenue, State of Oregon , or any local government of the State of Oregon imposing taxes upon or measured by gross receipts or net income, for the following purposes:

1. To inspect the license registration or tax return of any taxfiler;

2. To obtain an abstract or copy of the license registration or tax return;

3. To obtain information concerning any item contained in any registration or tax return; or

4. To obtain information of any financial audit of any tax returns of any taxfiler.

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

B. Upon request of a taxfiler, or authorized representative, the Division will provide copies of the taxfiler's registration and/or tax returns filed with the Division for any license tax year.

C. The Division may also disclose and give access to information described in Section 7.02.230 to:

1. The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Division deems disclosure or access necessary for the performance of the duties of advising or representing the Division, including but not limited to instituting legal actions on unpaid accounts.

2. Other employees, agents and officials of the City, to the extent the Division deems disclosure or access necessary for such employees, agents or officials to

a. aid in any legal collection effort on unpaid accounts,

b. perform their duties under contracts or agreements between the Division and any other department, bureau, agency or subdivision of the City relating to the administration of the Business License Law, or

c. aid in determining whether a Division account is in compliance with all City, State and Federal laws or policies.

D. Officials, employees and agents of the Division or City, prior to the performance of duties involving access to financial information submitted to the Division under the terms of the Business License Law, must be advised in writing of the provision of Section 7.02.730 relating to penalties for the violation of Sections 7.02.230 and 7.02.255. Such employees, agents and officials must execute a certificate in a form prescribed by the Division, stating that the person has reviewed these provisions of law and is aware of the penalties for the violation of Sections 7.02.230 and 7.02.255.

E. Prior to any disclosures permitted by this Section, all persons described in Subsection A. above, to whom disclosure or access to financial information is given, must:

1. Be advised in writing of the provisions of Section 7.02.730 relating to penalties for the violation of Section 7.02.230; and

2. Execute a certificate, in a form prescribed by the Division, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of Section 7.02.230.

7.02.250 Taxfiler Representation.

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

7.02.255 Representation Restrictions.

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

A. No employee or official of the City may represent any taxfiler in any matter before the Division. The restriction against taxfiler representation continues for two years after termination of employment or official status.

B. Members of the Appeals Board, as described in Section 7.02.295 of the Business License Law can not represent a taxfiler before the Appeals Board. No member of the Appeals Board can participate in any matter before the Board if the appellant is a client of the member or the member's firm.

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

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

A. The Division may request information or examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license registration or tax return, or to make an estimate of any business tax. The Division has the authority, after notice, to:

1. Require the attendance of any person subject to the requirements of the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Division may designate;

2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and

3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.

4. Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.

B. The Director will designate the employees that have the power to administer oaths hereunder. Such employees must be notaries public of the State of Oregon.

C. The Division may require contact information, including but not limited to, business phone numbers and business email addresses for all officers and/or owners of businesses doing business in the City of Portland. This information may be used by the City for any lawful purpose.

7.02.270 Records.

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

7.02.280 Deficiencies and Refunds.

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

A. Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, ORS 314.415, and ORS 317.950. The Division may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.

B. Consistent with ORS 314.410 (4), in cases where no tax return has been filed, there is no time limit for a notice of deficiency and/or the assessment of taxes, penalty, and interest due.

C. Notwithstanding Subsections A. and B., the Division is not required to accept any tax return from a taxfiler if:

1. The Division obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and

2. The Division or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and

3. The tax return is for a taxable year that is the subject of the money judgment; and

4. The Division gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Division (or its designee) filed a lawsuit for those particular tax years.

7.02.290 Protests and Appeals.

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

A. Any determination by the Division may be protested by the taxfiler. Written notice of the protest must be received by the Division within 30 days after the Division mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Division must respond within 30 days after the protest is filed with either a revised determination or a final determination. The Division's determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Division's response may be extended by the Division for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the Division's deadline is extended.

B. Any final determination by the Division may be appealed by the taxfiler to the Business License Appeals Board (the "Appeals Board"). Written notice of the appeal must be received by the Division within 30 days after the Division mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler ("appellant") and include a copy of the final determination.

C. Within 90 days after the Division mails or delivers the final determination to the appellant, the appellant must file with the Appeals Board a written statement containing:

1. The reasons the Division's determination is incorrect, and

2. What the correct determination should be.

Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.

D. Within 150 days after the Division mails or delivers the final determination to the appellant, the Division must file with the Appeals Board a written response to the appellant's statement. A copy of the Division's response must be mailed to the address provided by the appellant within 10 days.

E. The Division must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Division may

present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.

F. Decisions of the Appeals Board must be in writing, state the basis for the decision and be signed by the Appeals Board Chair.

G. The decision of the Appeals Board is final as of the issue date and no further administrative appeal will be provided.

H. The filing of an appeal with the Appeals Board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the Appeals Board.

I. Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 7.02.290 A. through 7.02.290 H.. The taxfiler must file a written request with the Division detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Division must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 7.02.700 G., the Division may waive or reduce penalties in certain situations. If the taxpayer has requested that penalties be waived and the Division denies the taxpayer's request for this discretionary waiver of penalties, the taxpayer may request a conference with the Director (or designee) within 30 days of the date of the Division's notice of denial. If the conference with the Director results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Business License Appeals Board.

7.02.295 Business License Appeals Board.

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

A. A member of the public appointed by the City Auditor for a two year term that expires every even year.

B. A member of the public appointed by the elected official in Charge of the Division, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.

C. Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.

D. Appointments to the Business License Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.

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

7.02.300 Certificates of Compliance.

(Amended by Ordinance Nos. 183727, 187339 and 189389, effective February 21, 2019.)

A. Within 60 days of beginning business, the taxfiler must complete a registration form. The Division may issue or otherwise provide access to either an electronic or printed "Certificate of Compliance" upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year's tax filing the Division may issue or otherwise provide access to either an electronic or printed Certificate of Compliance indicating that the taxfiler is in compliance with the City's Business License Tax Law as of a particular date.

B. The City's issuance of a "Certificate of Compliance" does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.

C. A taxfiler is deemed to be doing business within the City within any fiscal year they receive income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

7.02.310 Duplicate Certificates of Compliance.

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

7.02.330 Account Merger or Division.

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

7.02.350 License Tax Year Term.

Each license tax year begins on the first day of the month in which a taxfiler became subject to the requirements of this Chapter. Each license tax year expires at the end of the applicable tax period on the basis of which the taxfiler computes net income under the

applicable laws of the State of Oregon imposing taxes on or measured by net income, not to exceed one year.

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:

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, 189017, 189261, 189389 and 189794, effective December 12, 2019.)

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.

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 tax established in Subsection A. above. The proceeds of this tax are dedicated to supplementing the funding of City of Portland street maintenance and safety and shall be deposited in a Street Repair and Traffic Safety Program of the Transportation Operating Fund where street repair and traffic safety expenditures are recorded.

1. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018 and January 1, 2019, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more Heavy Vehicles on streets owned or maintained by the City of Portland. For purposes of this tax, a Heavy Vehicle is any vehicle that is subject to the Oregon Weight-Mile Tax

pursuant to ORS 825.450 et seq. This tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year.

2. The minimum Heavy Vehicle Use Tax due for a tax year is $100. The minimum tax would be in addition to the $100 minimum tax described in Section 7.02.545, if applicable.

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.

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 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.

F. Clean Energy Surcharge applicable to Large Retailers with Retail Sales within the City. The following surcharge is imposed in addition to the tax established in Subsection A. above. The proceeds from this surcharge are to support the City of Portland's Climate Action Plan and shall be deposited into the Portland Clean Energy Community Benefits Fund.

1. Filing Requirement. All businesses with total gross income of $1 billion or more and Portland gross income of $500,000 or more, as reported on the Combined Tax Return per Section 7.02.610, shall file a schedule with their Combined Tax Return.

2. Imposition of Surcharge and Rate. Large Retailers shall pay a 1 percent surcharge on Retail Gross Revenue within the City. This surcharge is not a tax imposed directly on the purchaser (consumer). If a Large Retailer itemizes its cost of doing business for the purchaser (consumer), these amounts are still considered Retail Sales subject to the Clean Energy Surcharge.

3. Calculation of Retail Gross Revenue. In calculating the amount of Retail Gross Revenue for purposes of this Clean Energy Surcharge, a deduction from Retail Sales within the City is allowed for the following:

a. The amount of the Portland Business License Tax attributable to revenue subject to this surcharge, if any, paid to the city;

b. Retail Sales of Qualified Groceries;

c. Retail Sales of Qualified Medicine or Drugs;

d. Retail Sales of Qualified Health Care Services;

e. Retail Sales of Qualified Residential Garbage and Recycling Services; and

f. Retail Sales from the administration of Qualified Retirement Plans.

4. Effective Date and Penalties. The Clean Energy Surcharge will apply for all tax years beginning on or after January 1, 2019. Payments will be made consistent with the schedule required in Section 7.02.530. No underpayment interest for failure to make quarterly estimated payments for the Clean Energy Surcharge will be charged or imposed for the 2019 tax year. Thereafter, penalties and interest will be calculated separately from other taxes and surcharges as provided for in Sections 7.02.700 and 7.02.710.

7.02.510 Registration Form and Tax Return Due Dates.
(Amended by Ordinance Nos. 183727 and 187339, effective October 16, 2015.)

A. All persons subject to the requirements of this Chapter must register with the Division on a form provided or approved by the Division. Thereafter, taxfilers must file tax returns with the Division. The following timing requirements apply:

1. Registration forms must be filed within 60 days of the person beginning business in the City.

2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Division must conform to the due date under Oregon tax law.

B. The Division may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.

C. Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.

D. The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7.02.520 Quarterly Estimates.

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

7.02.530 Schedule for Payment of Estimated Tax.

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

A. One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and

B. One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and

C. One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and

D. The balance of the estimated tax must be paid on or before the 15th day of the twelfth (12th) month of the tax year.

E. Any payment of the estimated tax received by the Division for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated taxes due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

7.02.545 Tax Returns.

(Authorized by Ordinance No. 189389, effective February 21, 2019.) Each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of $100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

7.02.550 Presumptive Tax.

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

A. If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to $500 for every license tax year for which a tax return has not been filed.

B. Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than $500 per license tax year.

C. Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.

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, 189017 and 189389, effective February 21, 2019.)

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

1. For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed $80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the Owners Compensation Deduction will be indexed as described above.

2. For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed $90,500 per owner as defined in Subsections B., C. and D. below.

3. For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed $100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.

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 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. **Nondeductible Taxes and Surcharges.** 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. No deduction is allowed for the Clean Energy Surcharge.

H. **Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.

I. **Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.

1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.

2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.

3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.

4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.

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

7.02.610 Apportionment of Income.

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

A. "Jurisdiction to tax" occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer's business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.

B. "Business activity" means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.

C. In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler's business by a

fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.

D. In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:

1. Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.

2. Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.

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 Nos. 187339 and 189389, effective February 21, 2019.)

A. A penalty will be assessed if a person:

1. Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or

2. Fails to pay the tax when due.

3. The penalty under Subsection A. is:

a. Five percent (0.05) of the total tax liability, but not less than $5, if the failure is for a period less than four (4) months;

b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and

c. An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.

B. A penalty will be assessed if a person who has filed an extension request:

1. Fails to file a tax return by the extended due date; or

2. Fails to pay the tax liability by the extended due date.

3. The penalty under Subsection B. is:

a. Five percent (0.05) of the total tax liability, but not less than $5, if the failure is for a period less than four (4) months; and

b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.

C. A penalty will be assessed if a person:

1. Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than $100, by the original due date; or

2. Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.

3. The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than $5.

D. A penalty of $100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.

E. The Director may impose a civil penalty of up to $500 for each of the following violations of the Business License Law:

1. Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or

2. Failure to pay any tax within 60 days of the Division's original written notice for payment; or

3. Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Division's original written notice to provide the documents or information; or

4. Failure to fully complete any form required under this Chapter.

5. Failure to fully comply with the requirements of any section of PCC 7.02 unless such section has a separate penalty calculation.

F. The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Division gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.

G. The Division may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

7.02.710 Interest.

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

A. Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.

B. Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.

C. Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:

1. The total tax liability of the prior license tax year was less than $1,000; or

2. An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than $100, for the current license tax year was paid in accordance with Section 7.02.530; or

3. An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.

D. For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Division by the due

date of the fourth quarterly payment, the Division may use the prior year's tax liability if doing so will reduce the amount of interest owed.

E. For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.

F. Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.

G. Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Division, unless specifically provided for by written policy.

7.02.715 Payments Applied.

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

7.02.720 Interest on Refunds.

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

A. Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:

1. the original due date of the tax return, or

2. the date the tax return was filed or the refund was otherwise requested, or

3. the date the business tax was paid to the date of the refund; and

B. Any overpayments of taxes that are the result of an amended tax return being filed will be refunded with interest for each month or fraction thereof for the period beginning four (4) months after the date the taxfiler filed the amended tax return. This Subsection applies to tax returns that are amended due to a change to the federal, state, city or county tax return.

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

Anyone knowingly violating Section 7.02.230 may be punished, upon conviction thereof, by a fine not exceeding $500.00 or by imprisonment for a period not exceeding six (6)

months, or by both fine and imprisonment. Any City employee that is convicted will be dismissed from employment and is ineligible for holding any position of employment or office in the City for a period of five (5) years thereafter. Any agent of the City that is convicted is ineligible for participation in any City contract for a period of five (5) years thereafter.

7.02.800 Refundable Credit.

(Amended by Ordinance Nos. 187339 and 189389, effective February 21, 2019.) 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:

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 they are or have 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.

B. The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.

C. A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.

D. Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.

E. For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.

F. Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.

G. A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.

H. The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

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

A. Submit an application to the youth certifying agency that includes an intent to employ an eligible disconnected youth for an average of 25 hours per week and a minimum of 300 hours within four months.

B. Contact one or more qualified youth employment organizations for assistance in identifying youth, enrolling a specific youth in one of the qualified youth employment programs in order to pursue eligibility of the youth in the program, and/or seek assistance working with a youth to increase his/her opportunity for employment success.

C. Complete employee evaluations or conduct reviews of employees that fall under this program;

D. Report employment data for each youth to the participating qualified youth employment organization or the youth certifying agency.

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

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

A. Taxfilers may donate to "Work for Art" by either

1. paying a sum above what is owed for their City business taxes, or

2. by designating that all or some of any refund due to them be instead donated to "Work for Art."

B. To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.

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 Nos. 187339 and 189389, effective February 21, 2019.)

A. Any individual who intentionally accesses the Division's computer database without authorization will be fined:

1. $10,000 if the individual acquires any information regarding any business account found in the database;

2. $10,000 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. $10,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Division's computer database, and, as a result of such conduct, causes damage to the database.

B. Definitions. As used in this Section:

1. the term "Division's computer database" means computer application(s) used by the Division to calculate and store business and financial data collected under the authority granted by the Business License Law;

2. the term “loss” means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;

3. the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

7.02.860 First Year Adjustment Credit.

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

A. Any taxfiler that was assessed a “First Year Adjustment” fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.

B. If the amount of the credit cannot be determined from Division records, a rebuttable presumption exists that the credit amount is equal to the amount of the minimum fee payment due for the tax year in which the City assessed the “First Year Adjustment” fee. A taxfiler may present evidence to the Division showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.

C. Once the credit amount is determined, the Division will apply 100 percent of that amount towards tax payments due and owing for the 2008 license tax year. If that credit amount exceeds the tax amount due for the 2008 license tax year, the City will issue a refund for the difference or credit the overpayment forward to the next tax year if requested by the taxpayer.

7.02.870 Business Retention Credit for Qualifying Investment Management Firms.

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

A. An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of

1. $6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or

2. 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not

be carried forward to a succeeding tax year, except as provided in Subsection B.

B. For purposes of this credit, the "first tax year" would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either

1. The Investment Management Firm was not doing business in the City of Portland in the prior tax year or

2. The prior tax year began prior to January 1, 2009.

a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.

b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.

c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.

d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.

C. "Investment Management Firm" means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:

1. At least 90 percent of the firm's gross income for the tax year must consist of fees that are

a. Received from Diversified Investing Fund or from persons unrelated to the firm, and

b. Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).

2. At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.

3. A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner's Compensation Deduction in Section 7.02.600.

4. The firm was physically located within the City of Portland boundaries at the end of the tax year.

D. The terms "Diversified Investing Fund" and "Qualified Investment Securities" have the meanings as defined by Administrative Rule.

E. This credit is available for tax years beginning on or after January 1, 2009.

7.02.880 Youth Employment Credit Programs.

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

A. For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires otherwise.

1. **"Local Business"** means a business operating in the pursuit of profit, gain or the production of income that:

a. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and

b. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and

c. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland 's Business

License Law and the Multnomah County's Business Income Tax Law.

2. **"Non-exempt"** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

3. **"Tax Year"** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.

4. **"Youth Certifying Agency"** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.

B. Credits issued under a Youth Employment Credit program will have the following features:

1. Credits will be non-refundable;

2. There will be a maximum number of credits per tax year per program;

3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;

4. No individual credit will exceed $500; and

5. Credit certificates or letters will be provided by the Revenue Division to be attached to the tax return claiming the credit(s).

C. Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

7.02.881 Foster Youth Employment Opportunity Credit.

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

A. A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).

B. For each tax year, 25 non-refundable $500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.

C. To qualify for the credit, a business must:

1. Employ a certified foster youth.

a. If the foster youth is enrolled in an educational program, the youth must average 12 hours per week and must have worked at least 200 hours in a six month period; or

b. If the foster youth is not enrolled in an educational program, the youth must average 25 hours per week and must have worked at least 400 hours in a six month period.

2. Submit the following documentation no later than one month following the close of the tax year in which the credit is to be claimed. The documentation can be submitted at any time once the youth has worked sufficient hours to qualify for the credit.

a. A copy of the youth's DHS certification;

b. Sufficient summary payroll records that supports the average hours per week and total minimum hours required; and

c. Sufficient documentation of the school or other educational program where the youth was enrolled if claiming the credit based on Subsection 1.a. above.

3. The Revenue Division will issue either a credit certificate or credit letter authorizing the maximum credit(s) for the tax year.

7.02.882 Youth Career Readiness Credit.

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

A. A Youth Employment Credit, known as the Youth Career Readiness Credit, is available for tax years 2011 and 2012 as a pilot program with the goal to increase the number of students who graduate from high school "career-ready" by expanding the number of meaningful career-related learning experiences between the private sector and schools.

B. For purposes of the Youth Career Readiness Credit:

1. **"Career-Readiness"** involves three major skill areas: core academic skills and the ability to apply those skills to concrete situations in order to function in the workplace and in routine daily activities; employability skills (such as critical thinking and responsibility) that are essential in any career area; and technical, job-specific skills related to a specific career pathway. These skills have been emphasized across numerous pieces of research and allow students to enter true career pathways that offer family-sustaining wages and opportunities for advancement.

2. **"Career-Related Learning Experiences"** (CRLEs) are structured student activities in the community, the workplace or in the school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning and also help students to clarify career goals and usually take form as "Career Awareness Activities", "Career Exploration Activities" and "Career Preparation Activities".

3. **"Career Awareness Activities"** include workplace tours and field trips, career and job fairs and guest speakers.

4. **"Career Exploration Activities"** include job shadowing, informational and mock interviews, career mentoring and enterprise and community-based projects.

5. **"Career Preparation Activities"** include work experience, internships and apprenticeships.

6. **"CRLE Certifying Agency"** means the partner agency that has entered into an agreement or other memorandum of understanding with the City to act as the certifying agency for CRLE programs and will issue the credit certificate to each qualifying business program.

C. For each tax year, 75 non-refundable $500 credits are available on a first-come, first-served basis, to Local Businesses that provide substantial career-readiness activities to high school students. An individual business can claim credits for each separate career readiness activity, up to a maximum of four (4) credits. However, no more than two (2) credits can be claimed for Career Awareness Activities.

D. To qualify for the credit, a business must:

1. Provide a Career Awareness, Career Exploration or Career Preparation activities program with direct costs of more than $2,500 or in-kind value of more than $5,000.

2. The CRLE program being provided by the business must be certified by the CRLE Certifying Agency.

3. Complete the certified program as agreed to obtain the credit certificate from the CRLE Certifying Agency.

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.

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.

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.

E. "Seasonal Vendor" means a vendor operating in a temporary location and conducting limited, seasonal sales (including, but not limited to, Christmas trees and fireworks).

F. "Special Events Vendor" means a vendor operating in a temporary location and selling special event-related merchandise (including, but not limited to, sporting events).

7.03.040 License Required; Fees.

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

A. Temporary Structure Vendors and Special Events Vendors must pay $10 per day per vendor, not to exceed $100 per location.

B. Amusement Ride Operators must pay $10 per day per vendor and $10 per day for each ride operated.

C. Promoters and Production Companies must pay $25 per day.

D. Seasonal Sales Vendors must pay $10 per day for each location, not to exceed $100 per location.

CHAPTER 7.04 - ADMINISTRATION

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

CHAPTER 7.06 - LICENSE REQUIREMENTS & APPLICATIONS

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

CHAPTER 7.07 – PORTLAND CLEAN ENERGY COMMUNITY BENEFITS

(Chapter added by Measure 26-201 (approved at November 6, 2018 election); Amended by Ordinance No. 189389, effective February 21, 2019.)

Sections:

7.07.010 Findings.

A. The City of Portland has adopted a Climate Action Plan, which affirms the importance and value of local initiatives and community-based development to decrease carbon emissions, while also seeking to maximize the economic, social and environmental benefits of transitioning away from fossil fuels. In June 2017, in response to changed national priorities, the City reaffirmed the goals of the Climate Action Plan and established a new goal to meet 100 percent of community-wide electricity needs with clean renewable energy by 2035.

B. To meet the City's Climate Action Plan and 100 percent clean renewable energy goals there is an urgent need to fund and accelerate greenhouse gas reductions and energy efficiencies, especially in underserved communities.

C. Climate change has a disproportionate impact on the health and financial well-being of low income communities and communities of color.

D. To implement the Climate Action Plan and this Chapter, there is a critical need for more skilled workers. Members of historically disadvantaged groups, including women, people of color, and the chronically underemployed are under-represented in the skilled work force, and therefore offer an enormous untapped resource to meet the goals of the Climate Action Plan.

E. Large retail businesses are a significant contributor to carbon emissions. They encourage consumption of heavily packaged and non-recyclable products, have carbon intensive shipping, manufacturing, and supply chain practices, and share responsibility for generating a substantial portion of the City's overall greenhouse

gas emissions when customer traffic and facility operations are considered. These businesses have an inherent responsibility and the financial capacity to support the goals of this Chapter, and an incentive to remain in the City to engage in retail activities here.

7.07.020 Policy and Purpose.

(Amended by Ordinance No. 189794, effective December 12, 2019.)

A. Based on the findings set forth above, the purpose of this Chapter is to provide a consistent long-term funding source and oversight structure to ensure that the City of Portland's Climate Action Plan is implemented in a manner that supports social, economic and environmental benefits for all Portlanders, including the development of a diverse and well-trained workforce and contractor pool in the field of clean energy.

B. This Chapter requires large retailers (those with gross revenues nationally exceeding $1 billion, and $500,0000 in Portland) to pay a surcharge of 1 percent on gross revenues from retail sales in Portland, excluding basic groceries, medicines, and health care services, in accordance with Subsection 7.02.500 F.

C. Revenues raised through this business surcharge on Large Retailers will be deposited into a separate fund designated as the "Portland Clean Energy Community Benefits Fund." The money in this fund will be used to finance programs that meet the following priorities:

1. Clean Energy Projects.

a. Renewable energy and energy efficiency projects, with an emphasis on those that benefit low income individuals and that broaden access to energy efficiency and clean renewable energy infrastructure to low income communities and communities of color;

b. Regenerative agriculture and green infrastructure projects that result in sequestration of greenhouse gases and support sustainable local food production.

2. Clean Energy Jobs Training. Job training, apprenticeship programs, and contractor support initiatives that prioritize skills training and workforce development for economically disadvantaged and traditionally under-employed workers, including communities of color, women, persons with disabilities, and the chronically underemployed.

3. Priority will be given to programs that both reduce greenhouse gases and promote economic, social, and environmental benefits.

D. This Chapter creates a "Portland Clean Energy Community Benefits Committee ("Committee") made up of experts and community members to:

1. make funding recommendations to the Mayor and City Council; and

2. evaluate the effectiveness of the Fund in achieving the goals of this Chapter, as set forth in Subsection A.

7.07.030 Definitions.

Unless otherwise defined in this Section, terms that are defined in Portland's Business License Law, Chapter 7.02 of the Portland City Code, shall have the meanings provided therein.

A. "City" means the City of Portland.

B. "Clean renewable energy" means energy that is not produced from fossil fuels or nuclear power and which is produced from sun, wind, water, or other sources of renewable energy as identified by the City of Portland. In-river hydropower projects that harm or have the potential to harm salmonids or other aquatic species, or Native American or other communities that rely on such species shall not be appropriate for support under this Chapter.

C. "Energy Efficiency" means a measure of how efficiently an appliance, building, organization or country uses energy. Examples of projects designed to increase energy efficiency include, but are not limited to:

1. heating, lighting water and cooling efficiencies;

2. repairs to increase the performance of the building envelope;

3. community initiated energy plans;

4. energy storage; and

5. green building design.

D. "Greenhouse gas reduction projects" means a project implemented within the City of Portland that reduces emissions or the presence of carbon dioxide or other compounds that contribute to climate change.

E. "Greenhouse gas sequestration" means a project that involves long-term storage of carbon dioxide or other pollutants to mitigate or defer global warming. Examples include but are not limited to:

1. protections and restoration of urban tree canopy;

2. protection and restoration of greenspace and wetlands; and

3. agricultural practices that increase the capacity of the soil to store carbon, also referred to as "regenerative agriculture."

F. "Green infrastructure" means a project that uses vegetation, soils, and other elements and practices to restore some of the natural processes required to reduce greenhouse gases while also benefiting water quality and creating healthier urban environments. Examples include but are not limited to:

1. urban tree canopy;

2. green roofs;

3. greenspace protection;

4. bioswales; and

5. green streets.

G. "Program[s]" means an organized effort by a qualified non-profit organization to achieve greenhouse gas reduction outcomes in a framework that delivers the related social justice outcomes identified in this Chapter. The qualified non-profit can apply solely or in partnership with other non-profit entities, government entities or for-profit businesses. These programs will be the primary way funds collected under this Chapter are distributed from the City to achieve the goals of the Chapter.

H. "Non-profit organization" means any organization recognized by the Internal Revenue Service ("IRS") under Sections 501 and 521(a) of the Internal Revenue Code, in addition to other tax-exempt entities recognized by the IRS, such as schools.

I. "Regenerative agriculture" means farming and land management practices that reverse climate change by rebuilding soil organic matter and restoring degraded soil biodiversity.

7.07.035 Surcharge Collection and Enforcement.
(Added by Ordinance No. 189794, effective December 12, 2019.)

A. The Revenue Division of the City of Portland shall administer and enforce collection of the Clean Energy Surcharge. The Division may adopt rules as necessary to implement the goals and purposes of Subsection 7.02.500 F consistent with the processes provided in Section 7.02.210.

B. The Division shall within 6 months of November 6, 2018 prepare a list of businesses it is aware of that meet the definition of Large Retailer and notify such businesses of their obligations under Subsection 7.02.500 F.

C. The Division may recover all reasonable costs for such work from the Portland Clean Energy Community Benefits Fund and such costs will not be considered part of the Fund administrative cost cap.

D. Should any proceeds under Subsection 7.02.500 F. be deemed to constitute revenues described under Article IX, Section 3a, of the Oregon Constitution, those revenues shall be deposited in a Climate Transportation Investment Account to be managed by the Portland Bureau of Transportation. Such funds shall, consistent with the limitations in Section 3a, be used in a manner that promotes the goals of Section 7.07.040.

7.07.040 Portland Clean Energy Community Benefits Fund.
(Amended by Ordinance No. 189794, effective December 12, 2019.)

A. The proceeds from this Large Retailer business surcharge, after deducting the reasonable costs of administering and collecting the revenue, shall be placed in a special fund to be designated as the "Portland Clean Energy Community Benefits Fund" ("Fund").

B. Money in the Portland Clean Energy Community Benefits Fund shall be dedicated to the funding of the following, as described in more detail in Section 7.07.060:

1. Clean Energy Projects.

a. Renewable energy and energy efficiency projects, with an emphasis on programs that benefit low income individuals and that broaden access to energy efficiency and clean renewable energy infrastructure to low income communities and communities of color;

b. Regenerative agriculture and green infrastructure projects that result in sequestration of greenhouse gases and support sustainable local food production.

2. Clean Energy Jobs. Programs to increase access to and support for job training, apprenticeship programs and contractor support initiatives that prioritize skills training and workforce development for economically disadvantaged and traditionally under-employed workers, including communities of color, women, persons with disabilities, and the chronically underemployed.

3. Priority will be given to programs that both reduce greenhouse gases and promote social, economic and environmental benefits.

C. No more than 5 percent of the fund shall be spent on expenses associated with administering the fund once established. Specifically, the limitation will not apply to reasonably necessary expenses incurred through fiscal years ending June 2020, June 2021, and June 2022, while the program is being established and systems put in place for administering and collecting the surcharge and distributing funds.

D. The Fund shall be subject to a financial audit every year and a performance audit every 2 years, with the costs of any audit excluded from the 5 percent limitation for administrative expenses.

E. The Mayor and City Council shall generally accept the funding recommendations from the Committee. If the Mayor or Council determines that they will reject a funding recommendation, they shall provide the Committee with a written explanation of the decision.

7.07.050 The Portland Clean Energy Community Benefits Fund Committee.
(Amended by Ordinance No. 189794, effective December 12, 2019.)

A. There shall be established a "Portland Clean Energy Community Benefits Fund Committee ("Committee") made up of experts and community members to:

1. make funding recommendations to the Mayor and City Council; and

2. evaluate the effectiveness of the Fund in achieving the goals of this Chapter.

B. The Committee shall be made up of nine members who are residents of the City of Portland. Members shall be appointed by the Mayor for staggered 4-year terms, with the exception of the first Committee, which will have five members appointed for 4-year terms and four members appointed for 2-year terms.

C. For the first Committee, each City Council member (including the Mayor) may nominate a committee member who meets the qualifications set forth in Subsection D.3. Those five nominees, once appointed, shall then recommend four additional members to the Mayor for appointment. The Mayor shall appoint members consistent with the recommendations of each City Council member and the Committee, absent good cause. Thereafter, when a member resigns or their term expires, the Committee shall recommend a replacement member.

D. The Mayor shall appoint members of the Committee based on the following background and expertise:

1. The Committee shall reflect the racial, ethnic and economic diversity of the City of Portland. At least two members will be residents living east of 82nd Avenue.

2. Committee members shall have demonstrated commitment to furthering the goals of the City's Climate Action Plan and empowering historically disadvantaged groups, including women, people of color, people with disabilities, and the chronically underemployed.

3. At least one member of the Committee should have significant demonstrated experience in the following fields:

a. Residential renewable energy and energy efficiency projects;

b. Commercial renewable energy and energy efficiency projects;

c. Workforce development, job training and apprenticeship programs that are targeted at reaching historically disadvantaged groups;

d. Experience promoting minority-owned and/or women-owned businesses;

e. Sustainable local food production, green infrastructure and greenhouse gas sequestration; and

f. Financing tools that help make renewable energy and energy efficiency available to a broader spectrum of the public.

4. While Committee members may have experience in multiple fields, members with deep expertise in a single field will be encouraged in order to create a balanced Committee in which no one area of expertise dominates.

E. The Committee shall:

1. Establish and maintain a public website that includes the Committee's membership, meeting agenda, meeting notes, governance standards and policy statements.

2. Solicit applications for funding from qualified nonprofit organizations registered with the State of Oregon. Requests for proposals as well as applications shall be posted on the Committee's website.

3. Evaluate applications for funding to determine whether they meet the allocation priorities set forth in Section 7.07.060, and whether the applicant nonprofit organization has the capacity to implement the program and project as described and to ensure fiscal accountability.

4. Make recommendations for funding to the Mayor, consistent with the allocation priorities set out in Section 7.07.060. All applications and final recommendations will be posted on the Committee's website. If the Mayor or City Council reject a funding recommendation, then their explanation for that decision will be posted on the Committee's website.

5. Adopt a methodology to measure, track and report to the public, the Mayor, and the City Council the effectiveness of the programs in implementing the City's Climate Action Plan in a manner that supports social, economic and environmental justice, including developing a diverse and well-trained workforce and contractor pool in the field of energy efficiency, renewables, green energy initiatives generally. All fund recipients shall file a report tracking their success in meeting the stated objectives.

6. Adopt a workforce and contractor equity plan to ensure that the work funded by the Committee is being performed by historically disadvantaged groups, including measurable and ambitious goals for the training and hiring of historically disadvantaged groups, including women, people of color, people with disabilities, and the chronically underemployed and measurable goals for contracting with businesses owned or operated by such groups. In developing the plan and goals, the Committee shall consult with workforce and contractor equity stakeholders as well as incorporate appropriate best practices from City procurements. Progress in meeting these goals shall be prominently displayed on the Committee's homepage and, if goals are not being met, shall be the Committee's top priority to address.

7. Make recommendations to the City Council on changes to this law as necessary to ensure the effectiveness of this Chapter in achieving the stated goals of implementing the City's Climate Action plan in a manner that supports social, economic and environmental justice.

F. Staff within the Bureau of Planning and Sustainability shall assist the Committee as needed to initiate and begin implementation of the provisions of this Chapter. Once the Committee is appointed and a framework for implementing this Chapter is in place, the Committee may decide to either continue to utilize Bureau of Planning and Sustainability staff to support its work or hire its own program support staff. Staff costs shall be included the calculation of administrative expenses.

7.07.060 Funding Allocation Priorities.

A. The Committee shall allocate funds consistent with the goals of this Chapter and within the following allocation percentages to the extent possible:

1. Forty percent to sixty percent: Renewable energy and energy efficiency programs.

a. This category includes residential, commercial and school-based projects.

b. Programs broadening access to energy efficiency and renewable energy, such as community-initiated energy strategies and decentralized renewable energy, shall be a high priority.

c. At least one half of the projects under this Subsection should specifically benefit low-income residents and communities of color.

d. Funding agreements shall include terms to encourage rent stability including, but not limited to, provisions barring owners from using improvements funded by this Chapter as a basis for rent increases.

2. Twenty percent to twenty-five percent: Clean energy jobs training, apprenticeships and contractor support.

a. This category is intended to support non-profit programs that directly facilitate and promote job training, pre-apprenticeship programs, apprenticeship programs and contractor training and support that are primarily aimed at supporting economically disadvantaged and traditionally underrepresented workers in the skilled workforce (including people of color, women, persons with disabilities and chronically un-employed).

b. Programs supporting entry into union registered apprentice trades shall be a high priority.

3. Ten percent to fifteen percent: Regenerative agriculture and green infrastructure programs that result in sequestration of greenhouse gases.

a. This category is intended to reduce greenhouse gases by supporting sustainable local food production and green infrastructure programs that result in sequestration of greenhouse gases within the City.

b. Programs funded under this category should be designed to help demonstrate and promote the broader adoption of such practices, with a particular focus on low-income communities and communities of color.

4. Five percent: Future Innovation.

a. This category is intended to provide the Committee with flexibility to fund a project that does not directly fall under one of the other categories, but which provides an opportunity to further the goals of this Chapter.

B. In making funding decisions, the Committee shall consider the following:

1. Co-benefits: Whether a project prioritizes greenhouse gas reduction outcomes in a manner that promotes the economic, social and environmental justice outcomes identified in this Chapter.

2. Geographical diversity, with the goal of funding projects that operate at the neighborhood level (including east of 82nd Avenue) as well as citywide. The Committee may also consider providing support to neighborhood-scale organizations to develop and expand their organizational capacity to implement projects on a larger scale.

3. Organizational representation. To ensure that the City's work addressing climate change is inclusive as well as effective, at least 20 percent of the Committee's Funds shall be awarded to non-profit organizations with a stated mission and track-record of programs that benefit economically disadvantaged community members, including people of color, women, people with disabilities, and the chronically unemployed. The qualified non-profit can apply solely or in partnership with other non-profit entities, government entities or for-profit businesses.

4. Leveraging. Programs that would leverage additional governmental or private funding and therefore increase the overall program effectiveness should be priorities, but are not required.

5. If there are insufficient qualified applicants, funds may be held over to the following year.

6. If the Committee determines that the level of funding under any of these distribution categories is not meeting the climate or equity goals of the Chapter, the Committee may recommend that the City Council amend the Code to alter the allocation percentages.

C. Terms of Grants

1. U.S. made renewable energy products: Solar, wind, or other renewable energy systems purchases with monies provided by the Fund shall be predominantly manufactured in the United States unless a product meeting this criteria is unavailable or the cost is prohibitive.

2. Workforce and Contractor Equity Agreement. Recipients of Funds must agree to the Workforce and Contactor Equity Agreement developed by the Committee.

3. Family Wage Standards. Wage standards for projects funded by this Chapter shall be no less protective of workers than those contained in the State of Oregon's Energy Efficiency and Sustainable Technology Act, ORS 470.560(2)(g).

7.07.070 Severability Clause.

If any part, section or provision of this Chapter, or surcharge imposed pursuant to this Chapter is found unconstitutional, illegal or invalid, such a finding will affect only that part, section or provision of the Chapter and the remaining parts, sections or provisions shall remain in full force and effect.

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.)

CHAPTER 7.12 - FRANCHISES AND UTILITY PRIVILEGE TAX LAW

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

Sections:

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.

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.

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.

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.

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.

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.

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.)

A. **"Bureau"** means the Bureau of Revenue and Financial Services of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.

B. **"Cable Communications Utility"** means a business that provides cable service or telephone service to subscribers, including voice services delivered through the use of Internet protocol, through its own cable system or a cable system owned by another person.

C. **"Director"** means the Bureau Director.

D. **"Gross revenue"** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business, or any revenue earned by a Utility within the City from the use, rental, or lease of operating facilities, or any revenue earned within the City for supplying electricity or natural gas. Gross revenues do not include proceeds from:

1. The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or

2. Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, "public purpose charges" means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility's facilities within the City. "Public purpose" includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.

3. Revenues associated with Universal Service funding requirements under 47 U.S.C. § 254 (2012) or revenues associated with taxes for emergency communications under ORS Chapter 403 (2011).

4. The calculation of gross revenues for telecommunications utilities for purposes of the Utility License Fee shall not include revenues from any tariffed or non-tariffed charge or service applicable to any connection, circuit or equipment which brings an E9-1-1 call to the appropriate

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

E. **"Internet Service"** means a service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the internet or a proprietary subscriber network. "Internet service" includes provision of internet electronic mail, access to the internet for information retrieval, and hosting of information for retrieval over the internet or the graphical subnetwork called the world wide web. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

F. **"Licensee"** means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.

G. **"Public Safety Radio System"** means a radio system whose licensing and use of radio transmitters by state and local government and non-governmental entities is regulated by the Federal Communications Commission as engaged in public safety activities.

H. **"Telecommunications"** means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, laser, microwave, radio, or similar facilities, with or without benefit of any closed transmission medium, but does not include:

1. cable television services;

2. private telecommunications network services;

3. over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto;

4. direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;

5. services provided solely for the purpose of providing internet service to the consumer;

6. public safety radio systems;

7. mobile service within the meaning of 47 U.S.C. § 153(33) (2012) and

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:

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.

(Amended by Ordinance No. 189491, effective May 9, 2019.)

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. The Director shall have authority to arrange for and conduct audits for all amounts paid under Section 7.14, provided that only payments which occurred during a period of 3 years prior to the date the City notifies licensee of its intent to perform an audit shall be subject to such audit. The Director shall make all requests related to the audit in writing. The Director may determinate the scope of audit in each instance.

D. The Director shall have authority to issue an administrative subpoena for the purpose of collecting any information necessary to enforce any provision of this chapter.

1. The Director may inspect, examine, copy and audit 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 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 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 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.

3. 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 Business License Appeals Board within 30 days of the date of the notification letter 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.

4. In addition to the authority and procedures described in Subsections 1.-3., the Director shall have authority to issue administrative subpoenas for the purpose of collecting any information necessary to enforce any provision of this Chapter.

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.

(Amended by Ordinance No. 189491, effective May 9, 2019.)

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 Business License Appeals Board of the City as provided in Section 7.02.290 of this Code.

B. The filing of any notice of appeal shall not stay the effectiveness of the Director's determination unless the Business License Appeals Board 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,

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 licensees have been issued;

D. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular utility licensee quarterly reports;

E. The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Director deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau; or,

F. The release of such information in the filing of any legal action by or on behalf of the Bureau to obtain payment on unpaid license fees, interest and penalties, or to enforce any determination by the Director.

CHAPTER 7.16 - CHARITABLE SOLICITATIONS

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

CHAPTER 7.18 - LIQUOR LICENSE RECOMMENDATIONS

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

CHAPTER 7.22 - STREET AND SIDEWALK USE PERMITS

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

Sections:

7.22.010 Purpose.

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

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:

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.

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.

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

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

A. **"Director"** means the Director of the Portland Bureau of Transportation.

B. **"Dispatching facilities"** means the PPI tower's facilities used for communication with Tow Desk and maintaining radio contact with tow vehicles.

C. **"Oversized tow vehicle"** means a tow truck equipped to perform towing of automobiles or other vehicles, and which has a maximum gross vehicle weight rating (GVWR) of over 10,000 pounds. Vehicles with maximum GVWR of at least 19,000 pounds are designated as "Class B." Vehicles with maximum GVWR of at least 44,000 pounds are designated as "Class C."

D. **“Owners agent”** means a person bearing documentation from the registered owner officially authorizing them to possess or operate the vehicle.

E. **“PPI permit”** means the permit issued to a private towing company signifying that the permit holder has met the requirements of this Chapter and the administrative rules and is allowed to tow vehicles from private property within the City of Portland at the request of the private property facility owner/operator without prior consent of the vehicle owner.

F. **"PPI Police tow"** means any PPI tow that, upon notification to the local police agency, is found to have been reported stolen, or for any other reason becomes a police tow as defined in the Contract for Vehicle Towing and Storage of the City of Portland, or requires a police release.

G. **"PPI tower"** means any towing firm duly registered and permitted to perform Private Property Impound tows within the City of Portland.

H. **"Private parking facility"** means any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking. Private parking facility does not include “proscribed property.”

I. **"Private parking facility owner"** means the owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner authorized to enter into a PPI towing agreement with the tower.

J. **"Private Property Impound"** (PPI) means the impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee,

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

K. **"Proscribed property"** means any part of private property:

1. Where a reasonable person would conclude that parking is not normally permitted at all or where land use regulation prohibits parking; or,

2. That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling, or a duplex, or

3. Designated as railroad right-of-way.

L. **"Release at Scene"** (RAS) means the fee allowed to be charged when a vehicle owner/owner's agent returns before the PPI tower has departed in tow. Not applicable until the hookup is complete and tow truck is in motion.

M. **"Storage facility"** means a secure area, meeting all requirements of PPI administrative rules, used by PPI tower for storing towed vehicles.

N. **"Storing"** means holding a towed vehicle in an approved secure storage facility until it is redeemed by the registered owner/owner's agent or until a possessory lien is foreclosed.

O. **"Tow Desk"** means the private tow dispatching company contracted with the City of Portland for municipal tow dispatching and data management or any government agency serving this function.

P. **"Towing"** means to draw or pull along a vehicle by means of a tow truck or car carrier.

Q. **"Towing Agreement"** means an agreement between a PPI tower and a private property owner/operator authorizing the PPI tower to tow vehicles from their private property. Such agreement must contain all information specified in PPI administrative rules.

R. **"Towing Coordinator"** means the person designated by the Director to provide direct enforcement and administration of all provisions of this Section and PPI administrative rules.

S. **"Towing firm"** or **"PPI Tower"** means any entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

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,

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

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,

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,

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.

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.

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.

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

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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) The purposes of this Chapter 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) The If any provision of this Chapter 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 Chapter.

7.25.030 Definitions.

(Amended by Ordinance Nos. 186267, 186746 and 189333, effective February 1, 2019.) Except where the context requires otherwise, the following words and phrases have the definitions given in Section 7.25.030:

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

B. **"Boot"** means a mechanical device attached to a vehicle to prevent its movement.

C. **"Director"** means the Director of the Revenue Division of the Bureau of Revenue and Financial Services or a designee.

D. **"Operator"** means any person or entity whose business includes assessing and collecting penalties at Registered Facilities.

E. **"Park"** means to leave a vehicle standing, while the driver has exited the Registered 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 Facility.

G. **"Parking Fee"** means an amount collected in addition to the Penalty in pay and park facilities to compensate facility owners.

H. **"Payment Device"** means any device capable of accepting or receiving parking fee payments by cash or credit card and providing proof of payment.

I. **"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.

J. **"Penalty Payment Letter"** means the letter sent by the Operator to the last-known 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.

K. **"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.

L. **"Registered Facility"** means a parking lot or structure that is accessible to the public that has been registered with the Revenue Division and is either:

1. A non-pay private parking facility at which there is no charge for daily or transient parking, and parking or storage of vehicles is limited by time or authorization by the property owner/operator, and 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.

3. Registered Facility does not include property used for governmental purposes by any agency or special district if the agency or management of the special district performs their own enforcement of the parking policies on the property. If the agency or manager of the special district contracts with another entity to enforce parking policies, the property must be registered with the Revenue Division.

M. **"Second Penalty Payment Letter"** means the letter 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 Payment Letter.

7.25.040 Authorization.

(Amended by Ordinance No. 189333, effective February 1, 2019.)

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 Chapter. 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 Chapter 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 Division. Copies of all rules will be made available to the public upon request.

3. Notwithstanding Subsections 7.25.040 C.1. and 2., the Director may adopt an interim rule without prior public notice upon a finding by the Director that failure to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this Subsection will be effective for a period of not longer than 180 days.

7.25.050 Registration as the Operator of a Facility.

(Amended by Ordinance Nos. 186267, 186746 and 189333, effective February 1, 2019.) 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 Division:

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 Division. 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 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;

8. Warning, if an operator collects the Administrative Fee, that the 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 Revenue Division 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 Division's mailing address and website address for the Parking Penalty Notice Complaints webpage 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 Division must approve all notices and letters. If a proposed Penalty Notice or Penalty Payment Letter is rejected by the Division, 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 Division before they are implemented.

E. The Director shall reject any incomplete application.

7.25.060 Registration of a Facility.

(Amended by Ordinance Nos. 186746 and 189333, effective February 1, 2019.) No Operator shall assess any penalties at any facility unless it is registered with the Revenue Division.

A. Application. To register a facility with the Division an operator must submit:

1. A written request from the Operator that includes the facility's number (designated by the Operator) and the facility's location;

2. A drawing of the facility showing adjacent street names, facility entrances and exits, and location of Payment Devices;

3. A nonrefundable registration fee for each facility in an amount as required by Administrative Rule.

B. As a condition of registering a pay and park or non-pay private parking facility under this Chapter, the Operator shall hold the City of Portland and its officers and employees free and harmless, and shall defend and indemnify the City for any claims for damage to property or injury to person that may be occasioned by any work and/or services furnished or carried on under the terms of registration.

C. The Director shall inspect an Operator's facility following receipt of the written request for registration, the facility drawing, and the registration fee. If the Director determines that a facility complies with this Chapter's requirements, the Director will issue a registration certificate to the Operator for the facility. If the Director determines that the facility does not comply with this Chapter's requirements, the application will be denied and notice will be sent to the Operator that lists the requirements the facility failed to meet. If an application is denied, the Operator may resubmit the application without payment of additional registration fees at any time within 60 days of the notice date if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of registration fees may be made with respect to each facility. If upon such reapplication the registration is again denied, the Operator must file a new facility application accompanied by the required registration fee.

D. Facility registrations are valid from the date of issuance until the last day of that same month the following year.

E. Reporting Changes. Operators must notify the Director of any changes to the Operator's office location, contact information, and insurance provider prior to implementation of the change. Operators must also notify the Director of any changes to a facility that affect a Parker's use of the facility including, but not limited to, location of entrances and exits and location of a payment machine. Changed facilities must be reinspected before any Penalty Notices are issued.

F. Renewal. The Division 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) Payment Devices must be installed at pay and park facilities in locations convenient and accessible to all Parkers.

7.25.080 Signage Requirements.

(Amended by Ordinance Nos. 186267 and 189333, effective February 1, 2019.) 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.

Notwithstanding the requirements in Section 7.25.080, the Director may approve a location that is more than 10 feet from the entrance or is not within 2 feet of the property line due to physical characteristics of the property. The Director must give written approval of any exceptions before a sign is posted.

If vehicles are subject to being towed, the facility must comply with the signage requirements in Chapter 7.24 and the Administrative Rules for Towing from Private Property.

If a facility is subject to monitoring by a registered operator, the signs at the payment station or at the entrance of a non-pay facility must include a warning that the facility may be monitored.

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. at any facility where a Parker receives a printed receipt, that proof of payment must be displayed and clearly visible through the windshield; and

c. that vehicles parked without valid proof of payment or permit are subject to a Penalty.

The center of all signs required at the payment station must be at least 4 feet from the ground.

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; and

e. 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 and parking spaces are assigned to specific businesses, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.

C. Notwithstanding Subsections 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.)

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.

The Operator may assess and collect a Parking Fee in addition to the Penalty. Parking Fees must be paid by the Operator to the owner of the facility and must not exceed the maximum authorized by Administrative Rule.

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 assessed to vehicles described in Subsections 7.25.090 A. and B. 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.
(Amended by Ordinance No. 189333, effective February 1, 2019.)

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 or given to the Parker,

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 Nos. 186267 and 189333, effective February 1, 2019.)

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 last-known 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 Division if attempts to resolve any disputes with the Operator have been unsuccessful;

6. The mailing address of the Division and the website address for the Parking Penalty Notice Complaints webpage, and

7. A statement to the effect that the Division will only investigate complaints by Parkers regarding the issuance of a 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, provided that:

a. 10 days have elapsed since the Penalty Notice issuance;

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 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) 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 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 Facility. The notice must also state the total amount due for outstanding Penalties, the issue date and Registered 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 Division 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; or

D. The vehicle is parked at any of the Operator's Registered Facilities, and:

1. Within the previous 90-day 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 notices to the vehicle as provided for in this Chapter; and

3. The Operator requested the registered owner's name and address from the appropriate State licensing department but received invalid information due to a new owner failing to register the vehicle, or was not able to request information due to a State's restrictions on the release of registered owner information or because the license plate and/or vehicle identification number were unobtainable; and

4. 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, 186746 and 189333, effective February 1, 2019.)

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 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 Revenue Division and the address for the Parking Penalty Notice Complaints webpage and a statement that the Parker or registered owner of the vehicle may submit a written complaint to the Division 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.

8. If the Operator reported an unpaid Penalty to a credit agency, the Operator must notify the credit agency immediately upon voiding any Penalty.

B. Upon receipt of a complaint the Director shall conduct an investigation.

1. Upon a finding by the Director that there is a basis in Chapter 7.25 for the cancellation of Penalty, 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 Nos. 186267 and 189333, effective February 1, 2019.)

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 7.25.140 A., 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) 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.

(Amended by Ordinance No. 189333, effective February 1, 2019.) 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.

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

7.25.180 Appeals.

(Amended by Ordinance No. 189333, effective February 1, 2019.) 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.

(Repealed by Ordinance No. 189333, effective February 1, 2019.)

CHAPTER 7.26 - REGULATION OF PAYDAY LENDING

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

Sections:

7.26.010 Purpose.

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

7.26.020 Definitions.

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

A. "Borrower" means a natural person who receives a payday loan.

B. "Cancel" means to annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

C. "Director" means the Director of the Revenue Division.

D. "Payday Lender" means a "lender" in the business of making payday loans as defined in ORS 725.600.

E. "Payday Loan" means a payday loan as defined by state law.

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

7.26.030 Permits.

Within 60 days of the effective date of the ordinance enacting this Chapter, any Payday Lender operating in the City of Portland shall apply for and obtain a permit to operate as a Payday Lender. Permits shall 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

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

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

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

7.26.050 Payment of Principal Prior to Payday Loan Renewal.

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

7.26.060 Cancellation of Payday Loan.

A. A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:

1. Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and

2. Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

B. A Payday Lender shall disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

7.26.070 Payment Plan for a Payday Loan.

A. A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

B. A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals

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

C. After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

D. The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

E. The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for early payment on the payment plan.

F. A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Chapter. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Chapter.

7.26.080 Remedies.

A. Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Director may impose a civil penalty of up to $1,500.00 for a substantial violation of this Chapter or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

B. Civil penalties shall be payable to the City of Portland.

C. Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.

D. No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

7.26.090 Appeals.

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

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.

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, 189078 and 189795, effective December 12, 2019.)

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.

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, 2024. After December 31, 2024 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.

TITLE 17 - PUBLIC IMPROVEMENTS

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B. Upon written request of Portland Parks & Recreation, the Revenue Division 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 Nos. 181669 and 189244, effective November 7, 2018.) Refunds may be given by the Administrator in the following instances:

A. If the Administrator determines that there was a clerical error in the calculation of the SDC.

B. If the City has not expended SDC revenues within 10 years of receipt.

C. Upon request by the Applicant, when a building permit application is cancelled.

17.13.110 Dedicated Account and Appropriate Use of Account.

(Amended by Ordinance Nos. 181669, 189244 and 189687, effective October 4, 2019.)

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 as is hereinafter amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes which include, but are not limited to:

1. design and construction plan preparation;

2. permitting;

3. land and materials acquisition, including any costs of acquisition, stabilization, 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, or 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; and

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

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, the City may not spend, or allocate as a placeholder in the Parks and Recreation SDC Account for future spending, less SDC revenues for local-access parks within any SDC service Sub-Area than the total amount of SDC revenues collected for local-access parks within that Sub-Area.

D. The proportional breakdown of the Local Access portion to the Non-Local Access portion of the SDC fee is 43 percent to 57 percent.

17.13.120 Challenges and Appeals.

(Amended by Ordinance Nos. 174617 and 189244, effective November 7, 2018.)

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.

CHAPTER 17.32 - PUBLIC SEWER AND DRAINAGE SYSTEM PERMITS, CONNECTIONS AND MAINTENANCE

(Chapter replaced by Ordinance No. 186659; effective July 18, 2014.)

Sections:

17.32.010 Purpose.

This Chapter regulates access and connection to, and the use, construction, modification, maintenance, repair or removal of, components of the City sewer, storm sewer and drainage systems and their easements. This Chapter operates in conjunction with Chapter 17.38 to regulate the collection, conveyance and disposal of sanitary and stormwater discharges from public and private properties. This Chapter is administered by the Director of the Bureau of Environmental Services (BES).

17.32.020 Definitions.

(Amended by Ordinance No. 186902, effective December 26, 2014.) As used in this Chapter, the following definitions apply:

A. **"Building Sewer"** means that portion of the horizontal piping system that receives the discharge of building drains and extends to a public sewer, private sewer, private sewage disposal system, or other approved discharge point; and is located on private property.

B. **"Capacity"** means the flow volume or rate for which a specific facility is designed to safely contain, receive, convey, infiltrate, or reduce pollutants from sanitary

sewage, stormwater, wastewater, or other discharge in order to meet a specific performance standard.

C. **"City Storm Sewer and Drainage System"** means a City conveyance or system of conveyances, including but not limited to pipes, pumps, drainage ditches, constructed channels, groundwater-related disposal systems, underground injection control devices, stormwater management facilities, and storm drains, that are designed or used to collect and transport stormwater. "City storm sewer and drainage systems" does not include natural streams, creeks, ponds, lakes, a combined sewer, or part of a Publicly Owned Treatment Works, as defined in 40 CFR 122.2

D. **"Combined Sewer"** means a sewer designed to convey both sanitary sewage and stormwater.

E. **"Commercial or Industrial Occupancy"** means any structure or facility wherein preparation, processing, treating, making, compounding, assembling, mixing, improving, or storing any product or any solid, liquid or gaseous material for commercial or industrial purposes occurs, or wherein cleaning, processing or treating of tanks, vats, drums, cylinders or any other container used in transportation or storage of any solid, liquid or gaseous material for commercial or industrial purpose occurs.

F. **"Common Private Sewer System (also called Party Sewer)"** means that portion of a building sewer that:

1. Is not owned by the City of Portland;

2. Is used for draining more than one building under different ownership; and

3. Conveys the discharge to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal.

Common private sewers are found on private property and in private and public rights-of-way, including easements.

G. **"Connection"** means the connection of all sanitary waste and drainage disposal lines from all development on a property to the public sewer and drainage system.

H. **"Conveyance"** means the transport of sanitary sewage, stormwater, wastewater or other discharge from one point to another point.

I. **"Director"** means the Director of the Bureau of Environmental Services or the Director's designee.

J. **"Discharge Point"** means the connection point or destination for a discharge leaving a site.

1. The sewer or drainage improvement plans have been approved;

2. The final plat, with or without required signatures affixed, has been submitted to the Bureau Development Services;

3. The Bureau of Development Services has given written assurances that subdivision or planned unit development approval conditions have been or will be met;

4. All applicable easements outside the subdivision or planned unit development have been obtained, and

5. The applicant has complied with Section 17.32.050 of this Code.

6. The issuance of a BES public works permit in no way waives any requirements by the City or any other public agency that may be associated with the development of a plat or Planned Unit Development.

D. Persons wishing to utilize City design services must include payment of a deposit in an amount to be determined by the Director with the permit application. All deposits must be made before any City design work begins. BES will retain the deposit as compensation for the preparation of design and plans or for review efforts if:

1. A permit application or issued public works permit has had no action or communication for one year from the previous contact; or

2. A permit is not issued for the proposed improvement within one year from the time the design and plans are reviewed and completed.

3. If a public works permit is issued for the proposed improvement within one year from the time the design and plans are completed, the amount of the required deposit will be applied to the cost of the permit fee for such improvements.

E. In addition to the standard permit conditions of Section 17.32.050, public works permits must meet the following standard conditions:

1. The resulting public improvement must be located in a public easement or public right of way and will come under City control upon plat and easement recording with the County.

2. The permittee shall hold the City of Portland harmless in writing against any liability that may arise from or in connection with the permitted activity prior to any dedication of rights-of-way or recording of easements. The permittee must assume all risk of loss that may arise in the event the City or

any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of the permittee's improvements.

3. The permittee must, at the permittee's own expense, maintain any permitted City sewer or drainage improvement for a period of 24 months following the issuance of a letter of permit completion by the City Engineer. The warranty period ensures that workmanship and materials are not defective and that the improvement is operating properly. BES may extend the warranty period for any repairs, alterations or rehabilitations that needed to occur during the original warranty period.

4. Any drainage improvements made on private property and private or shared private/public facility systems allowed in a City right-of-way or easement will remain the maintenance responsibility of the private property owner as a condition of the approved permit and associated maintenance agreement unless accepted as a City maintenance responsibility by the Director.

5. All plats and easements must be recorded with the County prior to final acceptance of the public sewer or drainage improvements.

F. Acceptance of Improvements.

1. Notice of Construction Completion. During the course of construction, and before issuance of a letter of permit completion from the BES Chief Engineer or a certificate of completion from the Bureau of Transportation for joint projects, the BES Chief Engineer will inspect the sewer or drainage improvement and to determine if the improvements were constructed in compliance with the plans, specifications and conditions of the permit and if they meet City standards for quality of workmanship. The BES Chief Engineer will check the improvement for alignment and conformance with the established grade. Once this acceptance is garnered, the maintenance and warranty period will commence.

2. Certificate of Completion of the Maintenance and Warranty Period. All of the work required during the warranty period must be completed to the satisfaction of the Chief Engineer prior to completion certificate issuance and issuance of a warranty completion certificate accepting the improvement.

3. In the event the BES Chief Engineer does not accept a public sewer or drainage improvement within one year after completion of the warranty period, the permittee must remove the improvement and restore the public area to at least its prior condition or to the extent directed by the BES Chief Engineer or City Engineer at the permittee’s expense.

17.32.110 Permit and Review Fees.

Permit and review fees are described on the BES annual rate ordinance required by Chapter 17.36. BES may withhold issuance of any permit until applicable connection charges and review fees are paid in full. Multi-tiered permit fees may be applicable.

A. Access, Use and Encroachment Reviews and Permits. Sewer access, use and encroachment permit review fees will recover the cost of BES reviews including all applicable overhead and inspection charges.

B. Connection Permits. Connection permit review fees will recover the cost of all City reviews including all applicable overhead charges for review and inspection. Overhead rates are set annually by the Director.

C. Public Works Permits. Public works permit review fees recover the true costs of engineering and superintendence services in connection with public sewer or drainage improvement projects based on City records of time, materials, services, overhead and indirect costs incurred to provide the services. Public works permit and review fees recover the costs for all projects completing work whether performed by contract in the name of the City, by private contract between a permittee and a contractor, or directly by the permittee.

D. All fees must be paid prior to receiving a permit and commencing work.

E. BES may withhold a portion of permit fees and charges to cover costs associated with opening and reviewing a permit. Canceled connection, use, encroachment, proximity review and standard public works permits are generally not eligible for refund unless meeting the criteria set by the Director. Complex public works permits are eligible for refund of the applicable portions of the public works permit deposit not already spent on City design or review services.

17.32.120 Reimbursements for Work.

A. Backflow Device Reimbursement. A property owner may submit an application for partial reimbursement of the cost for installation of a sewer backflow device on a combined sewer line. To be eligible, the building or structure must be connected to the City combined sewer system and be in an area vulnerable to sewer backups, as determined by the BES Chief Engineer. All backflow devices installed pursuant to this Section will be owned by the building owner, who must assume the costs of maintenance, repair and replacement.

1. Backflow devices must be installed per Title 25, Plumbing Regulations.

2. As of July 1, 1996, if the reimbursement is approved, the building owner must pay the first $100 of the cost of such installation, and the City pays the next $1,500 of such costs. The building owner must pay any amount in excess of $1,600. Payment to the property owner of the City's share of the

expense is made upon the Bureau of Development Services' final inspection and the owner's submittal of the plumber's billing for the work.

3. City participation in the cost of installation does not guarantee or in any manner warrant any backflow device, nor does the City give any warranty that the device will prevent future flooding. The City does not assume any responsibility for damages incurred as a result of flooding subsequent to installation of any backflow device. The owner may look to a warranty or guarantee from the manufacturer of the backflow device or the installation contractor.

B. Sewer and Drainage System Extensions.

1. Payment for Extension. When a City sewer or drainage improvement is extended past or to properties, all property owners benefiting from the extension will be assessed a share of the anticipated cost of the extension based on either Local Improvement Districts as described in Chapter 17.08; or other charges as specified in Section 17.36.040.

2. Reimbursement for Extension. The property owner or developer paying for a sewer or drainage system extension that will serve unserved properties will be reimbursed by the City for part of the cost of such extension:

a. The amount of reimbursement for a sewer extension is limited to the amount of revenue that would be received from the line and branch charge established in Section 17.36.040 if, upon acceptance of the sewer by the City, all properties adjacent to and capable of receiving gravity service were to connect. The reimbursement will not exceed the cost of an equal length of 8-inch-diameter sewer line, as determined by the BES Chief Engineer.

b. The amount of reimbursement for a drainage improvement extension is limited to the cost to manage the drainage basin area drained to new facilities that will be accepted by the City for long term maintenance.

c. The reimbursement for any project will not exceed 50 percent of the amount budgeted by the City in any fiscal year, unless otherwise approved by the Director. The total reimbursement in any fiscal year must not exceed the amount budgeted for that purpose in that year; however funds may be committed against the next year's budgeted amount.

17.32.130 Inspections.

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations,

connections or for any other lawful purpose. This authorization includes but is not limited to inspection surveying, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.32.140 Enforcement.

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit for actions in Section 17.32.030, including failure to supply correct application materials;

2. Failure to comply with the conditions of a permit;

3. Failure to comply with the conditions of or prohibited access to a public sewer or drainage easement;

4. Failure to comply with a written directive or timeline of the Director made under authority of this Chapter;

5. Damage to or modification of a public sewer or drainage improvement; and

6. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, withholding of final inspection, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific

administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.32.150 Administrative Reviews, Appeals, and Compliance Cases.
(Amended by Ordinance Nos. 186902 and 189750, effective November 29, 2019.)

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.32.160 Conflict.
This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.32.170 Severability.

If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

CHAPTER 17.33 - REQUIRED PUBLIC SEWER CONNECTION

(Chapter replaced by Ordinance No. 183397, effective January 8, 2010.)

Sections:

17.33.005 Intent.

A. The intent of this Chapter is to:

1. Facilitate timely connection of individual properties to the public sewer system when a public sanitary sewer is available;

2. Facilitate the conversion of nonconforming private sewer systems to individual property connections along the route of service approved by the City; and

3. Provide for financial assistance to property owners required to make a new sewer connection.

B. The Bureau of Environmental Services (BES) shall identify the most appropriate means to construct public sewer improvements to facilitate sanitary sewer connections along approved routes of service based on factors that protect public health and safety, and minimize the financial impacts on the City's sanitary sewer utility and utility ratepayers. BES shall establish the criteria used to make system improvement decisions in administrative rules. Unless otherwise established, BES is responsible for administering the provisions of this Chapter.

17.33.010 Administrative Rules and Procedures.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.33.020 Definitions.

(Amended by Ordinance Nos. 185397, 186902 and 189750, effective November 29, 2019.) For the purpose of this Chapter, the following definitions and applicable definitions of Section 17.32.020 will apply:

A. **"Available Public Sewer"** means a public sewer that is within 100 feet or one-half block, whichever is less, of property to be served, without crossing another property to make the new connection, or such other conditions of availability as are established by administrative rule. In cases of onsite conveyance or disposal system failure, sewer shall be deemed available if within 300 feet.

B. **"Branch Sewer"** means the public portion of the horizontal piping system that connect from the plumbing system of a building or buildings to a public sewer.

C. **"Common Private Sewer System (also called Party Sewer)"** means that portion of a building sewer that:

1. Is not owned by the City of Portland;

2. Is used for draining more than one building under different ownership; and

3. Conveys the discharge to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal.

Common private sewers are found on private property and in private and public rights-of-way, including easements.

D. **"Connection"** means the connection of all sanitary waste and drainage disposal lines from all development on a property to the public sewer and drainage system.

E. **"Director"** means the Director of the Bureau of Environmental Services or the Director's designee.

F. **"Immediately Available Public Sewer"** means a public sewer to which a property can connect without further extension of the public system.

G. **"Owner-Occupant"** means an owner who uses the property as their primary residence. The individual who has the responsibility for assessments and is occupying the property will be considered the owner-occupant regardless of who holds the deed to the property. An owner who lived at the property before moving to a nursing home or similar facility is considered to be residing at the property if the property is not producing income.

H. **"Nonconforming Sewer"** means a private sanitary sewer that is:

1. Not on the same public or private property as the structure or structures being served by the sewer; and

2. Not located within a recorded sewer easement or subject to a recorded covenant for easement regarding use of the sewer and meeting the standards for easements specified in administrative rules.

I. **"Onsite Sewage Disposal System"** means a cesspool or the combination of a septic tank or other treatment unit and effluent sewer and absorption improvement

See Figure 13 at the end of this Title for graphical representation of these definitions.

17.33.030 Sewer Connection Mandated.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

A. **Applicability.** Properties having development that generates or may generate sanitary waste must decommission onsite sewage disposal systems and connect to the public sewer when:

1. The development is not completely connected to a public sewer system;

2. A public sewer is immediately available without the need for further sewer extension; and

3. A sewer branch has been provided to curb closest to the property line or property line.

B. **Timing.** Properties that meet these criteria must be connected to a public sewer within three years of when notice being sent to the property owner or legal title holder of the immediate availability of the public sewer system, the requirement to connect, and the time limit for connection. Four additional notices of the connection requirement will be sent at least 360, 180, 90 and 30 days prior to the date of the connection deadline.

C. **Location.** All connections shall be made along a route of service approved by the Director.

D. Any construction for which a building permit is required under the terms of Title 24 of this Code and which meets the requirements of Subsection A. above, shall connect to the public sewer system prior to the issuance of a final inspection report or Certificate of Occupancy by the authorized City agency.

E. Proof of the sewer connection shall be by documents of the City, by proof provided by the property owner, or development of physical evidence or inspection. The sufficiency or adequacy of any proof presented shall be left to the sole discretion of the Director.

F. Three (3) years from notification of the requirement to connect, a property that has not connected becomes connection delinquent and is subject to proceedings to compel connection to the public sewer system.

G. When property subject to the requirement imposed by this Section is sold and has less than 180 days remaining in the three-year connection period referred to above is sold, the new owner may enter into an agreement with the City to extend the time to connect to the public sewer system for 180 days from the date of the sale of the property. In the event a new owner elects to enter into an agreement, said election shall constitute a waiver of the right to the administrative review provided for in Section 17.33.100. As used herein, the term "sale" includes every disposition or transfer including the transfer of equitable title or legal title to real property.

17.33.040 Mandated Sewer Service Connection Charges.

(Amended by Ordinance No. 185397, effective July 6, 2012.) A property owner must pay or finance sanitary sewer system development charge and, if not previously assessed, sewer line and branch charges collectively known as sewer connection charges described in Chapter 17.36 prior to the issuance of sewer connection permits. Property owners may elect to pre-pay sewer connection charges no more than 5 years before availability of public sewer.

Only one agreement per property may be entered into under the terms of this subsection. As used herein, the term "sale" includes every disposition or transfer including the transfer of equitable title or legal title to real property.

17.33.050 Converting Nonconforming Sanitary Sewer Connections.

(Amended by Ordinance No. 185694, effective November 23, 2012.)

A. Applicability. A property using a nonconforming sewer must convert to a conforming sewer connection when a public sewer is available. The new connection must be made along a route of service approved by the Director. In addition, when a public sewer is extended into an area, the City may request that property owners in the area who are not required to connect nevertheless, volunteer to participate in the Nonconforming Sewer Conversion Program regardless of their distance from the new sewer.

B. Exemption. The Director may exempt properties with nonconforming sewer connections from the requirement to convert to a conforming sewer connection if:

1. The Director determines that conversion of a nonconforming connection to a conforming connection would have detrimental effects on public health or safety or the environment; or

2. Other circumstances exist justifying exemption as identified in BES administrative rules.

C. Timing. The City requires property owners to convert or abandon a nonconforming sanitary sewer connection within 180 days of the date on the notice of sewer availability. All individual sewer connections shall be made in conformance with the Sewer and Drainage Facilities Design Manual. The City will provide written notice to all affected property owners at 180, 90, and 30 days prior to the conversion

deadline. The Director may choose to delay enforcement of this deadline for a property where a connection would be unreasonably technically difficult, a public sewer is not immediately available or substantial financial hardship would result.

17.33.060 Required Sanitary Sewer Conversion Charges.

(Amended by Ordinance No. 185694, effective November 23, 2012.) Property owners must pay the sanitary sewer conversion charges as required by Chapter 17.36 at the time the City provides a new sewer connection or when the property owner requests a permit for a new conforming sewer connection. A property owner can elect to pay or finance conversion charges and connection costs as required in Chapter 17.36 and associated program administrative rules. Council adopts sanitary sewer conversion charges annually as part of the BES rate ordinance.

A. Timing. Property owners must pay or finance sewer conversion charges prior to the issuance of permits required by Chapter 17.32. BES will assess sewer conversion charges based on the sewer conversion rates in effect at the time of connection.

B. Relationship to Special Assessments for Local Improvement Districts. BES will apply the following conditions to the calculation of special assessments for local improvement districts organized for the purposes of this Section:

1. The estimated special assessment roll will be limited to the amount of the sanitary sewer conversion charges as established in the annual BES rate ordinance.

2. In the event that a benefited property owner paid or financed branch fees or sanitary sewer conversion charges prior to the preparation of the estimated special assessment roll as provided in this Section, BES will establish a zero assessment for the benefited property.

3. BES will pay to the LID Construction Fund the difference between the final total costs of each local improvement district organized for the purposes of this Section, and the sum of estimated assessments that were established at the formation of the district.

4. To the greatest extent practicable BES will refund property assessments in the event that the total actual costs of the local improvement district are less than the sum of sanitary sewer conversion charges calculated for the benefited properties, taking into account the following:

a. BES will apportion the difference to each affected property in proportion to the property's share of the sum of sanitary sewer conversion charges paid, financed or incorporated into the local improvement district special assessment roll.

b. The final assessment roll will reflect the apportionment based on the actual project costs.

c. Where a property owner paid or financed the sanitary sewer conversion charge prior to the notice of estimated assessment, BES will determine the most administratively efficient method to refund or credit the apportioned difference allocated to the property. Any refund or credit will be provided to the current equitable title holder of the property at the time the Council adopts the final assessment roll for the local improvement district.

17.33.070 Deferrals of Required Sewer Connections.

(Amended by Ordinance No. 185694, effective November 23, 2012.) A deferral of the requirement to connect to a public sewer may not exceed five years, although it may be renewed based on a re-evaluation of eligibility, and it does not transfer with the sale or transfer of property. The property remains subject to the requirements of this Chapter following termination of the connection deferral. Eligibility criteria vary for the Mandatory Sewer Connection and the Nonconforming Sewer Conversion programs. Deferral requests will be considered on the following, as described more fully in program administrative rules:

A. Mandatory Connection. Deferrals may be granted for the following:

1. Applicant-based criteria. These include financial, medical or other hardship criteria related to the property owner; and

2. Property-related criteria. These are based on hardship conditions related to the property and the work required to complete the sewer connection.

B. Nonconforming Sewer Conversion. The Director may defer conversion to conforming sewer connections according to criteria established in administrative rule.

17.33.075 Financial Assistance for Required Sewer Connection.

(Amended by Ordinance No. 185397, effective July 6, 2012.) The City shall provide financial assistance in the form of loans for both Mandated Sewer Connection and Nonconforming Sewer Conversion programs to eligible property owners based on administrative rules and procedures adopted by the Director. The Director shall offer a variety of loan instruments to meet specific property owner needs. Applicants may request financing assistance for the following costs:

A. Sewer connection work performed on private property to decommission existing onsite conveyance and disposal systems and make new approved sewer connections.

B. Connection fees charged by the City as described in Section 17.36.040.

17.33.080 Declaration of Nuisance.

(Amended by Ordinance No. 186902, effective December 26, 2014.) Any property not connected to a public sewer system as required by Section 17.33.030, Section 17.33.050, or Subsection 17.32.070 C. is hereby declared a nuisance and subject to abatement or correction as provided for in Section 17.33.100. The Director is authorized to take steps necessary to abate such a nuisance, including abatement work in public rights-of-way or easements, authority to order remediation on private or public property, or to expend City funds to abate the nuisance. The Director is further authorized to charge the responsible parties for all costs of the abatement effort. The Director will establish the procedures and forms to be used to notify property owners about sewer system availability and connection delinquencies. Costs of nuisance abatement may be assessed as a lien against property as provided in this Code.

17.33.090 Abatement by Owner.

(Amended by Ordinance No. 189750, effective November 29, 2019.) The owner of a connection delinquent property shall have 20 business days from the date of the Notice to Remove Nuisance to file documentation of the removal or abatement of the nuisance or to file a written request for an administrative review of the bureau's determination that a nuisance exists. Following notification of the administrative review and determination by the Director, the property owner may file a written request for an appeals hearing by the Code Hearings Officer as set forth in Title 22 of this Code, unless appeal is limited by administrative rule.

17.33.100 Connection Enforcement.

(Amended by Ordinance Nos. 185397, 186902 and 189750, effective November 29, 2019.)

A. The City shall attempt to resolve issues with affected property owners within BES to the extent possible. The following enforcement steps shall be used:

1. Administrative Review. A property owner who receives a Notice to Remove Nuisance for a property that the City suspects is not connected to a public sewer system as required by Section 17.33.030, 17.33.050, or Subsection 17.32.070 C. of the City Code may requires an administrative review with BES staff to give the requestor the opportunity to present evidence that a nuisance does not exist and to determine if agreement can be reached concerning the timing and actions to achieve a conforming connection to the public sewer. An effected property owner may request a modification of a BES decision related to this Chapter via an administrative review, unless administrative review is limited by administrative rule. If an affected property owner does not pursue an administrative review within the time frame set by Section 17.33.090 of the City Code, BES shall issue its final determination setting forth the requirements and deadline to connect and finance or pay for fees. Failure of the property owner to meet this deadline shall be deemed a violation of this Chapter.

2. Final Determination. The BES final determination shall be the substantive decision for City program code compliance proceedings before the City Code Hearings Officer pursuant to Title 22 of the City Code. BES shall submit information addressing the following facts:

a. The subject property has one or more on-site structures with plumbing facilities that require sanitary waste disposal pursuant to State Plumbing Code or related City Code.

b. The subject property is not fully connected or has a nonconforming connection to the City sewer system.

c. The subject property has direct access via an intended route of service to a branch, or other component of the City sewer system abutting a property line or a permanent easement acquired for the benefit of the property.

d. The deadlines described in the sewer availability notice, notice of connection deferral and/or the Notice to Remove Nuisance have expired without full compliance with the sewer connection requirement.

e. The property owner does not have a current sewer connection deferral.

B. If the nuisance described in the notice has not been removed or information is not provided establishing that such nuisance does not exist, the City may apply for an order authorizing the City to access private or public property to abate the nuisance. The order will include the terms and requirements for abatement by the Code Hearings Officer. The Code Hearings Officer has discretion to modify connection dates, required actions by property owners, and types and timing of City abatement activities.

1. The City will maintain an accurate record of all expenses incurred, including an overhead charge of 26 percent, an administration fee for each occurrence as specified in the administrative rules, sewer user charges and permit fees, which shall be assessed as a lien on the property in accordance with the provisions of Chapter 22.06.

2. It is unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City whenever they are engaged in the work of connecting a property to the public sewer or removing or abandoning an existing sewage disposal system under an abatement order of the Code Hearings Officer.

3. Neither the City nor any of its officers, employees, contractors, agents, or authorized representatives are liable for any damage to the real property,

improvements or personal property due to the non-negligent enforcement or administration of this Chapter.

C. Except as provided elsewhere in this Title or when the public welfare is endangered; BES may at its discretion withhold any service that is provided by BES from the owner(s) (or the owner's agent) of connection delinquent property. This may include but is not limited to refusal to accept application for permits for development on property of the said owner(s) other than the connection delinquent property. Withholding of other services may continue until the connection delinquency has been corrected.

D. The City may seek, in any court of competent jurisdiction, a judgment against the person or property failing to connect to a sewer in accordance with the provisions of this Chapter. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and connection charges as determined by the Director or Code Hearings Officer.

17.33.110 Actions before the City Code Hearings Officer.

(Amended by Ordinance Nos. 185694, 186902 and 189750, effective November 29, 2019.)

A. Code Compliance Hearings. Any property owner who fails to comply with this Chapter or the Mandatory Sewer Connection or the Nonconforming Sewer Conversion Programs administrative rules (ENB-4.18 and ENB-4.27, respectively) may be summoned to code compliance hearing before the City Code Hearings Officer per Title 22. The Code Hearings Officer is authorized to order compliance with City sewer connection regulations, including site entry to physically connect sewer systems.

B. Property Owner-Initiated Appeals. A property owner may initiate an appeal to the Code Hearings Officer after exhausting administrative review of any BES decision related to this Chapter that is subject to administrative review. Availability of administrative review by BES and appeal to the Code Hearing Officer may be limited by administrative rule.

17.33.130 Notice Sufficiency.

For purposes of this Chapter, notice shall be deemed to have been received upon the mailing of said notice by first class mail or upon delivery of the notice in person. An error in the name of the owner or agent of the owner or the use of a name other than that of the true owner or agent for the property shall not render the notice void.

17.33.150 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 word, definition, 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. In the event a definition

is held to be invalid or is severed, the defined word or term shall be deemed to have the meaning given to that word or term under Oregon law if Oregon law contains such a definition. If there is no established definition of the word or term under Oregon law, the word or term shall have its ordinary dictionary meaning. It is hereby declared to be the Council's express legislative intent that this Chapter would have been adopted had such an unconstitutional or otherwise invalid provision not been included herein.

or requirements of this Chapter, administrative rules or in other cases where the Director determines that the imposition of mass limitations is appropriate.

C. The Director may authorize the use of equivalent concentration limits in lieu of mass limits for certain industrial categories, and allow the conditional use of equivalent mass limit in lieu of concentration-based limits where appropriate.

D. Termination or limitation. Notwithstanding prior acceptance into the City sewer system of industrial wastewater, if the Director finds that industrial wastewater from a particular commercial or industrial occupancy or a class of similar occupancies cause or may cause damage, interference, hazard or nuisance to the City sewer system, City personnel or the receiving waters, the Director may limit the characteristics or volume of the industrial wastewater accepted or may terminate acceptance. Notice of the limitation or termination shall be given in writing to the occupant of the property or posted on the property involved, and shall specify the date when the limitation or termination is to be effective. It is unlawful for any person to discharge or permit the discharge of industrial wastewater in violation of this notice.

17.34.050 Pretreatment and Pollution Control Required.

(Amended by Ordinance Nos. 185397, 186902 and 189506, effective June 21, 2019.)

A. The Director may require dischargers to install treatment facilities or make structural modifications to their facilities or equipment, or make operation changes, process modifications, or take other measures to protect the City sewer system, to comply with requirements of this Chapter or any applicable state or federal requirements. The Director may require that such actions be taken within the shortest reasonable time. Compliance deadlines will be based on construction time and the confirmed or potential impact of the untreated industrial wastewater on the City sewer system. Such structures and site modifications must be reviewed and approved by the Director to determine sufficiency.

B. Any requirement of this Chapter may be incorporated as a part of an industrial wastewater discharge permit issued under Section 17.34.070 or any other enforcement document and made a condition of issuance of such permit or discharge authorization for the industrial wastewater from such facility.

C. Plans, specifications and other information relating to the construction or installation of required pretreatment facilities and source control measures must be submitted to the Director. A permit or permit review may be required. No construction or installation may commence until written approval of plans and specifications by the Director is obtained. No person, by virtue of such approval, will be relieved of compliance with other local, state or federal laws relating to construction and permits. Every facility must be constructed in accordance with the approved plans and specifications and installed and maintained at the expense of the discharger.

17.34.060 Accidental Spill Prevention and Control.

(Replaced by Ordinance No. 185397, effective July 6, 2012.)

A. Notification. Any person becoming aware of spills or uncontrolled discharges of hazardous or toxic substances or of substances prohibited under Section 17.34.030 directly or indirectly into the City sewer system must immediately report such discharge by telephone to the Director and to any other authorities required under other local, state, or federal laws or regulations.

B. Written notice. Within 5 days following an accidental discharge as described in Subsection A. above, the discharger shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification will not relieve the discharger from any fines, civil penalties, or other liability which may be imposed under the authority of this Chapter or rules adopted hereunder or other applicable law.

C. Posted notice. A notice informing employees of an industrial wastewater discharger of the notification requirement above which contains information regarding reporting in the event of such a discharge shall be posted in a conspicuous place and shall be visible to all employees who may reasonably be expected to observe such a discharge.

D. Preventive measures. Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of hazardous or toxic substances or of substances prohibited under Section 17.34.030 to enter the City sewer system must be eliminated or labeled and controlled so as to prevent the entry of wastes in violation of this Chapter. The Director may require the discharger to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial wastewater discharge permit or as a condition of discharge authorization to the City sewer system. A schedule of compliance shall be established by the Director for completion of required actions within the shortest reasonable period of time. Inability to comply with this schedule without an extension of time by the Director is a violation of this Chapter.

E. Accidental Spill Prevention Plans.

1. Dischargers that handle, store or use hazardous or toxic substances or substances prohibited under Section 17.34.030 on their sites shall prepare and submit to the Director an Accidental Spill Prevention Plan, according to the requirements set out in administrative rule, within 60 days after notification by the Director or as required by an industrial wastewater discharge permit.

17.34.070 Industrial Wastewater Discharge Permits.

(Amended by Ordinance Nos. 165068, 172879, 185397, 189506 and 189750, effective November 29, 2019.)

A. Requirement for a permit. Except as provided in Subsection 17.34.070 B. an industrial wastewater discharger must have an industrial wastewater discharge permit prior to discharging into the City sewer system if:

1. The discharge is required to be permitted under procedures contained in the City's approved pretreatment program; or

2. The discharger is a Significant Industrial User, which includes:

a. All industrial users subject to Categorical Pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

b. Any other industrial user that:

(1) Discharges an average of at least 25,000 gallons per day or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater);

(2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6),

3. The Director may determine that an industrial user meeting the criteria above is not a "Significant Industrial User" if the discharge has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6).

B. Existing discharges.

1. If discharges occur prior to the date that an industrial wastewater discharge permit is required, the discharger shall be notified in writing by the Director that such a permit is required. Such existing dischargers shall be allowed to continue discharging into the City sewer system without an industrial wastewater discharge permit until a permit is issued or denied, provided the discharger files a completed environmental survey and application for an industrial wastewater discharge permit within 90 days of receipt of the notice.

2. Discharges that require an industrial wastewater discharge permit and are allowed to continue discharging without such a permit under Subsection 17.34.070 B.1. shall comply with the requirements of this Chapter and rules adopted hereunder.

C. Application for industrial wastewater discharge permit.

1. Existing Significant Industrial Users, shall submit application for a permit on a form provided by the Director within 180 days after the effective date of a categorical pretreatment standard issued by the U.S. EPA or within 90 days after receiving notification from the Director that such a standard has been issued, whichever is sooner.

2. New Source Dischargers. Any new source discharger determined by the Director to be a Significant Industrial User shall submit an application for a permit on a form provided by the Director within 90 days of notification by the Director. However, a new source discharger may not discharge to the sewer system without a permit.

3. Submission of the application for permit required by this Section will satisfy the requirements of 40 CFR 403.12(b).

4. The application for permit shall not be considered complete until all information required by the application form, requirements of this Chapter, or by administrative is provided. All fees must be paid and the certification statement required by 40 CFR 403.12(b)(6) signed by the authorized representative. The Director may grant specific exemptions for these items.

D. Issuance of industrial wastewater discharge permits.

1. Industrial wastewater discharge permits shall be issued or denied by the Director within 90 days after a completed application is received, unless that period is extended in writing by the Director for good and valid cause.

2. Industrial wastewater discharge permits shall contain conditions which meet the requirements of this Chapter, administrative rules and applicable state and federal laws and regulations.

3. If pretreatment facilities are needed to meet the applicable pretreatment standards or requirements in an industrial wastewater discharge permit, the permit shall require the installation of such facilities on a compliance schedule.

4. Whenever an industrial wastewater discharge permit requires installation or modification of pretreatment facilities or a process change necessary to meet discharge standards or spill control requirements, a compliance schedule shall be included which establishes the date for installation of the

pretreatment facilities or process changes. The compliance schedule may contain appropriate interim dates for completion of specified tasks. Compliance dates established in a permit cannot exceed federal categorical deadline dates.

5. Industrial wastewater discharge permits shall expire no later than 5 years after the effective date of the permit and shall not be transferable except with prior notification and approval from the Director.

6. The Director may deny the issuance of an industrial wastewater discharge permit if the discharge could result in violations of local, state or federal laws or regulations; cause interference or damage to any portion of the City sewer system; or create an imminent or potential hazard to human health or the environment.

E. Modification of permits.

1. An industrial wastewater discharge permit may be modified for good and valid cause at the written request of the permittee or at the discretion of the Director.

2. Permittee modification requests shall be submitted to the Director and shall contain a detailed description of all proposed changes in the discharge. The Director may request any additional information needed to adequately review the application or assess its impact.

3. The Director may deny a request for modification if they determine that the change will result in violations of local, State or federal laws or regulations, will cause interference or damage to any portion of the City sewer system, or will create an imminent or potential hazard to human health or the environment.

4. If a permit modification is made at the direction of the Director, the permittee shall be notified in writing of the proposed modification at least 30 days prior to its effective date and informed of the reasons for the changes.

F. Change in a permitted discharge. A modification to the permittee's discharge permit must be issued by the Director before any significant increase is made in the volume or level of pollutants in an existing permitted discharge to the City sewer system. Changes in the discharge involving the introduction of a wastewater not previously included in the industrial wastewater discharge permit application or involving the addition of new pollutants shall be considered new discharges, requiring application under Section 17.34.070.

G. Renewal of Permits. A permittee shall apply for renewal of its industrial wastewater discharge permit at least 90 days prior to the expiration date of the existing permit. Upon timely application for renewal, an existing permit will remain effective until the renewed permit is issued or denied.

H. Administrative review and appeal of permit or permit modification. Upon receipt of an industrial wastewater discharge permit or permit modification, a permittee may request administrative review of any of its terms or conditions in accordance with provisions established in this Chapter and its associated administrative rules. After a permittee has exhausted BES administrative review, a permittee may appeal any of the permit's terms or conditions to the Code Hearings Officer in accordance with procedures set out at Chapter 22.10 of the Portland City Code. Administrative review by BES and appeal to the Code Hearings Officer may be limited by administrative rule.

17.34.075 Other Sanitary Discharge Permits or Authorizations.

(Added by Ordinance No. 180037, effective April 28, 2006.) The City may require authorization for any discharge to the sanitary or combined sewer of materials that violate the discharge prohibitions listed in 17.34.030.

A. Authorization may take the form of a written authorization for an intermittent or ongoing discharge. Authorization may also require the adherence to management practices to reduce pollutant releases associated with the authorized discharge

B. Dischargers may be required to provide:

1. Evaluation of the proposed discharge, including: sampling, prior to being granted authorization to discharge.

2. Adequate information and access to the location or process creating the discharge, to allow the City to fully evaluate any pretreatment needs for authorizing the discharge.

C. The City may require pretreatment for any discharge to the City's sewer system, including but not limited to requirements specified in 17.34.050.

D. Non-compliance with these requirements is subject to the enforcement steps specified in 17.34.110 and in the associated Sanitary System Discharge administrative rules.

17.34.080 Inspection and Sampling.

(Amended by Ordinance No. 185397 and 186192, effective September 6, 2013.)

A. Inspection.

1. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential

violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or other type of agreement. The City may install on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.

2. Entry Protocols.

a. The BES representative will present a City photo identification card at the time of entry;

b. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

B. Sampling.

1. Samples of wastewater being discharged into the sewer system must be representative of the discharge. Other sampling locations may be required by permit. All sampling and analyses shall be performed in accordance with the procedures set forth in 40 CFR Part 136 and any amendments thereto or with any other test procedures approved by EPA. If there are no approved test procedures the Director may approve other analytical procedures. The results of all samples taken shall be reported.

2. Samples taken by City personnel for the purpose of determining compliance with the requirements of this Chapter or administrative rule may be split with the discharger, or a duplicate sample provided in the instance of fats, oils and grease, if requested by the discharger before or at the time of sampling.

C. Sampling manhole or access. The Director may require an industrial wastewater discharger to install and maintain at the discharger's expense a suitable monitoring access such as a manhole in the discharger's branch sewer to allow observation, sampling and measurement of all industrial wastewaters being discharged into the City sewer system. Any monitoring access must be constructed in accordance with plans approved by the Director and must be designed so that flow measuring and sampling equipment can be conveniently installed. Access to the monitoring access must be available to City representatives at all times.

17.34.090 Reporting Requirements.

(Replaced by Ordinance No. 185397, effective July 6, 2012.)

A. Periodic compliance reports.

1. The Director may require reporting by industrial wastewater dischargers that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

2. The Discharger must submit reports to the Director during the months of June and December, unless required on other dates or more frequently by the Director based on the nature of the effluent over the previous reporting period.

3. The report must include a record of the mass and concentrations of the permit-limited pollutants that were measured. Reports shall include a record of all flow measurements taken at designated sampling locations. The Director may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that actual measurement is not feasible. Additional information shall be included as required by this Chapter or administrative rules.

4. The Director may require self-monitoring by the discharger or, if requested by the discharger, may agree to have BES staff perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Section.

B. Final Compliance Report. Any discharger subject to Subsection 17.34.090 A. must submit to the Director a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow in gallons. The report must state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and pretreatment is necessary to bring the discharger into compliance. The discharger must submit reports.

1. Within 90 days following the date for final compliance with applicable pretreatment standards and requirements set forth in this Chapter, administrative rule, or an industrial wastewater discharge permit; or

2. If the discharger is a new source discharger, within 30 days following commencement of the introduction of wastewater into the City sewer system by the discharger.

C. The discharger shall certify and sign all applications, reports, and reporting information in accordance with 40 CFR 403.12.L and 403.6(a)2(ii);

D. Confidential information.

1. Any records, reports or information obtained under this Chapter or administrative rule will be available to the public or any governmental agency without restriction, unless classified by the Director as confidential. In order to obtain a confidential classification on all or part of any records, reports or information submitted, the discharger must:

a. Submit a written request to the Director identifying the material that is desired to be classified as confidential and;

b. Demonstrate to the satisfaction of the Director that records, reports or information or particular parts thereof, are exempt from disclosure pursuant to the Oregon Public Records Law.

2. Effluent data, as defined in 40 CFR 2.302, submitted pursuant to this Chapter shall not be classified as confidential.

3. Records, reports or information or parts thereof classified as confidential by the Director will not be released or made part of any public record or hearing unless such release is ordered by the District Attorney or a court of competent jurisdiction; provided, however, such confidential information will, when required by law or governmental regulation, and upon written request, be made available to state or federal agencies having jurisdiction, duties or responsibilities relating to this Chapter, the National Pollutant Discharge Elimination System or applicable Oregon laws and regulations.

F. Notification of Hazardous or Toxic Substance Discharge. An industrial user shall notify the Director in writing of any discharge into the sewer system of a substance which, if otherwise disposed of, would be a hazardous waste or toxic substance. Such notification shall be in accordance with the requirements of rules adopted pursuant to this Chapter.

G. Notification of Violation. An industrial user shall report noncompliance with permit limits within 24 hours of becoming aware of the noncompliance. The industrial user shall repeat the sampling and analysis and submit results to the Director within 30 days of becoming aware of the violation.

H. Notification of Changed Discharge. All industrial users shall promptly notify the Director in advance of any substantial change in the volume or character of pollutants in their discharge.

17.34.110 Enforcement.

(Replaced by Ordinance Nos. 186192, effective September 6, 2013.)

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit when required for discharge, including failure to supply correct application materials;

2. Failure to comply with the conditions of a permit;

a. Exceedances of discharge limits. Each pollutant discharge that exceeds a discharge limit is considered a separate violation;

3. Discharges prohibited by PCC Section 17.34.030;

4. Failure to comply with a written directive or timeline of the Director made under authority of this Chapter;

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15); and

6. Where a discharge causes interference or pass through, the discharger may have a valid affirmative defense if it is demonstrated that:

a. The discharger did not know or have reason to know that the discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

b. The discharge was in compliance with properly developed local limits prior to and during the pass through or interference; or

c. If a local limit designed to prevent pass through or interference has not been developed for the pollutants that caused the pass through or interference, the discharge:

(1) Occurred prior to and during the pass through or interference; and

(2) Did not change substantially in nature or constituents from prior discharge activity which was regularly in compliance with the requirements of this Chapter and associated rules.

B. Significant Non-compliance. Any significant industrial user or any other discharger who violates the criteria described in 3, 4, 5 or 9 of this Subsection will be considered to be in significant non-compliance with this Chapter for one or more of the following:

1. Chronic violations of wastewater discharge limits. Chronic violations occur when at least 66 percent of all of the measurements taken during a 6-month period exceed any pretreatment standard for the same pollutant parameter.

2. Technical Review Criteria (TRC) violations. TRC violations occur when at least 33 percent of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the pretreatment standard multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease; and 1.2 for all other pollutants except pH).

3. Any other violation of any pretreatment standard that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

4. Any discharge of a pollutant that has caused imminent danger to human health, welfare or to the environment.

5. Any discharge that requires the Director to use emergency authority to halt or prevent discharge.

6. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

7. Failure to provide, within 30 days after the due date, required reports such as applications, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

8. Failure to accurately report noncompliance.

9. Any other violation or group of violations that the Director determines will adversely affect the operation or implementation of the local pretreatment program.

C. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

D. Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Failure to pay a civil penalty within 30 days following a final determination regarding the penalty is grounds for permit revocation or termination of the permittee's discharge. Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

E. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15. Failure to pay costs related to a civil penalty or summary abatement within 30 days following a final determination is grounds for permit revocation or termination of the permittee's discharge.

F. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

G. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

H. Termination or prevention of a discharge or permit revocation.

1. The Director may terminate or prevent a discharge into the City sewer system or revoke an industrial wastewater discharge permit if:

a. The discharge or threatened discharge presents or may present:

(1) A danger to human health or welfare or the environment; or

(2) Potential interference with the operation of the City sewer system;

b. The permit to discharge into the City sewer system was obtained by misrepresentation of any material fact or by lack of full disclosure;

c. The discharger violates any requirement of this Chapter or an industrial wastewater discharge permit; or

d. Such action is directed by a court of competent jurisdiction.

2. Notice of termination of discharge or permit revocation will be provided to the discharger or posted on the subject property prior to terminating the discharge or revoking a permit.

a. In situations that do not present an imminent danger to health or the environment or an imminent threat of interference with the sewer system, the notice will:

(1) Be provided in writing;

(2) Contain the reasons for the termination of the discharge or permit revocation;

(3) Contain the effective date of City action;

(4) Contain the duration of the termination;

(5) Provide contact information of a City contact;

(6) Be signed by the Director; and

(7) Will be received or refused at the business address of the discharger no less than 30 days prior to the effective date of termination.

b. In situations where there is an imminent danger to human health or welfare or the environment or an imminent threat of interference with the operation of the sewer system, the Director may immediately terminate an existing discharge, prevent a new discharge, or revoke a permit after providing informal notice to the discharger or after posting such notice on the subject property. Informal notice may be verbal or written and will include the effective date and time and a brief description of the reason. Within 3 working days following the informal notice, a written formal notice as described in Subsection 17.34.110 H.2.a. will be provided to the discharger.

3. The Director may reinstate an industrial wastewater discharge permit that has been revoked or may reinstate industrial wastewater treatment service upon clear and convincing proof by the discharger of the elimination of the noncompliant discharge or conditions creating the threat of endangerment or interference.

I. Annual Publication. A list of Significant Industrial Users that BES considers to be in significant non-compliance with this Chapter shall be published annually in the

newspaper of general circulation in Portland, summarizing the enforcement actions taken against industrial users during a prior twelve month period.

17.34.115 Requests for Reconsideration.

(Replaced by Ordinance No. 186192; Amended by Ordinance Nos. 186902 and 189750, effective November 29, 2019.) Administrative Review and Appeal. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

17.34.120 Records Retention.

(Amended by Ordinance Nos. 172879 and 185397, effective July 6, 2012.) All dischargers subject to this Chapter shall retain and preserve for no less than 3 years all records, books, documents, memoranda, reports, correspondence and summaries relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. This period of retention may be extended per 40 CFR 493.12(o)(2) when requested by the Director, DEQ, or EPA during the course of any unresolved litigation regarding the discharger. The discharger shall retain and preserve all records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City until all enforcement activities have concluded and all appeals deadlines have expired.

17.34.130 Conflict.

(Amended by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all other ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.34.140 Severability.

(Amended by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word, or Section of this Chapter or associated rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters shall not be affected and shall continue in full force and effect.

17.34.150 Fees.

(Amended by Ordinance Nos. 173138, 173414, 181846 and 185397, effective July 6, 2012.)

A. The Director shall set annual fees by ordinance for all industrial wastewater discharge permits. The Director shall consider: process wastewater discharge flow; industrial user classification; permit status (new or renewed); self monitoring frequency; city monitoring frequency; regulatory history and any regulatory permits or special requirements.

B. Permit fees. Fees for each fiscal year are set July 1 and billed as soon after the following January 1 as is practical.

C. The Director shall also have authority to set fees for all non-routine, non-domestic batch discharges to the sewer system. Service fees for such discharges not otherwise addressed in an industrial wastewater discharge permit shall be calculated at a rate per occurrence, in addition to other applicable charges. The rate shall be established, annually, by general ordinance.

17.34.160 Requests for Reconsideration.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

CHAPTER 17.35 - SEPTAGE DISCHARGE

(Chapter added by Ordinance No. 143978, effective July 1, 1977.)

Sections:

17.35.010 Definitions.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) As used in this Chapter the following definitions apply:

A. **"Columbia Boulevard Wastewater Treatment Plant (CBWTP)"** means the City of Portland's wastewater treatment plant located at 5001 N. Columbia Boulevard, Portland, Oregon.

B. **"Director"** means the Director of the Bureau of Environmental Services or the Director's designee.

C. **"Holding tank"** means a tanks with no drain field which is required to be pumped out on a regular basis.

D. **"Operator in charge"** means the operator in charge, hereafter referred to as "operator," is the designated operator on duty at the Columbia Boulevard Wastewater Treatment Plant or other designated location who supervises and directs any discharge of septage.

E. **"Septage"** means domestic wastes in a tank or container such as chemical toilets.

F. **"Tri-County Area"** means the area within Multnomah, Clackamas and Washington Counties.

17.35.020 Permits Required.

(Amended by Ordinance Nos. 166674, 182760 and 185397, effective July 6, 2012.) Only those persons possessing a valid septage discharge permit issued from the City of Portland will be allowed to discharge septage at the Columbia Boulevard Wastewater Treatment Plant (CBWTP).

A. Permits shall authorize discharges for one year, unless a shorter time frame is authorized by the Director.

B. The City shall issue permits for the discharge of septage at CBWTP after receipt of the following:

1. A Septage Discharge Permit Application form;

2. A copy of a valid sewage disposal service license issued by the DEQ;

3. A current DEQ Sewage Pumping Equipment Description/Inspection form for each vehicle identified on the permit;

4. A performance guaranty as described in 17.35.060 of this Chapter;

5. A copy of insurance coverage at or above those levels required by the Oregon Public Utility Commission;

6. Effective July 1, 1994, a certificate of completion, or the ability to receive such certification within 30 days of permit approval, by applicant personnel at the City of Portland's "Septage Hauler Training Class." Personnel of an approved septage hauler shall attend the City's Septage Hauler Training Class. The class will inform haulers about the City's Septage Receiving Program and the operational process at CBWTP. Certification renewals may be requested on an annual basis and shall be required upon request of the Director or when permittee personnel changes occur.

7. The City shall impose appropriate conditions in permits to ensure compliance with requirements of this Chapter.

C. No provision of this Section shall be construed to create any right to the disposition of septage at a City facility inconsistent with the public interest of the City.

17.35.030 Septage Discharge Limitations.

(Amended by Ordinance Nos. 166674 and 185397, effective July 6, 2012.) The City will accept discharge of septage at the CBWTP that originates within the Tri-County area and is subject to the provisions of this Chapter.

A. Discharge of process waste from commercial and industrial locations is prohibited.

B. Unauthorized discharge of septage into the sewer system within the jurisdiction of the City or the Tri-County area is prohibited.

C. The City will have full authority to refuse a load, limit the amount of discharge and/or establish necessary restrictions on discharge under the following conditions:

1. Unacceptable acidic or alkaline strength or corrosive properties;

2. Septage is from a non-approved source;

3. Failure to supply complete, accurate and verifiable septage information;

4. Operator observed inconsistencies between certified contents and actual contents;

5. Operational or capacity limitations at CBWTP. Loads will be rejected during wet weather events.

17.35.040 Reserved.

17.35.050 Reserved.

17.35.060 Performance Guaranty.

(Amended by Ordinance No. 166674, effective June 23, 1993.) Each applicant, except governmental agencies shall post a performance guaranty in a form including but not limited to a surety bond, penal bond, performance bond, irrevocable letter of credit, pledge of assets, or other form which shall be approved by the City Attorney. The amount will be determined by the conditions of the permit and the number and capacity of the applicant's vehicles. Minimum coverage shall be $10,000. All changes in personnel and equipment shall be reported to the City within 30 days. The value of the performance guaranty shall be forfeited to the City under any of the following conditions:

A. The discharge of septage in violation of 17.35.030;

B. The discharge of septage at unauthorized locations in the Tri-County area (or the City of Portland);

C. Effective July 1, 1994, failure to make timely payment, pursuant to 17.35.090 B, of charges billed under this Chapter. (Forfeiture of guaranty up to amount of overdue charges only, after notice of intent to demand payment from guarantor.)

17.35.070 Fee Schedule.

(Amended by Ordinance Nos. 156500, 160886, 162109, 165136, 166674, 167692, 168857, 170190, 171224, 172288, 173414, 175620, 176524, 177530, 178449, 179274, 180189, 181006 and 181846, effective July 1, 2008.)

A. Discharge permit holders are subject to the following septage discharge fees:

1. Annual Discharge Permit Fee. Fees are to be paid on an annual basis at time of permit application.

2. Discharge Rates. Each delivery received at the plant is subject to discharge rates, which will be applied to full tank capacity of the delivery vehicle. The plant may accept partial loads on a pre-approved basis. Measurement disputes between septage haulers and City personnel will be resolved by a process established by the Director.

3. After-Hours Fee. Deliveries received at the plant outside of normal business hours are subject to an after-hours fee.

B. Septage discharge fees and rates are adopted, annually, by general ordinance to establish sewer and drainage rates and charges.

17.35.080 Collection and Billing.

(Amended by Ordinance Nos. 166674 and 181483, effective January 18, 2008.) The operator is directed to provide one copy of the load certificate to the permittee, retain two copies of each load certificate executed by permittee, and to convey one copy of each load certificate to the office of the City as may be required by the Office of Management and Finance.

The City shall mail a monthly statement of account to each permittee. Failure to pay the amount shown within 30 days of the date of billing shall result in imposition of interest fees, as named in Title 5, Section 5.48.040, on the amount past due.

17.35.085 Inspections.

(Added by Ordinance No. 186192, effective September 6, 2013.)

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.35.090 Revocation/Amendment of Permit.
(Repealed by Ordinance No. 186192, effective September 6, 2013.)

17.35.100 Protection of the Public Interest.
(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.35.110 Enforcement.
(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a septage hauler permit;

2. Failure to comply with training requirements;

3. Discharge of wastes violating Section 17.35.050;

4. Failure to pay discharge fees or provide a performance guarantee; or

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15)

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.35.120 Revocation or Amendment of Permit.

(Added by Ordinance No. 186192, effective September 6, 2013.) All septage discharge permits issued to an applicant by the City may be revoked for any of the following reasons:

A. Failure to accurately certify the source of a load of septage prior to discharge.

B. Failure to pay all charges for discharge within 60 days of billing by the City.

C. Any act that is named as a cause for forfeiture of the performance guaranty, as outlined in Section 17.35.060.

D. Septage permits may be amended for the following reasons:

1. A change occurs in a permittee's operations that affect the applicability of this Chapter's provisions.

2. The amendment is required by the applicable State or Federal laws or regulations.

17.35.130 Administrative Reviews, Appeals, and Compliance Cases.

(Added by Ordinance No. 186192; Amended by Ordinance Nos. 186902 and 189750, effective November 29, 2019.)

A. Administrative Review and Appeal. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.35.140 Conflict.

(Added by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.35.150 Severability.

(Added by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

CHAPTER 17.36 - SEWER USER CHARGES

(Chapter replaced by Ordinance No. 185870,
effective February 22, 2013.)

Sections:

17.36.010 Intent.

This Chapter governs the collection of sewer user charges by the Bureau of Environmental Services (BES) as authorized by the City Charter. It also includes collection processes applicable to other charges assessed by BES.

17.36.020 Definitions.

(Amended by Ordinance Nos. 186902, 187926 and 189506, effective June 21, 2019.) The following definitions apply to this Chapter:

A. **"Billing Error"** means an instance in which a calculation used by the City for billing is not consistent, in the determination of the City, with adopted City Code and Administrative Rules for billing sewer volume and stormwater management charges.

B. **"Biochemical Oxygen Demand (BOD)"** means the quantity of oxygen utilized in the biochemical oxidation of organic matter per Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136.

C. **"Branch"** means the public portion of the horizontal piping system connecting from the plumbing system of a building or buildings to a public or private sewer.

D. **"Branch Charge"** means a connection charge that reimburses the City for the costs of designing and constructing a public sewer extension and providing individual service laterals.

E. **"Connection Charge"** means a charge assessed by the City for providing public sewer and stormwater management services to a property. A connection charge may include a line charge, branch charge, sanitary sewer system development

charge, and a stormwater system development charge. Connection charges are for use or expansion of use of City sanitary or stormwater management services.

F. **"Director"** means the Director of the Bureau of Environmental Services or the Director's designee.

G. **"Equivalent Dwelling Unit (EDU)"** means the estimated average sanitary flow from a single-family dwelling charged to a sewer account.

H. **"Extra Strength Charge"** means the additional charge to wastewater dischargers who have constituent discharges at concentrations above levels normally expected in domestic wastewater, as determined by this Chapter and general ordinance.

I. **"Groundwater"** means subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater.

J. **"Groundwater Discharge"** means a discharge of water pumped or directed from the ground. Groundwater discharges include but are not limited to subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

K. **"Impervious Area"** means the area of a property that does not allow rainwater to percolate naturally into the ground.

L. **"ITE Manual"** means the manual used per Section 17.15.020 to determine transportation system development charges.

M. **"Line Charge"** means a connection charge that reimburses the City for the costs of designing and constructing sanitary sewer lines that serve multiple connecting properties.

N. **"Net New Impervious Area"** means the difference between existing impervious area on a property, and any increase in impervious area that results from a proposed use(s) of the property.

O. **"Net New Vehicular Trips"** means the difference between the vehicular trips generated by the existing use of a property, and any increased number of the vehicular trips generated from a proposed use(s) of the property.

P. **"Non-Routine Discharge"** means a definable/explainable uncontrolled release or spill to the sanitary sewer system that is not representative of the normal or expected characteristics of a facility's wastewater discharge and that may include discharges defined as slugloads under Chapter 17.34.

Q. **"Rate"** means the multiplication factor used to generate a connection or user charge based on cost-per-unit proxies such as gallons of discharge, square feet, or feet of road frontage. Rates can be multiplied by other factors

R. **"Ratepayer"** means a person who has the right to possession of a property and:

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.

S. **"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.

T. **"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.

U. **"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.

V. **"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.

W. **"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.

X. **"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.

Y. **"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.

Z. **"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.

AA. **"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.

BB. **"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.

CC. **"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.

DD. **"Transportation SDC Study"** means the transportation system development methodology established by Chapter 17.15.

EE. **"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, 189050, 189323, 189506 and 189750, effective November 29, 2019.) 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.

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.

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 charge rate as established by City Council and 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. Owners of flag, oddly shaped or landlocked properties must pay at least a minimum line charge based on an assumed minimum lot size of 1,200 square feet.

2. Non-Residential Property. The line charge is based on the charge rate as established by City Council and 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 away from the property. Owners of flag, oddly shaped or landlocked properties must pay at least a minimum line charge based on an assumed 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.

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.

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 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 Mass Shelters, Short-term Housing, and certain Accessory Dwelling Units. Mass shelters, short-term housing, and 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 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.

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.

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.

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:

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 of 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.

(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 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.

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 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 Nos. 187926 and 189506, effective June 21, 2019.)

A. The Director may authorize 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 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 Bureau 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.

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 Administrative Review and Appeal.

(Replaced by Ordinance No. 186403; amended by Ordinance Nos. 186902 and 189750, effective November 29, 2019.) A ratepayer, property owner or owner's agent may request modification of a BES decision related to this Chapter as described in this Chapter via administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may appeal a BES decision to the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

D. **Access to Eligible Property.** For the purpose of administering this code chapter, the Director or other workers authorized by the Director may, with consent from the property owner or occupant and upon production of proper identification, enter upon the land or premises of eligible property. The purpose of such entry is to survey a downspout to determine whether it is connected, to provide technical assistance regarding proper disconnection, to disconnect downspouts, to correct or otherwise fix disconnected downspouts, to reconnect downspouts that do not meet program standards, or to inspect downspouts which have been disconnected.

E. **Ownership of private stormwater systems.** The property owner shall own the new private stormwater management system and be responsible for ensuring that the new private system is properly maintained and operated.

F. **Reconnection of disconnected downspouts at participating properties**.

1. Property owners in mandatory program areas are prohibited from reconnecting to the combined sewer unless the City determines that the disconnection poses a threat to health, safety or property and approves the reconnection. Homeowners must contact the Downspout Disconnection Program if they believe reconnection is necessary.

2. Property owners in the voluntary area must contact the Downspout Disconnection Program if they plan to reconnect their downspout(s).

17.37.040 Disconnection Procedures.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.37.050 Disconnection Reimbursement.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.37.080 Program Enforcement.

(Amended by Ordinance No. 189750, effective November 29, 2019.) Any property whose downspouts have not been granted an exception and remain connected to the combined sewer system in violation of Subsection 17.37.030 B.3. is hereby declared a nuisance and subject to abatement or correction. Whenever the Director believes such a nuisance exists, a notice shall be posted on the property directing that the nuisance be abated or corrected. The City retains the right to take any or all of the following enforcement actions if the property owner or their agent fails to abate this nuisance:

A. **Summary abatement.** If the property owner or their agent continues to ignore or refuses to abate the declared nuisance, the City reserves the right to obtain an order from the City Code hearings officer to summarily abate the nuisance on subject property. The City shall attempt to bill the property owner for the costs of disconnection from the combined sewer.

B. Civil Remedy. The City shall have the right to obtain, in any court of competent jurisdiction, a judgment against the person or property failing to disconnect from the combined sewer in accordance with the provisions of Section 17.37.030. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and other charges as determined by the Director.

C. Court Action. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter.

D. Withholding of BES Services. Except as provided elsewhere in this Title or when the public welfare is endangered; the Bureau of Environmental Services may at its discretion withhold from the owner(s) (or the owner's agent) of disconnection delinquent property as defined in Section 17.37.030, any service that is provided by the Bureau. This may include, but is not limited to:

1. Refusal of acceptance of application for permits relating to development on any property of the said owner(s).

This withholding may continue until the disconnection delinquency no longer exists

E. Administrative Review and Appeal. Property owners or their agents may request an administrative review of a BES decision related to this Chapter, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

1. In the event that the City needs to enforce the terms of the Code Hearings Officer's order referred to in Section 17.37.080, an administration fee of $300 for each occurrence and associated costs for each occurrence for enforcing the terms of the order shall be billed to the property owner of the property in accordance with the provisions of Chapter 22.06. If the administrative fee remains unpaid after 90 days, the administrative fee shall be made a lien on the property in accordance with the provisions of Chapter 22.06.

17.37.110 Interference with Disconnection Activities Unlawful.

It shall be unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City whenever such officer, employee, contractor, agent, or authorized representative of the City is engaged in the work of disconnecting downspouts from the combined sewer under the authority of an order of the Code Hearings Officer issued pursuant to Subsection 17.37.080 C. above.

3. Onsite management a priority. Pumped ground water shall be managed first by onsite methods, such as infiltration, to the greatest extent practical. Thereafter private conveyance facilities shall discharge through infiltration offsite or to surface water bodies. Offsite discharge to City systems shall be approved only after onsite alternatives are evaluated.

4. Prohibited discharges. Offsite discharges meeting the following criteria are prohibited:

a. Discharge to City-owned underground injection controls (UICs).

b. Discharges meeting the tests for prohibited discharges in Chapters 17.34 and 17.39. Notwithstanding this limitation, the City may allow discharge of contaminated ground water that has been treated to meet standards set by the Director to ensure that any groundwater discharges do not cause or threaten to cause a public nuisance, groundwater or surface water pollution, cause or threaten to cause the City to violate its own discharge permits granted by the Department of Environmental Quality.

(1) The Director may establish rules to limit or prevent the pumping and discharge of contaminated groundwater and may require one-time or on-going testing or monitoring of water quality by the applicant for discharge authorization approval.

E. All conveyance systems shall be analyzed, designed and constructed for existing tributary offsite runoff and developed onsite runoff from the proposed project in compliance with the City's Sewer and Drainage Facilities Design Manual. The general goal of these standards is to convey both onsite and offsite waters in a way that meets the capacity needs of the City conveyance system, is protective of public health and safety, and that minimizes environmental impacts in the downstream receiving system. The Director reserves the right to determine the appropriateness of combination facilities in meeting these standards.

F. All stormwater management facilities, source controls, and drainage systems must comply with the standards set forth in the Stormwater Management Manual and the Source Control Manual and may require permit review and approval before commencement of work. Public systems must be reviewed and approved by BES in compliance with the sizing and location standards in the Stormwater Management Manual. Private onsite systems must be reviewed and approved by BES for compliance with the stormwater hierarchy and other guidance specified in the Stormwater Management Manual and the Source Control Manual, and may be reviewed by Bureau of Development Services for compliance with the plumbing code regulations in Section 25.01.020. Installation or modification of any stormwater system or source control, whether it involves structural changes,

changes to planting schemes, or the management of drainage area in addition to what was previously approved, may require a permit from or review by the BES Chief Engineer.

17.38.040 Stormwater Management Facilities Required.

(Amended by Ordinance Nos. 174745, 176783, 180037, 182144, 183397, 185397, 186659, 186902, 187904 and 189750, effective November 29, 2019.) No plat, site plan, building permit, tenant improvement, public works project, or any improvement requiring a City permit will be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater management facilities and source controls designed according to standards or guidelines established by the Director and as specified in the Stormwater Management Manual and the Source Control Manual.

A. Applicability. All development and redevelopment sites with any of the following triggers must comply with the standards of the Stormwater Management Manual and the Source Control Manual to the extent each applies under its respective terms:

1. Creation of any new impervious area. Sites with 500 square feet or more of impervious area must be managed for pollution reduction, quantity or flow control requirements as spelled out in this Section; or

2. Modification to or construction of new areas with pollution generating activities of concern as identified by rule. These areas must be constructed with applicable onsite controls; or

3. New connections or new drainage areas routed into the City's sewer or drainage system under a City permit. These connections most often are generated from decommissioning of private, onsite drainage or groundwater related systems; or

4. Temporary structures are exempt from pollution reduction and flow control requirements, except for in specific instances identified by rule.

B. Exemptions. The requirements of this Chapter for stormwater management do not apply to:

1. Development for which an application for development approval is accepted by the permitting agency prior July 1, 1999 shall be subject to the requirements in place at the time of application.

2. Public or private development that does not result in impervious surface coverage or results in coverage that is de minimis in relation to discharge, such as fences, environmental enhancement projects, buried pipelines or cables, and utility lines.

3. Impervious surface created by a stormwater management facility such as but not limited to headwalls, manhole or vault covers. Paved or compacted

gravel facility access and maintenance roads that extend beyond the facility itself, are not exempted from the management requirements of this Title.

C. Maintenance of Stormwater and Groundwater Management Facilities.

1. All applicants for new development, redevelopment, plats, site plans, building permits or public works projects, as a condition of approval, shall be required to submit an operation and maintenance plan and the required plan cover sheet for the required stormwater management facilities for review and approval by the Director, unless otherwise exempted in the Stormwater Management Manual. A stormwater management facility that receives stormwater runoff from a public right-of-way shall be a public facility, and maintained by the City, unless the right-of-way is not part of the City road maintenance system.

a. The information required in an operation and maintenance plan shall satisfy the requirements in the Stormwater Management Manual. Applicants are required to submit the O & M recording form with the plan and are encouraged to use the O & M Plan template provided in the Stormwater Management Manual. The Plan shall include and not be limited to:

(1) Design plans of the specific facility and related parts, including design assumptions; and

(2) A schedule for routine inspection, including post storm related inspections; and

(3) A description of the various facility components, the observable trigger for maintenance, and the method of maintenance, including appropriate method of disposal of materials; and

(4) The intended method of providing financing to cover future operations and maintenance; and

(5) The party or parties responsible for maintenance of the facility including means of effecting contact, including contact means for emergency situations. The party may be an individual or an organization.

b. A maintenance log is required. The log shall provide a record of all site maintenance related activities. The log shall include the time and dates of facility inspections and specific maintenance activities. This log shall be available to City inspection staff upon request.

2. Failure to properly operate or maintain the water quality or quantity control facility according to the operation and maintenance plan may result in an enforcement action, including a civil penalty, as specified in Section 17.38.045, Enforcement.

3. A copy of the operation and maintenance plan shall be filed with the Bureau of Environmental Services. Staff may require a site map to be recorded and filed with the appropriate county Department of Assessment and Taxation.

4. Removal of a permanently installed stormwater management facility without prior approval from BES is a violation of this Chapter.

D. The Director may file instruments in county deed records to inform future property owners of regulations and conditions of approval related to the property as provided in this Chapter and associated rules, including the Stormwater Management Manual.

17.38.041 Parking Lot Stormwater Requirements.

(Added by Ordinance No. 174745; amended by Ordinance Nos. 180037 and 187904, effective August 19, 2016.) Stormwater runoff from parking lots must be managed in parking lot interior or perimeter landscaping to the extent required by the Stormwater Management Manual and the Source Control Manual. The Director is authorized to exempt activities, land uses, or identified sites from these requirements if use of parking landscape areas is not needed or desirable because of non-conforming or existing landscape areas. All exemptions are described in the Stormwater Management Manual and the Source Control Manual.

17.38.043 Inspections.

(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose 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. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or other type of agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES

representative with any facility-specific safety protective equipment necessary for entry.

17.38.045 Enforcement.

(Replaced by Ordinance No. 186192; amended by Ordinance No. 187904, effective August 19, 2016.)

A. Violations. It is a violation for any persons to fail to comply with the requirements of this Chapter and associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to construct stormwater management facilities to the standards of the City's Stormwater Management Manual, Source Control Manual and Section 17.38.035;

2. Failure to comply with a written order of the Director, made under authority of this Chapter, that is not met within the specified time;

3. Failure to comply with any condition of an operations and maintenance plan or agreement issued under the authority of this Chapter or rules that is not met within a specified time;

4. Failure to maintain a stormwater management or source control facility leading to a potential or actual operating deficiency of the facility;

5. Failure to have a properly recorded, or accurate O & M plan on file with BES; and

6. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

E. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with the violations of this Chapter or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.38.050 Erosion Control Required.

(Amended by Ordinance No. 173979, effective March 1, 2000.) All public works projects constructed within the City of Portland must comply with Title 10, Erosion and Sediment Control Regulations.

17.38.055 River Restoration Program.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) BES and the Office of Healthy Working Rivers are authorized to develop administrative rules for implementation of a River Restoration Program including, but not limited to, a mitigation bank and in-lieu fee program for implementation of the Title 33 River Plan/North Reach Code provisions. BES and the Office of Healthy Working Rivers may also accept funds from in-lieu fees, mitigation bank credits, donations, program administrative fees, and other sources and may expend such funds for environmental restoration, enhancement and improvement activities.

17.38.060 Compliance Cases, Administrative Reviews and Appeals.

(Added by Ordinance No. 186192; amended by Ordinance Nos. 186902, 187904 and 189750, effective November 29, 2019.)

A. Administrative Review and Appeal. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.38.070 Conflict.

(Added by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.38.080 Severability.

(Added by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

CHAPTER 17.39 - STORM SYSTEM DISCHARGES

(Chapter replaced by Ordinance No. 184898;
effective October 28, 2011.)

Sections:

17.39.010 Intent.

The Bureau of Environmental Services (BES) is authorized to facilitate the development and management of the City's storm sewer and drainage system facilities to adequately convey, manage and protect the water quality of discharges of stormwater runoff. This Chapter applies to the City storm sewer and drainage systems as defined in this Chapter. This Chapter provides BES the authority to ensure these systems are operated in a manner that protects public health and the environment.

17.39.020 Definitions.

(Replaced by Ordinance No. 185397; Amended by Ordinance Nos. 186403, 186902 and 189506, effective June 21, 2019.) As used in Chapter 17.39:

A. **"Capacity"** means the flow volume or rate for which a specific facility is designed to safely contain, receive, convey, infiltrate, or reduce pollutants from sanitary sewage, stormwater, wastewater, or other discharge in order to meet a specific performance standard.

B. **"City Storm Sewer and Drainage System"** means a City conveyance or system of conveyances, including but not limited to pipes, pumps, drainage ditches, constructed channels, groundwater-related disposal systems, underground injection control devices, stormwater management facilities, and storm drains, that are designed or used to collect and transport stormwater. "City Storm sewer and drainage system" does not include natural streams, creeks, ponds, lakes, a combined sewer, or part of a Publicly Owned Treatment Works, as defined in 40 CFR 122.2.

C. **"Clean Water Act (CWA)"** is the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.).

D. **"Code of Federal Regulations (CFR)"** means the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.

E. **"Director"** means the Director of the Bureau of Environmental Services or the Director's designee.

F. **"Discharge"** means is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking or placing of any material so that such material enters or is likely to enter a waterbody, groundwater or a public sewer and drainage system.

G. **"Discharge Authorization (DA)"** means a written approval by the Director which prescribes certain requirements or restrictions for a discharge to the City sewer and drainage system.

H. **"Discharger"** means any person who causes or permits a direct or indirect discharge to the City sewer and drainage system.

I. **"Groundwater"** means subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater.

J. **"Groundwater Discharge"** means a discharge of water pumped or directed from the ground. Groundwater discharges include but are not limited to subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

K. **"Illicit Connection"** means any connection to the City's storm sewer and drainage system not approved by the City or not in compliance with a valid City permit.

L. **"Illicit Discharge"** means any discharge to the storm sewer and drainage system that is not composed entirely of stormwater and is not authorized under Sections 17.39.030 or 17.39.040.

M. **"Interference"** means a discharge that, alone or in conjunction with other discharges, inhibits or disrupts the normal operation of the City's storm sewer and drainage system or contributes to a violation of any requirement of the City's NPDES Municipal Separate Storm Sewer System Discharge Permit. This includes any increase in the magnitude or duration of a violation, any increase in cost due to damage to the system, and any requirement for specialized treatment of stormwater caused by such a discharge.

3. Failure to comply with a BES discharge permit or authorization-related submittal schedule or a violation remediation schedule;

4. Failure to pay review fees or assigned penalties for violations; or

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full. Dischargers violating this Chapter will be solely responsible for reimbursing the City's abatement expenses.

D. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15. Failure to pay costs related to a civil penalty or summary abatement within 30 days following a final determination is grounds for permit revocation or termination of the permittee's discharge

E. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with the PCC or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.39.120 Administrative Reviews, Appeals, and Compliance Cases.

(Replaced by Ordinance No. 186192; Amended by Ordinance Nos. 186902 and 189750, effective November 29, 2019.)

A. Administrative Review and Appeal. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence in the case.

17.39.130 Conflict.

(Amended by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all other ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.39.140 Severability.

(Amended by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word or Section of this Chapter or associated rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

TITLE 24 - BUILDING REGULATIONS

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TITLE 24 - BUILDING REGULATIONS

CHAPTER 24.10 - ADMINISTRATION AND ENFORCEMENT

Sections:

24.10.010 Title.

This Title shall be known as the "Building Regulations," and may be so cited and pleaded and is referred to herein as "this Title."

24.10.020 Purpose.

(Amended by Ordinance Nos. 163908 and 187432, effective December 4, 2015.) The purpose of this Title is to provide minimum performance standards to safeguard the health, safety, welfare, comfort, and security of occupants and users of buildings and structures within the City, and will provide for the use of modern methods, devices, materials, techniques, and practicable maximum energy conservation by regulating and controlling the design, construction, quality of materials, use, and occupancy, location and maintenance of all buildings, structures and land within this jurisdiction.

24.10.030 Scope.

(Amended by Ordinance Nos. 163237, 163908, 165678 and 176783, effective August 30, 2002.) The provisions of this Title shall apply to the construction, alteration, moving, demolition, repair, and use of any building, structure or land, and to any land clearing or grading within the City. Exceptions are work in the public right-of-way as approved by the City Engineer; publicly constructed sanitary and storm sewer systems and facilities approved by the BES Chief Engineer; and public utility towers and poles, mechanical equipment not specifically regulated in this Code.

24.10.040 Codes.

(Amended by Ordinance Nos. 158651, 162695, 163908, 164950, 166111, 166436, 169312, 169905, 172737, 174891, 177414, 177433, 178745, 179125, 181359, 182370, 184140, 185545, 185798, 186932, 188781 and 189806, effective December 18, 2019.)

A. Structural Specialty Code. The provisions of the State of Oregon Structural Specialty Code 2019 Edition, as published by the International Code Council and known as the International Building Code 2018 Edition and amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, including the appendices and standards adopted by the State of Oregon and excluding all of Chapter 1, except for Section 101.2 ("Scoping"), are hereby adopted by reference. The provisions of Chapter 1 of the Oregon Structural Specialty Code, as adopted and amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, effective July 1, 2014, except for Section 101.2 ("Scoping"), are hereby adopted by reference. The Structural Specialty Code is on file in the Development Services Center of the City of Portland.

B. Compliance with recognized standards. Where requirements of this Title do not provide necessary regulation or are not fully detailed with regard to processes, methods, specifications, equipment testing, and maintenance, standards of design, performance, and installation, and other pertinent criteria, the applicable standards and recommendation of the National Fire Protection Association, as set forth in its National Fire Code shall apply, a copy of which is on file in the City Auditor's Office. Said volumes and all subsequent editions are hereby incorporated in this Title by reference.

C. Application of other titles. Nothing in this Title is intended to permit the establishment or conversion of any structure or use of any land in any zone which is not in accordance with the applicable sections of Title 25 (Plumbing Regulations), Title 26 (Electrical Regulations), Title 27 (Heating and Ventilating Regulations), Title 33 (Planning and Zoning Regulations).

D. Residential Code. The provisions of the State of Oregon, Residential Specialty Code, 2017 Edition including Chapter 1 thereof, as adopted effective October 1, 2017 and published by the International Code Council, and known as the International Residential Code, 2015 Edition, and amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, including the appendices and standards adopted by the State of Oregon, is hereby adopted by reference. The Residential Specialty Code is on file in the Development Services Center of the City of Portland.

E. 2019 Oregon Zero Energy Ready Commercial Code. The provisions of the 2019 Oregon Zero Energy Commercial Code, as published by the International Code Council, consisting of Chapter 13 of the Oregon Structural Specialty Code, 2019

Edition, ANSI/ASHRAE/IES Standard 90.1 – 2016, and the International Energy Conservation Code, 2018 Edition, as amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, are hereby adopted by reference. The 2019 Oregon Zero Energy Ready Commercial Code is on file in the Development Services Center of the City of Portland.

24.10.050 Organization.

(Amended by Ordinance Nos. 176955 and 188647, effective November 17, 2017.)

A. Bureau of Development Services. The Bureau of Development Services shall be under the jurisdiction of the Director designated by the appointing authority.

B. Director to enforce Title. General. The Director is hereby authorized and directed to enforce all provisions of this Title. For such purpose the Director shall have the powers of a law enforcement officer.

C. Deputies. The Director may appoint officers, inspectors, and assistants and other employees. The Director may also deputize employees as may be necessary to carry out the duties of the Bureau of Development Services.

D. Right of Entry. Whenever an inspection is necessary to enforce any of the provisions of this Title, or whenever the Director or the Director's duly authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises substandard as defined within this Title, or upon presentation of a lawfully issued warrant, the Director may enter such building or premises at all reasonable times to inspect or to perform any imposed duty and shall have recourse to every remedy provided by law to secure entry.

24.10.060 Enforcement.

(Amended by Ordinance Nos. 168340, 176955, 187432, 188647 and 189806, effective December 18, 2019.)

A. All permitted work shall be subject to inspection by the Director, and certain work shall have continuous inspection by special inspectors as specified in Section 24.20. Approval as a result of an inspection will not be construed to be an approval of a violation of the provisions of this Title or of any other laws or regulations of the City. Inspections presuming to give authority to violate or cancel the provisions of this Title or of any other laws or regulations of the City shall not be valid. The Director shall have the authority to make or require all inspections necessary to ascertain compliance with this Title and any other laws enforced by the Director.

B. The Director, upon notification from the permit holder or the permit holder's agent, shall either approve of those portions of the construction requiring inspection or

shall notify the permit holder, or the permit holder's agent, in writing, wherein the same fails to comply with the provisions of this Title.

C. Stop Work Orders. 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 elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, activity subject to the order may not be resumed until such time as the Director gives specific approval in writing. The stop work order will be in writing, except when an emergency condition exists, the Director may issue a stop work order orally, followed by a written stop work order. All stop work orders will conform to the requirements of City Code Section 3.30.080. Any person subject to a stop work order may seek review of the order by the Director and may appeal the Director's determination in accordance with City Code Section 3.30.080.

D. It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City, or cause the same to be done, contrary to or in violation of any of the provisions of this Title.

E. If an unoccupied structure or structure under construction is open or unattended, the Director may enter to determine if a hazardous condition exists. If such a condition exists, the Director shall notify the owner of the condition and order the structure immediately secured against the entry of unauthorized persons.

F. In the event the property owner, permit holder or the owner's agent fails or neglects to carry out any requirement, or fails to correct any noted violation of this Title, the Director may gain compliance by any of the remedies outlined in Chapter 3.30 of the Code of the City of Portland and is authorized to institute any appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Title or of the order or direction made pursuant thereto.

24.10.070 Application for Permits.

(Amended by Ordinance. Nos. 162100, 163908, 165678, 169905, 171773, 174880, 176783, 176955, 180330, 187432, 188647, 188884 and 189806, effective December 18, 2019.)

A. Permits required. No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or to do any clearing or grading, or cause any of the same to be done without first obtaining a building permit, or where appropriate a minor structural label as outlined in Section 24.10.095. The limitations of Oregon Revised Statutes 455.020 notwithstanding, permits are

required to construct, alter, repair or move any structure as identified in this Title or in the Oregon Structural Specialty Code or the Oregon Residential Specialty Code, as adopted in Chapter 24.10 of this Title. Building permits and fees for work on private property are waived whenever the work appears on plans and specifications, approved by the City Engineer or BES Chief Engineer. This work shall be limited to the construction of streets, public sewers, public stormwater management facilities, driveways, retaining walls, fences, walkways, parking pads, steps, and tree, shrub, and brush removal.

B. Plans and specifications.

1. Plans, engineering diagrams, and other data shall be submitted in three sets with each application, and shall comply with the requirements of Chapter 1 of the Structural Specialty Code and this Title. If a structural design is required, computations, stress diagrams, computer data, and such additional data as required by the Director, sufficient to show the correctness of the plans and compliance with the structural provisions of this Title shall be submitted. The above data shall include a brief summary of all basic assumptions, design methods, structural systems, loading, lateral bracing systems, and a table of contents of the computations. Computer calculations submitted as substantiation of the design shall include a copy of the program users manual for each program, definition, sketches, index of data runs, and properly identified input and output listings. For other than nationally recognized programs, the correctness of the program shall be substantiated in a manner acceptable to the Director. When required by the Director, or when required under ORS 672 (State Engineering Law) or ORS 671 (State Architectural Law), plans shall be prepared and certified by an architect or registered professional engineer licensed to practice in the State of Oregon.

2. Examination of documents. The Director will examine or cause to be examined plans and specifications and will ascertain by such examination whether the construction indicated and described is in accordance with the requirements of this Title and other laws and regulations of the City.

C. Parking lots. Parking lots shall not require a separate building permit when they are clearly shown on plans submitted and their valuation is included on the application for the principal building permit.

D. Compliance with Chapter 17.88 (Street Access) of this Code is required prior to issuance of this permit.

E. Plans for other than one and two family dwelling repairs, remodels, or additions shall be approved by the Fire Marshal prior to approval by the Director.

F. Issuance of permits. Except as otherwise provided in this Title, issuance of permits shall be in accordance with Chapter 1 of the 2014 Structural Specialty Code and the provisions of this Title, provided that plans for all commercial buildings and any off-street parking area where the parking of three or more cars is to be established shall be approved by the City Engineer and the City Traffic Engineer before a building permit may be issued.

1. Action on application. The Director will issue a permit if the Director is satisfied that the proposed work conforms to the requirements of this Title and other laws and regulations of the City.

2. Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any provisions of this Title or of any other laws or regulations of the City. Permits presuming to give authority to violate or cancel the provisions of this Title or other laws or regulations of the City shall not be valid. The Director is authorized to prevent occupancy or use of a structure where in violation of this Title or any other laws or regulations of the City.

3. Suspension or revocation. The Director is authorized to suspend or revoke a permit issued under the provisions of this Title wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any provisions of this Title or any other laws or regulations of the City.

G. Charge for partial permits. When complete plans and specifications are not available, the Director may issue partial permits to assist in the commencement of the work, provided that a partial permit charge is paid to the bureau. The number of partial permits issued shall not exceed six on any individual project, except that in special circumstances the Director may allow this number to be exceeded.

H. Retention of plans.

1. Plans and specifications for all buildings, or their photographic image, shall be retained permanently in the files of the Bureau of Development Services as follows:

a. Plans and specifications for work which does not concern or affect the structural stability of a building and which does not affect a change of occupancy may be destroyed after 5 years from date of building permit for same;

2. Plans and specifications for one or two family dwellings, and/or buildings accessory thereto may be destroyed after 5 years from date of building permit for same.

I. A separate permit, known as a development permit, shall be required for a site development, changes in use, or other work performed in compliance with Title 33, Chapter 33.700, Administration, which is not otherwise included with the permit described in Subsection A. of this Section. Reviews and approval of site plans or other documents shall be obtained from the Bureau of Development Services prior to issuance of the permit.

J. Life of Permit Limited. If no inspection approval has taken place within six months after permit issuance, the permit shall become void, and no further work shall be done at the premises until a new permit has been secured and a new fee paid. Each time an inspection approval is granted, the permit shall be deemed to be automatically extended for six months, until final approval is granted. The Building Official may extend a permit for one period of six months upon finding that the permittee was unable to commence or continue work for reasons beyond the permittee's control. Extension requests shall be in writing and shall be received by the Director before the permit expiration date. If an inspection approval has not been granted within this extended time period, the permit shall be void. A permit that has been expired for six months or less may be renewed provided no changes have been made in the original plans and specifications for such work. No permit may be renewed if it has been expired for more than six months. A permit may be renewed only once. If an inspection approval has not been granted within the time period of permit renewal the permit shall be void. The renewal fee shall be one half the amount required for a new building permit.

K. Maintenance Agreements. If any building element, structure, or utility crosses a real property line, a maintenance agreement and access easement must be signed by all affected property owners and recorded in the County Recorder's Office on all affected properties. The agreement and easement must address the repair, upkeep, and replacement of and access to all elements, structures, and utilities that cross a real property line. Prior to recording, the maintenance agreement and access easement must be reviewed and approved by the building official. The maintenance agreement and access easement may not be modified or suspended without the building official's prior written approval. The applicant must provide a copy of the recorded maintenance agreement and access easement to the building official prior to issuance of the building permit.

24.10.072 Other Structures and Construction Activities.
(Added by Ordinance No. 189806, effective December 18, 2019.)

A. Regulated structures and construction activities. The provisions of this Title apply to the following structures and construction activities regardless of when a permit was applied for or approved:

1. Fire safety during construction.

2. Protection of adjoining properties.

3. Temporary use of streets, alleys and public property.

4. Encroachment into the right-of-way.

5. Mechanical equipment not specifically regulated in the Oregon Structural Specialty Code or Oregon Residential Specialty Code.

6. Retaining walls, unless exempt pursuant to Subsection 24.10.072 B.

7. Fences, unless exempt pursuant to Subsection 24.10.072 B.

8. Tanks that are located exterior to and not attached to or supported by a building.

9. Cell phone, radio, television, and other telecommunication and broadcast towers that are not attached to or supported by a building.

10. Flagpoles that are not attached to or supported by a building.

11. Signs not attached to or supported by a building.

12. Ground-mounted photovoltaic arrays.

13. Fixed piers or wharves with no superstructure.

14. Equipment shelters not intended for human occupancy with a building area of 250 square feet or less, designated as Risk Category I or II.

15. Transitional housing accommodations, as defined in ORS 446.265, as amended by House Bill 2916 (2019).

B. Exempt structures. Exemption from the requirements of this Title shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Title or any other laws or regulations of the City. The following structures are exempt from the provisions of this Title:

1. Fences, except for required barriers around swimming pools, fences not over 7 feet (2134 mm) high and typical field fencing not over 8 feet (2438 mm) high when constructed of woven wire or chain link.

2. Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.

3. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

4. Swings and other playground equipment.

5. Ground mounted flagpoles, antennae, and similar structures that do not exceed 25 feet in height.

24.10.075 Bureau of Development Services Administrative Appeal Board.
(Added by Ordinance No. 187432; Amended by Ordinance No. 189806, effective December 18, 2019.)

A. Appointment of Administrative Appeal Board. The Bureau of Development Services Administrative Appeal Board consists of the Building Official and Bureau staff members appointed by the Director. In appointing staff members, the Director will consider the issues presented by the appeal and what particular expertise will be helpful in addressing those issues. The staff will act in an advisory capacity to the Building Official. The Administrative Appeal Board may:

1. review appeals of the Bureau's application and interpretation of this Title and the State of Oregon specialty codes adopted in this Title (collectively referred to as the "Building Code");

2. review requests for modifications to the strict application of the Building Code; and

3. review requests to use alternative materials, design or methods of construction and equipment.

B. Appeals to the Administrative Appeal Board and Final Decisions. Any person aggrieved by a decision of the Bureau related to the application and interpretation of the Building Code or this Title or who wants to request a modification to the strict interpretation of the Building Code or consideration of an alternative material, design or method of construction or equipment may file an appeal with the Administrative Appeal Board. Such an appeal must be filed within 180 days of the Bureau decision being appealed; provided, however, the Building Code in effect at the time the Bureau decision was made shall be applied to the administrative appeal. The Administrative Appeal Board may:

1. grant an appeal if the Administrative Appeal Board finds that the Building Code was not correctly interpreted or applied;

2. grant a modification to the application of the Building Code where special individual reasons make application of the strict letter of the Building Code

impractical, the modification is in compliance with the intent and purpose of the Building Code, and such modification does not lessen health, accessibility, life and fire safety or structural requirements of the structure;

3. approve an alternative material, design or method of construction and equipment if the Administrative Appeal Board finds that any such alternative complies with the intent of the Building Code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Building Code in quality, strength, effectiveness, fire resistance, durability, accessibility and safety. The Administrative Appeal Board may not waive the requirements of the Building Code. The Administrative Appeal Board review will culminate in a final decision by the Building Official. The Administrative Appeal Board meeting is not open to attendance by the appellant or the public. The Bureau will provide final decisions to the appellant by publication of the decision on the Bureau's website within 10 calendar days of the hearing, provided the Bureau has received all required information from the applicant; and

4. grant requirements that are in addition to this Title or other laws or regulations of the City as part of an appeal.

C. Reconsideration of Final Decisions and Appeals to the Building Code Board of Appeal. Any person aggrieved by a final decision of the Building Official made under Subsection B. above may either file a reconsideration of that decision within 180 days of the decision based on new or revised information or appeal the decision to the Building Code Board of Appeal in accordance with Section 24.10.080 within 90 days of the final decision being appealed. There is no additional fee for the first reconsideration of an Administrative Appeal Board decision or for an appeal to the Building Code Board of Appeal. The Building Code in effect at the time of the final decision being reconsidered or appealed will be applied to the reconsideration or subsequent appeal to the Building Code Board of Appeal.

D. Fees for Appeals. The fees for administrative appeals shall be as stated in the Fee Schedule adopted by the City Council. The current approved Fee Schedule is available at the Development Services Center and on the Bureau's website.

24.10.080 Building Code Board of Appeal.

(Replaced by Ordinance No. 187432, effective December 4, 2015.)

A. Appointment of Building Code Board of Appeal. In order to hear appeals of final decisions of the Building Official made under Section 24.10.075, there has been created a Building Code Board of Appeal, consisting of three members and three alternates appointed by the Mayor and approved by the City Council.

1. Each member and alternate member must be qualified by experience and training to make decisions pertaining to the Building Code and building construction. At least one member and one alternate member must be competent builders who have engaged in the construction business in the City for at least 2 years immediately preceding their appointments, and at least one member and one alternate member shall be competent architects who have practiced their profession for at least 3 years.

2. Building Code Board of Appeal appointments shall be for 3-year terms. Appeal Board members may serve no more than two complete 3-year terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. Vacancies occurring prior to the end of a term for whatever cause may be filled by qualified persons through appointment by the Mayor for the remainder of the term.

3. Any member may be removed by the Mayor for incompetence, dereliction of duty, incapacity or other sufficient cause.

4. Members of the Building Code Appeal Board shall comply with the State ethics laws applicable to public officials.

5. Members of the Building Code Appeal Board shall serve in a voluntary capacity and without pay.

B. **Appeals to the Building Code Appeal Board.** The Building Code Board of Appeal may review Administrative Appeal Board decisions or any other final decision of the Building Official or Director related to the application and interpretation of this Title or the Building Code. The Building Code appeal will be limited to the facts and record reviewed by the Administrative Appeal Board, Building Official or Director related to the decision being appealed. A hearing will be held within 45 days after an interested party submits a written appeal to the Building Code Board of Appeal. A panel of three Building Code Appeal Board members will hear each appeal. The Board may, by a majority vote, affirm, annul, or modify the decision.

C. **Powers and Limitations of Authority of the Building Code Appeal Board.** The Building Code Board of Appeal may provide reasonable interpretations of the requirements of the Building Code and may grant an appeal if the Board finds one of the following:

1. the Building Official or Director did not correctly apply or interpret this Title or the Building Code;

2. special individual reasons make application of the strict letter of the Building Code impractical, the modification is in compliance with the intent

and purpose of the Building Code, and such modification does not lessen health, accessibility, life and fire safety or structural requirements of the structure; or

3. any alternative material, design or method of construction and equipment complies with the intent of the Building Code and the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Building Code in quality, strength, effectiveness, fire resistance, durability, accessibility and safety. The Building Code Board of Appeal may not waive the requirements of the Building Code.

Any person aggrieved by a final decision of the Building Code Board of Appeal may, within 30 days after the date of the decision, appeal to the appropriate advisory board of the State of Oregon Department of Consumer and Business Services.

24.10.085 Structural Engineering Advisory Committee.

(Added by Ordinance No. 162056; amended by Ordinance Nos. 187432 and 188647, effective November 17, 2017.)

A. There is hereby created a Structural Engineering Advisory Committee consisting of six members licensed in Oregon to practice structural engineering, appointed by the Mayor and approved by the City Council.

Members may be appointed to no more than two consecutive 3-year terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. In addition, the Director, or designee, shall be an ex-officio member of the board.

B. Any member of the board may be removed from office by the Mayor for malfeasance in office or neglect of duty at any time during the member's tenure.

C. The committee shall elect a chairperson, adopt rules of procedure, and set the time and place for regular meetings. A quorum consisting of at least three members of the committee is required to conduct committee business. Written minutes of all meetings shall be made and kept subject to the requirements and limitations of ORS 192.610 to ORS 192.690.

D. It shall be the duty of the board to advise the Director and/or the Appeals Board in structural matters relative to reasonable interpretation and to alternate materials and methods of construction.

E. Any action of the board shall be in an advisory capacity to the City. Subsequent action taken by the City as a result of advice from the boards shall be the sole responsibility of the City.

24.10.087 Alternative Technology Advisory Committee.

(Added by Ordinance No. 182217; amended by Ordinance No. 187432, effective December 4, 2015.)

A. Purpose. It shall be the duty of the Alternative Technology Advisory Committee to advise the Bureau of Development Services on new or innovative sustainable building technologies and products.

B. Membership. The Alternative Technology Advisory Committee shall consist of a minimum of three and a maximum of seven members. The committee members will be appointed by the Mayor and approved by the City Council. The committee shall consist of design professionals, construction contractors, and persons associated with a university with an engineering school. In addition, two designees from the Bureau of Development Services familiar with building code review shall be ex-officio members of the committee.

C. Appointment and Terms.

1. Appointment to the Alternative Technology Advisory Committee shall be for a three-year term. Committee members may be appointed to no more than two consecutive, complete terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. If a position is vacated during a term, it shall be filled for the unexpired term.

2. Any member of the committee may be removed from the committee by the Mayor for malfeasance in office.

3. The committee shall elect a chairperson, adopt rules of procedure, and set the time and place for regular meetings. Written minutes of all meetings shall be kept.

D. Compensation. Alternative Technology Advisory Committee members shall serve without compensation.

E. Other. The Alternative Technology Advisory Committee serves only in an advisory capacity to the City. Subsequent action taken by the City as a result of the committee's advice shall be the sole responsibility of the City.

24.10.090 Pre-application and Pre-construction Meetings.

(Amended by Ordinance No. 162100, effective August 1, 1989). Where major construction projects involve coordination between City bureaus and the design/ construction teams, the Director may hold a pre-application or pre- construction meeting with representatives of the interested parties as an aid to the enforcement of this Title.

24.10.095 Commercial and Industrial Minor Structural Labels.
(Added by Ordinance No. 171773; amended by Ordinance No. 187432, effective December 4, 2015.)

A. General. Oregon Revised Statutes Chapter 455.155 gives the Department of Consumer and Business Services the authority to create a statewide permit and inspection system for minor construction work. The Oregon Building Codes Division under the Department of Consumer and Business Services has created a mandatory statewide minor labels program. Implementation rules are found in Oregon Administrative Rules 918-100-0000 through 918-100-0600. The Bureau, in accordance with OAR 918-100-0060, will conduct inspections and issue necessary correction notices for minor commercial and industrial labels issued pursuant to the statewide minor labels program.

24.10.100 Fees.

24.10.101 General.
(Amended by Ordinance No. 176955, effective October 9, 2002.) The following fees are required to be paid to the Director of the Bureau of Development Services, shall be as set forth in this Chapter.

24.10.102 Building Permit and Plan Check/Process Fee.
(Replaced by Ordinance No. 174719, effective August 21, 2000.)

A. 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 Development Services Center.

B. A plan checking fee is payable when the plans and application are accepted by the Director for examination and shall not be refundable. A permit fee shall be paid to the Director before a building permit is issued.

C. Permit and plan check fees will, as a general rule, be refunded when the services covered by the fee have not commenced, and the permit or plan review fees were paid incorrectly due to an error on the part of the City. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees shall be retained to cover the cost of plan review or inspections actually performed and 20 percent of the amount remaining. State surcharge fees are only refundable when a permit was issued in error. Requests for refunds must be made within 6 months of payment or permit issuance, whichever is later. Refunds are to be made to the same person or firm who paid the fee within 3 months of the request. Exceptions to the above requirements may be made by the Director or designee.

24.10.103 Requested Inspection Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.104 Fee for Appeal.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.106 Home Occupation Permit.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.107 Appeal Fee for Historical Building Review Board.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.108 Street Use Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.109 Grading Permit Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.110 Excavation and Grading Plan Check Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.111 Dangerous Building Abatement Processing Fee.
(Repealed by Ordinance No. 167088, effective Dec. 3, 1993.)

24.10.112 Product Approval Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.113 Circus Tent Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.114 Welder Certification Fee.
(Repealed by Ordinance No. 165486, effective July 1, 1992.)

24.10.115 Reproduction Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.116 Fee for Examination of Filed Plans.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.117 Approved Fabricators Certification Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.118 Special Inspection Certification Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.119 Approved Testing Agency Certification Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.122 Certificate of Occupancy.

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.123 Temporary Certificate of Occupancy.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.124 Zoning Inspection Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.125 Inspections Outside of Normal Business Hours.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.126 Reinspection Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.127 Additional Plan Review Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.128 Address Assignment Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.130 Clearing Permit Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.131 Clearing With Tree Cutting Permit Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.).

24.10.132 Pre-Permit Site Inspection for Properties in Environmental Zones.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.133 Manufactured Dwelling Installation Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.134 Manufactured Dwelling Park.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.135 Recreational Park.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.136 Park Trailer Installation Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.137 Minor Structural Labels.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.138 Master Permit/Facilities Permit Program Fees.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.139 On-site Permanent Stormwater Control Facilities Inspection Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

24.10.140 Tree Preservation and Planting Plan Check and Inspection Fee.
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

CHAPTER 24.15 - DEFINITIONS

Sections:

24.15.010 General.

For the purpose of this Title, certain terms, phrases, words, and their derivatives shall be construed as specified herein. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. Terms, words, phrases, and their derivatives used, but not specifically defined in this Chapter, either shall have the meaning defined in this Title, or if not herein defined, shall have the meanings commonly accepted in the community.

24.15.020 Abandoned Structure.

An abandoned structure is a structure that has been vacant for a period in excess of 6 months or any period less than 6 months when a vacant structure or portion thereof constitutes an attractive nuisance or hazard to the public.

24.15.030 Agreement/Contract to Repair/Work.

An agreement or contract to repair/work is a written agreement in which an owner of a structure agrees to carry out repair/work on any abandoned, unsafe, dangerous structure, or structure between a specified commencement and completion date.

24.15.040 Approved Testing Agency.

An approved testing agency is an established and recognized agency regularly engaged in conducting testing and furnishing inspection services.

24.15.045 Boarded.

Added by Ordinance No. 162525; amended by 164318 and 168901, effective June 7, 1995.) Secured against entry by apparatus which is visible off the premises and is not both lawful and customary to install on occupied structures.

24.15.050 Building.

A building is a structure used or intended for sheltering any use or occupancy.

24.15.060 Dangerous Structure.

(Amended by Ordinance No. 168626, effective April 22, 1995.) Any structure which has any or all of the conditions or defects hereinafter described, to the extent that life, health, property, or safety of the public or its occupants are endangered, shall be deemed to be a dangerous structure and such condition or defects shall be abated pursuant to Sections 24.55.250 and 24.55.300 of this Chapter.

A. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.

B. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Oregon State Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.

C. Whenever any portion or member of appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

D. Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structures, purpose, or location without exceeding the working stresses permitted in the Oregon State Structural Specialty Code and Fire and Life Safety Code for such buildings.

E. Whenever any portion thereof has wrecked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

F. Whenever the building or structure, or any portion thereof, because of

1. dilapidation, deterioration, or decay;

2. faulty construction;

3. the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;

4. the deterioration, decay, or inadequacy of its foundation; or

5. any other cause, is likely to partially or completely collapse.

G. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

H. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

I. Whenever the building or structure exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing, or outside wall coverings.

J. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become (I) an attractive nuisance, or (ii) a harbor for vagrants or criminals.

K. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this City, as specified in the Oregon State Structural Specialty Code and Fire and Life Safety Code or any law

or ordinance of this State or City relating to the condition, location, or structure or buildings.

L. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion, less than 50 percent, or in any supporting part, member, or portion less than 66 percent of the

1. strength,

2. fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location. This subsection does not apply to strength required to resist seismic loads. For application of seismic requirements see Chapter 24.85.

M. Whenever any building or structure, because of dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is a fire hazard.

N. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

O. Whenever any portion of a building or structure remains on a site for more than 30 days after the demolition or destruction of the building or structure.

24.15.065 Derelict Commercial Building.

(Added by Ordinance No. 162525; amended by 164318 and 168901, effective June 7, 1995.) Any building or structure:

A. In which there are no dwelling units, and

B. Which is not an accessory building to a building in which there are dwelling units, and

C. Which building, structure or a portion thereof is unoccupied; and

D. Which meets any of the following criteria:

1. Has been ordered vacated by the Director pursuant to 24.55.250 F; or

2. Has been issued a correction notice by the Director pursuant to 24.55.250 A.; or

3. Is unsecured; or

4. Is boarded; or

5. Has been posted for violation of Section 18.03.050 more than once in any two year period; or

6. Has, while vacant, had a nuisance abated by the City pursuant to Sections 18.03.010 or 18.03.030.

24.15.070 Director.

(Amended by Ordinance No. 176955, effective October 9, 2002.) Director shall mean the Director of the Bureau of Development Services or a duly authorized representative of the Director.

24.15.075 Dwelling Unit.

(Added by Ordinance No. 168901, effective June 7, 1995.) One or more habitable rooms which are occupied by or designed or intended to be occupied by one person, or by a family or group of housemates living together as a single housekeeping unit.

24.15.080 Exterior Property Area.

Exterior property area is the open space on the premises and on adjoining property under the control of the owner or operator of such premises.

24.15.090 Hearings Officer.

Hearings Officer is the office of the Code Enforcement Hearings Officer created pursuant to Section 22.02.010 of the City Code.

24.15.100 Imminently Dangerous.

Imminently dangerous means any condition posing a direct and immediate threat to human life, health, or safety.

24.15.110 Inspections Manager.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Inspections Manager is the Director's duly authorized representative responsible for the administration of the Inspections Division of the Bureau of Development Services.

24.15.115 Master Permit/Facilities Permit Program.

(Added by Ordinance No. 172431; amended by Ordinance No. 173973, effective January 1, 2000.) The Master Permit/Facilities Permit program is a special alternative inspection program authorized under Oregon Revised Statute 455.190. This program is available to commercial/industrial building owners and building management companies to streamline the approval of maintenance/repair and tenant improvement work on their private facilities.

24.15.120 Owner.

Owner is any person, agent, firm, or corporation having a legal or equitable interest in a property.

24.15.130 Repair.

Repair is the reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

24.15.140 Residential Structure.

Residential structure means any building or other improvements designed or intended to be used for residential purposes.

24.15.150 Requested Inspection.

Requested inspection means any additional inspection which is not part of the City's regular or mandated inspection program.

24.15.160 Service Station Site.

(Amended by Ordinance No. 169905, effective April 1, 1996.) A service station site shall mean premises improved as a Group S, Division 3, occupancy for use as automobile or truck service stations used for supplying fuel, oil, minor accessories, and trailers, excluding body and fender repair for passenger automobiles, trucks, and truck trailers at retail direct to the customer.

24.15.170 Substandard.

Substandard means in violation of any of the minimum requirements as set out in this Title.

24.15.180 Special Inspector.

Definition to be added.

24.15.190 Subject Structure.

(Amended by Ordinance No. 176955, effective October 9, 2002.) A subject structure is any abandoned, unsafe, or dangerous structure upon which the Bureau of Development Services has commenced abatement proceedings.

24.15.200 Structure.

A structure is that which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.

24.15.210 Swimming Pool.

(Repealed by Ordinance No. 180330, effective August 18, 2006.)

24.15.215 Tree Removal.

(Added by Ordinance No. 168340; amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.) Tree Removal shall have the same meaning as "removal" as defined in Title 11 Trees.

24.15.220 Unoccupied.

(Added by Ordinance No. 162525; amended by 168901, effective June 6, 1970.) Not being used for a lawful occupancy.

24.15.230 Unsafe.

Means:

A. Any structure which is structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard or is otherwise dangerous to human life.

B. Unsafe use is any use of structures constituting a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment.

C. Unsafe appendages are parapet walls, cornices, spires, towers, tanks, statuaries, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Oregon State Structural Specialty and Fire and Life Safety Code.

24.15.240 Unsecured.

(Added by Ordinance No. 162525, amended by 168901, effective June 7, 1995.) Any building or structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

24.15.250 Value/Valuation.

Value or valuation of a structure or building shall be the estimated cost to replace the structure or building in kind, based on either the building valuation data reported in the latest issue of the ICBO Building Standards Journal or by any alternate method approved by the Director to give an accurate assessment of building replacement costs.

24.15.260 Warehousing.

Warehousing means securing a structure against vandalism, deterioration, and unauthorized entry pending its return to active use or occupancy.

CHAPTER 24.20 - SPECIAL INSPECTIONS

(Chapter replaced by Ordinance No. 187432,
effective December 4, 2015.)

Sections:

24.20.010 General.

A. In addition to the inspections required under Section 110 of the Oregon Structural Specialty Code, the owner or the owner's agent shall employ a Special Inspector during construction of the types of work specified in Chapter 17 of the Oregon Structural Specialty Code or for cases specifically required by the Director.

B. The Director shall have the authority to adopt and enforce written rules concerning the conduct and administration of special inspections in the City of Portland.

24.20.020 Selection of the Special Inspectors and/or Agencies.

With the approval of the Director, Special Inspectors and approved inspection and/or testing agencies shall be chosen and paid by the owner, and will report to the licensed architect or engineer whose signature and seal appear on the design drawings and to the Bureau of Development Services. No changes of Special Inspectors or inspection/testing agency approved by the Director shall be made without obtaining approval of the responsible architect/engineer and the Director.

24.20.030 General Duties of the Special Inspector.

(Amended by Ordinance No. 188647, effective November 17, 2017.)

A. The Special Inspector shall observe the work assigned for conformance with the approved construction documents.

B. The Special Inspector shall keep records of inspections and shall furnish inspection reports to the Director, the Registered Design Professional, as that term is defined in Chapter 2 of the Oregon Structural Code. All discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the Director.

C. The Special Inspector/Inspection Agency shall submit a final signed summary report stating whether the work requiring special inspection was, to the best of their knowledge, in conformance with the approved plans and specifications and the applicable workmanship provisions in the State Building Code.

CHAPTER 24.25 - MOVING OF BUILDINGS

Sections:

24.25.010 General.

No building shall be moved from one location to another until permits have been obtained.

24.25.020 Permit Information Required.

(Amended by Ordinance No. 188647, effective November 17, 2017.) The applicant shall file with the Director an application for a permit to move the structure, it shall be signed by the owner or the owner's authorized agent, and shall contain a description of the building to be moved, the location where it is to be moved, and the use and occupancy proposed, in addition to the information required by Section 24.10.070 of this Title regarding foundation or other work at the final location.

24.25.030 Direction of City Engineer.

(Amended by Ordinance No. 169905, effective April 1, 1996.) No building shall be moved across or along any street until the route to be followed and the time allowed for moving has been submitted to the City Engineer and approved by him. Moving shall be under the direction of the City Engineer. For the regulations covering the use of public streets see Chapter 33 of the Structural Specialty Code.

24.25.040 Housing Code Inspection Report Required.

The Director shall inspect any residential building that is proposed to be moved, to ensure its compliance with the provision of Title 29 of the Code of the City of Portland.

CHAPTER 24.30 - HOME OCCUPATIONS

Sections:

24.30.010 Permits Required.

A permit shall be required to establish a home occupation. The permit shall be renewed every 2 years to maintain said home occupation.

24.30.020 Compliance with Planning and Zoning Regulations.

All home occupations shall comply with the provisions of Title 33 of the Code of the City of Portland.

24.30.030 Fees for Home Occupations.

The fee for a home occupation permit shall be as provided in Section 24.10 of this Title.

CHAPTER 24.35 - HISTORICAL BUILDINGS

(Chapter repealed by Ordinance No. 187432,
effective December 4, 2015.)

CHAPTER 24.40 - USE OF AND PROJECTIONS OVER PUBLIC STREETS AND PROPERTY

Sections:

24.40.010 Street Use.

(Amended by Ordinance No. 169905, effective April 1, 1996.) A person undertaking work covered by a building permit, may, on proof of necessity, be entitled to a permit for use of the street, sidewalks, and/or roadway. Applications shall be subject to the approval of the Traffic Engineer and the Director. Material or equipment necessary for the work may be placed or stored on public property in the following locations:

A. On the roadway, adjacent to the curb in front of the site for which a building permit has been issued.

B. On the roadway in front of an adjoining site.

C. On the public sidewalk, in front of the construction site, except on those sidewalks required to be kept open. A street use permit shall be issued for a minimum period of 1 week and a maximum period of 90 days. The permit may be extended if in the judgment of the Director an extension is warranted by existing conditions. The use of the street by persons holding a permit and/or the fencing-off of street space shall not be continued longer than is necessary. If the permit for street use is within the Special Traffic Control Districts outlined in Section 17.23.030, the prior approval of the City Engineer must be obtained if the street use extends beyond the curb line.

When work not requiring a building permit is undertaken for maintenance of buildings or structures in the congested areas where parking meters are located, the person undertaking such work shall not close off any portion of the sidewalk or roadway areas without first obtaining, subject to the approval of the Traffic Engineer, a street use permit; the time limit for such permit shall be as specified above. If the street use permit is within the special Traffic Control Districts outlined in Section 17.23.030, the prior approval of the City Engineer must be obtained if the street use extends beyond the curb line. While work is in progress, a roped-off passageway not less than 4 feet in width shall be maintained for pedestrians. This passageway shall be no closer, than 6 feet horizontally from any scaffold, ladder, machinery, or equipment. The passageway shall be entirely contained within the existing sidewalk area. The Director may also require pedestrian protection as outlined in Chapter 33 of the Structural Specialty Code. In order to ensure coordination of construction activity within the Street area and to provide that the

private and public needs are met, the Director may also require a preconstruction meeting as outlined in Section 24.10.090 of this Title.

24.40.020 Dirt on Streets from Construction Projects.

If dirt or debris falls on any public right-of-way and such debris originates from a construction project for which a building, plumbing, or electrical permit has been issued, it is unlawful for the permit holder and/or owner not to remove it immediately. Failure of either the owner and/or permit holder to remove the spillage within 24 hours after notification given either orally or in writing may result in the Director gaining compliance by any of the methods outlined in Section 24.10.060 of this Title.

24.40.030 Fees.

Fees for street use shall be as indicated in Section 24.10 of this Title.

CHAPTER 24.45 - PARKING AND DRIVEWAY SURFACES

Sections:

24.45.010 General.

All vehicular driveways, parking spaces, and areas utilized for the maneuvering of vehicles shall be surfaced in accordance with this Chapter.

24.45.020 Minimum Surfacing Standards for Parking Areas and Garages for Passenger Cars and Trucks not Exceeding 1/2-Ton Capacity and Driveways Serving Structures 150 Feet or Less from an Improved Public Right-of-Way.

(Amended by Ordinance No. 173270, effective May 21, 1999.) Surfaced areas shall be constructed on properly drained, well-compacted subgrade, that is free of organic materials. Minimum pavement structure shall be:

A. Three and one-quarter inches Portland cement concrete having a compressive strength of 2,000 psi after 28 days, or

B. One and one-half inches of asphalt concrete placed over a base of 4 inches of crushed stone or gravel, or

C. Grid paving blocks, paving stones or materials with adequate spacing for drainage infiltration, or other stormwater management control surfaces. Where such surfaces are provided in accessible parking and as part of an accessible pedestrian path, the surfaces shall meet accessibility standards of the state building code.

24.45.030 Minimum Surfacing Standards for Driveways Serving Structures More than 150 Feet from an Improved Public Right-of-Way.

(Amended by Ordinance No. 173270, effective May 21, 1999.) Surfaced areas shall be constructed on properly drained, well-compacted subgrade, that is free of organic materials. Minimum pavement structure shall be:

A. Two inches of asphalt concrete on 4 inches of 1-inch minus, compacted crushed rock; or

B. Five inches of Portland cement concrete having a compressive strength of 3,000 psi after 28 days, or

C. A driveway surfaced as per Section 24.45.020 for the first 40 feet contiguous with the right-of-way paving and the remaining portion of 8 inches of 1-inch minus, compacted crushed gravel over filter fabric, or

D. Grid paving blocks, paving stones or materials with adequate spacing for drainage infiltration, or other stormwater management control surfaces. Where such surfaces are provided in accessible parking and as part of an accessible pedestrian path, the surfaces shall meet accessibility standards of the state building code.

24.45.040 Minimum Surfacing Standards for Trucks Over 1/2-Ton Capacity and Other Vehicles.

Surface of parking, storing, and maneuvering areas for vehicles and motorized equipment not regulated elsewhere in this Chapter shall be by a method approved by the Director that will effectively eliminate dust, mud, or other contaminating elements on surrounding street areas and/or abutting property and be constructed of materials capable of supporting the maximum axle weight of the largest piece of equipment. At each street entrance, a concrete or asphalt driving apron shall extend from the right-of-way paving at least 40 feet into the surface area.

24.45.050 Private Streets.

(Amended by Ordinance No. 169228, effective August 23, 1995.) Private street improvements shall consist of 1-1/2 inches of Class "C" asphalt concrete on 1-1/2 inches of Class "B" asphalt concrete on 6 inches of 1-1/2 inch minus compacted crushed gravel upon a compacted subgrade that has achieved 95 percent compaction.

No gates or other barriers which would restrict vehicles or pedestrians from using the private street may be located on a private street approved under this section.

CHAPTER 24.50 - FLOOD HAZARD AREAS

(Chapter replaced by Ordinance No. 160413,
effective January 14, 1988.)

Sections:

24.50.010 Purpose.

The purpose of this Chapter is to protect the public health, safety, and welfare by restricting or prohibiting uses which are dangerous to health, safety, or property in times of flood or which cause increased flood heights or velocities, and by requiring that uses and structures vulnerable to floods be protected from flood danger at the time of initial construction.

24.50.020 General.

(Amended by Ordinance No. 182370, effective November 26, 2008.)

A. The provisions of this Chapter shall regulate development and construction in flood hazard areas identified in Section 24.50.030.

B. Land classified in a flood hazard area may restrict or affect uses and development permitted in one or more of the regular zones listed in Chapter 33.16. If an inconsistency exists between Chapter 24.50 and other titles of this Code, the more restrictive uses or requirements shall prevail.

C. A structure or the use of a structure or property which was lawful before the original date of this Chapter but which is not in conformity with the provisions of this Chapter may be continued subject to provisions of the State Building Code, regulations for existing structures.

D. The flood protection elevations and the floodway and floodway fringe areas specified by this Chapter, based on the 100-year flood elevations, are considered reasonable. Greater flood heights and more extensive floodway fringe areas associated with longer flood frequency occurrences may occur or the flood height and extent of flooding may be increased by human or natural causes, such as log jams, bridge openings restricted by debris, or changes in basin conditions. Areas within designated drainage districts and those areas not covered by adequate

topographic maps may contain unmapped watercourses subject to flooding. The identification of designated flood hazard areas does not imply that lands outside of such areas will be free from flooding or flood damage.

The City of Portland or any officer or employee thereof, or the Federal Insurance Administration shall not be liable for any flood damages that result from reliance on the provisions or designations of this Chapter or any administrative decision lawfully made thereunder.

24.50.030 Flood Related Definitions.

(Amended by Ordinance Nos. 178741, 182370 and 184235, effective November 26, 2010.) The definitions contained in this Section relate to flood hazard areas and considerations outlined in this Chapter.

A. "Appeal" means a request for a review of the City of Portland's interpretation of any provision of this ordinance or a request for a variance.

B. "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

C. "Areas of Special Flood Hazard" mean the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

D. "Base Flood (100-year flood)" means the flood having 1 percent chance of being equaled or exceeded in any given year. Designation on maps always includes the letters A or V.

E. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

F. "City Datum" means the reference datum for the City of Portland maps. The FIRM maps described in Section 24.50.050 are referenced to the North American Vertical Datum (NAVD) of 1988. To convert NAVD 1988 level to City datum, subtract 2.125 feet from the elevation referenced to NAVD 1988 level.

G. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, bridges, other structures, and mining, dredging, filling, grading, paving, excavation, fencing, landscaping, drainage facilities, drilling operations, or storage of equipment or material.

H. "Existing manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the original date of this Chapter.

I. "Expansion to an existing manufactured home park or manufactured home Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets).

J. "FIA" means Federal Insurance Administration.

K. "Flood Hazard Area" means any area which has been identified as subject to flooding.

L. “Flood Insurance Study” means the official report provided by the Federal Insurance Administration that contains information regarding flooding, discusses the engineering methods used to develop the Flood Insurance Rate Maps (FIRMs), includes flood profiles, and the water surface elevation of the base flood.

M. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards.

N. "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

O. "Flood protection elevation" means the water surface elevation of the base flood plus a freeboard allowance.

P. "Floodplain" means the channel of watercourse and adjacent land areas which are subject to inundation by the base flood.

Q. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, sanitary, and water facilities, structures, and their contents.

R. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The actual

floodway boundaries are computer activated and approximate. These boundaries are depicted on the FIRM. Boundaries for other watercourses may be subject to identification by the Sewage System Administrator. The width of the floodway for unidentified watercourses should not be less than 15 feet.

S. "Flood fringe area" means any area lying outside the floodway which is subject to flooding by a base flood and for which water surface elevations and floodway and flood fringe boundaries have been determined by a Flood Insurance Study and are shown on the FIRMs. Boundaries for unidentified watercourses may be subject to identification by the Sewage System Administrator.

T. "Freeboard" means an additional height above the base flood level to account for factors that may contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as filling in the floodway fringe, wave action, effect of urbanization of the watershed, map inaccuracies, irregular stream cross sections, irregular constructions at bridges, and the uncertainties of flood discharge computations.

U. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 24.50.060 F.2.

V. "Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

W. "New construction" means structures for which the start of construction commenced on or after the effective date of this Chapter.

X. "New manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lots on which the manufactured home is to be affixed (including as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed on or after the original date of this Chapter.

Y. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets, walkways, sanitary sewers, storm sewers, and/or drainage facilities; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Z. "Structure or accessory structure" means, for the purposes of this Chapter, a walled and roofed building including a gas or liquid storage tank that is principally above ground.

AA. "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

BB. "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:

1. Before the improvement or repair is started, or

2. If the structure has been damaged, and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

b. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

CC. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

DD. "Water surface elevation" means the height of the water surface of the base flood for any point along the longitudinal course of a stream.

EE. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter, with some degree of regularity. Watercourses may be either natural or artificial.

24.50.040 FIA Study and Flood Hazard Maps.

(Amended by Ordinance Nos. 173979, 176955, 178741, 182671 and 184235, effective November 26, 2010.) The following study and maps in this Section are hereby adopted and declared to be a part of this Chapter.

A. Flood Insurance Study is the official scientific and engineering report entitled "Flood Insurance Study for City of Portland, Oregon: Multnomah, Clackamas and Washington Counties", dated November 26, 2010 prepared by the Federal Insurance Administration (FIA) under agency agreement with the Portland District Corps of Engineers. The latest edition of the report, along with accompanying FIRMs, are on file with the Bureau of Development Services.

B. Flood Insurance Rate Maps (FIRMs) are the official maps entitled "The Flood Insurance Rate Maps (FIRMs) for City of Portland, Oregon: Multnomah, Clackamas and Washington Counties", dated either October 19, 2004 or November 26, 2010, whichever is more current, on which the Federal Insurance Administration has delineated the areas of flood hazards along with the 100-year (base flood) and 500-year flood boundaries, the floodway zone boundaries and the 100-year flood elevations.

C. Water Features Map is the official map, dated May, 1981, or latest edition, compiled by the Bureau of Planning and Sustainability delineating certain watercourses which are subject to special flood hazard and drain 30 acres or more.

D. When base flood elevation data has not been provided by the FIA study, the Sewage System Administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source. This data shall be utilized only after technical review and approval of the Sewage System Administrator.

E. The "Title 3 Water Quality and Flood Management Area Map," as adopted by Metro Council on June 18, 1998, is the official map which identifies areas as "February 1996 Flood Inundation." The identified areas are subject to the regulations of this Title.

24.50.050 Flood Hazard Areas and Flood Protection Elevations.

(Amended by Ordinance Nos. 173979, 178741 and 182370, effective November 26, 2008.) Flood hazard areas shall contain all lands located within the Floodway boundary, Flood

Zones within the Flood fringe areas, and other identified Flood Zones. Identified Flood Zones are depicted on the National Flood Insurance Rate Map (FIRM). Both identified and unidentified Flood Hazard areas along with flood protection elevations are described in the following. Figure 1 illustrates the basic flood hazard areas and elevations.

(See Figure 1 at the end of Title 24)

A. Columbia River FIRM Flood Zone AE. These flood zones represent areas for which base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus one foot of freeboard. The nominal one-foot increase for freeboard reflects the relatively wide flood plain of the Columbia River. In the vicinity of the confluence of the Columbia and Willamette Rivers, the Columbia River floodplain shall be considered to be east of the westerly floodway fringe boundary of the Columbia Slough.

B. Multnomah Drainage District No. 1 and Peninsula Drainage District No. 2 FIRM Zone AH. This flood zone represents isolated areas of shallow flooding (1 to 3 feet in depth, resulting from upslope runoff) for which base flood elevations are determined. In the case of unidentified watercourses occurring within the boundaries of the Drainage Districts, the base flood elevation shall be estimated by procedures described in paragraph G. below. The flood protection elevation shall be the base flood elevations plus one foot of freeboard.

C. Columbia River FIRM Flood Zone A. These flood zones represent areas for which base flood elevations are not determined. The flood protection elevation shall be either the grade at the adjacent flood fringe boundary or the crown of the nearest street, whichever is higher, plus one foot of freeboard.

D. Willamette River FIRM Flood Zone AE. These flood zones represent areas for which the base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.

E. Johnson Creek, Fanno Creek and Crystal Springs Creek FIRM Flood Zone AE. This flood zone represents area for which the base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.

F. Johnson Creek FIRM Flood Zone AH. This flood zone represents areas of shallow flooding depth (1 to 3 feet) for which base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.

G. Johnson Creek FIRM Flood Zone AO. This flood zone represents areas of shallow flooding depth (1 to 3 feet) for which the depths of flooding are determined. The flood protection elevation shall be the depth of flooding shown on the FIRM map plus two feet of freeboard above the highest adjacent grade.

H. Johnson Creek, Fanno Creek, Tryon Creek, and Crystal Springs Creek FIRM Flood Zone A. These flood zones represent areas for which base flood elevations are not determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. Base flood elevations shall be calculated in accordance with paragraph I. below.

I. Unidentified Watercourse Flood Zones. These watercourses, generally draining one acre or more, are not identified in a Federal Insurance Study and may not be identified on the Water Features map. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. The width of the floodway shall not be less than 15 feet. The floodway boundary, flood fringe boundary, and flood protection elevation data shall be based upon watercourse geometry, slope, channel roughness, effect of obstructions, backwater and other factors which affect flood flow. The requisite flood hazard data, maps, and sections shall be obtained and developed by procedures approved by the Sewage System Administrator. When appropriate and necessary data are available, the flood protection elevation and floodway and flooding fringe boundary data may be provided by the Sewage System Administrator. If pertinent hydrologic data and topographic data are not available, inaccurate, or outdated, and where substantial alterations or relocations of a watercourse are involved, the Sewage System Administrator may require the permit applicant to secure a registered engineer and surveyor to develop and supply the requisite flood hazard data, maps, and sections.

J. Metro Flood Management Areas. Flood 1996 inundation areas shown on Metro Title 3 Water Quality and Flood Management Area Maps shall have a flood protection elevation which provides two feet of freeboard above the Flood 1996 level. Flood 1996 inundation areas adjacent to Columbia River FIRM Flood Zone AE, Multnomah Drainage District No. 1, Peninsula Drainage District No. 2 Firm Zone AH and Columbia River FIRM Flood Zone A shall have freeboard of one foot.

24.50.060 Provisions for Flood Hazard Reduction.

(Amended by Ordinance Nos. 165678, 169905, 172209, 173979, 176955, 178741, 182370, 184235, 189338 and 189806, effective December 18, 2019.) In all flood hazard areas defined in Section 24.50.050, the following provisions are required:

A. Permits. All permit applications shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding. A development or building permit shall be obtained before construction or development begins within any area of flood hazard. Such applications for permits shall include the following specific information:

1. Elevation of lowest floor, including basement, for all structures and floodproofed elevations for nonresidential structures.

2. Elevation of lowest point of bridge structures.

3. Existing and proposed topography of the site taken at a contour interval (normally 1 foot) sufficiently detailed to define the topography over the entire site and adjacent watercourses subject to flooding. Ninety percent of the contours shall be plotted within 1 contour interval of the true location.

4. All necessary permits obtained from the federal and state governmental agencies from which prior approval is required.

5. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 24.50.050 G.), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of any available hydrological data, drainage basin hydrology, historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

B. Elevation reference. The survey reference datum for finished lowest floor including basement, floodproofed elevations, and finished site grades shall be either the North American Vertical Datum of 1988 or City of Portland datum, whichever is appropriate. When approved by the City Engineer, a local onsite survey reference datum may be adopted for FIRM Zones A and Unidentified Watercourse Flood Zones. The survey reference datum shall be indicated on all relevant plan and Section drawings, and the certified Flood-Elevation Certificate.

C. Certification of elevations and floodproofing. All finished elevations as specified hereunder shall be certified on a FEMA (FIA) Elevation Certificate by a licensed surveyor secured by the permittee, and made part of the permit records.

1. As-built elevation of lowest floor including basement, of all new or substantially improved structures;

2. As-built floodproofed elevation of all new or substantially improved nonresidential structures;

3. As-graded elevation of lowest grade within 25 feet of structures;

4. As-graded elevation of lowest crawl space grade, as applicable.

All floodproofing materials and methods for nonresidential structures shall be certified by a licensed professional engineer or architect as meeting the criteria in Section 24.50.060 F7.

D. Floodway. Encroachments into the floodway by development and structures defined in Section 24.50.020 are prohibited unless it is demonstrated by technical analysis from a registered engineer that the development will result in no increase in the base flood elevation. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement or other development (including fill) shall be permitted within Zone AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community. Technical analysis shall be reviewed and approved by the Sewage System Administrator. However, the minimum width of the floodway shall not be less than 15 feet.

E. Alteration of watercourses. The Bureau of Development Services shall:

1. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse as identified in the Flood Insurance Study and Flood Insurance Rate Map, and submit evidence of such notification to the Federal Insurance Administration.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

F. Flood hazard areas.

1. General. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

2. Residential construction.

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above flood protection elevation. Floodproofing of "lowest floor" space is not permitted.

b. Fully closed areas below the lowest floor that are subject to flooding are prohibited or shall be used solely for parking of vehicles, building access or limited storage and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one foot above grade;

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(a) Fills required to elevate the lowest floor to the flood protection level shall comply with Chapter 24.70. Fill selection and placement shall recognize the effects of inundation from floodwaters on slope stability, fill settlement, and scour. The minimum elevation at the top of the fill slope shall be at the base flood level. Minimum distance from any point of the building perimeter to the top of the fill slope shall be either 25 feet or twice the depth of fill at that point, whichever is the greater distance.

(b) Piling foundations required to elevate the lowest habitable floor to the flood protection level shall comply with Section 1809 and 1808 of the Structural Specialty Code. Pilings shall be spaced no more than 10 feet apart, and reinforcement shall be provided for piling more than 6 feet above the ground level.

3. Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

4. Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the flood protection elevation, or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Bureau of Development Services.

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described for residential structures.

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

5. Manufactured homes. All manufactured homes to be placed or substantially improved within Zones AO, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the flood protection elevation and be securely anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

6. Utilities. All new and replacement water supply and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the sanitary sewage systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

7. Construction materials and methods. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, using methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be protected to or above the flood protection elevation.

8. Balanced Cut and Fill Required. In all Flood Management Areas of the City not addressed by Section 24.50.060 G, balanced cut and fill shall be required. All fill placed at or below the base flood elevation shall be balanced with at least an equal amount of soil material removal. Soil material removal shall be within the same flood hazard area identified in Section 24.50.050 A. through I.

a. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.

b. Temporary fills permitted during construction shall be removed.

9. Tank anchoring. Tanks containing hazardous materials must be anchored to prevent flotation if they are located in areas of special flood hazard or flood management areas.

10. Uncontained hazardous materials as referred to in Section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Section 9601 et seq.) (CERCLA), section 502 (13) of the Clean Water Act and any other substances so designated by the Director of the Bureau of Development Services are prohibited in flood management areas.

11. AH/AO Zone Drainage. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

G. Johnson Creek Flood Zones - Special Provisions. In addition to other requirements of this chapter the following requirements shall apply within designated portions of the Johnson Creek Flood Zones:

1. All Johnson Creek Flood Zones

a. Balanced cut and fill. Within all areas of the Johnson Creek Flood Zones, all new fills below the base flood elevation shall be accompanied by an equal amount of excavation on the same site so that the storage capacity of the floodway and floodway fringe is retained.

b. Mitigation payment allowed in lieu of balanced cut and fill. After September 1, 1998 residential properties within the area of the 100 year floodplain, but outside of the floodway and Flood Risk Area, and bounded by I-205 on the west, SE 142nd Avenue on the east, and the Springwater Corridor Trail on the south, may elect to pay into the Johnson Creek Fill Mitigation Bank in lieu of creating a balanced cut and fill. The amount of the payment shall be determined by the Bureau of Environmental Services.

2. Johnson Creek Flood Risk Area. The following provisions shall apply within the Johnson Creek Flood Risk Area, as established in Chapter 33.535 of the City Code:

a. Balanced cut and fill. The requirements of subsection G.1. above, shall apply within the Johnson Creek Flood Risk Area.

b. Reduction in flooding capacity prohibited. Structures, fill or other development shall only be allowed in the Johnson Creek Flood Risk Area when they are designed so that there is no significant reduction in the storage capacity of the floodway and floodway fringe and there is no significant impediment to the passage of flood waters.

c. Exceptions to Section 24.50.060 G.2.:

(1) One story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

(2) Parking garages accessory to one and two family structures, provided the floor area does not exceed 300 square feet.

(3) Fences which do not prevent the flow of water.

d. Buildings designed to meet all of the following criteria shall be presumed to comply with Section 24.50.060.G.2.:

(1) At least 50 percent of perimeter walls located at, or below, the base flood elevation shall remain open and unenclosed;

(2) At least 25 percent of each perimeter wall located at, or below, the base flood elevation shall remain open and unenclosed; and

(3) The footprint of all portions of the building located at, or below, the base flood elevation shall not exceed 15 percent

of the footprint of the building located above the base flood elevation.

24.50.065 Recreational Vehicles located in Areas of Special Flood Hazard or Base Flood Zones.

(Added by Ordinance No. 180330, effective August 18, 2006.)

A. Any recreational vehicle placed on a site located in either an Area of Special Flood Hazard or in the base flood zone shall:

1. Meet the elevation and anchoring requirements for manufactured homes;

2. Be on the site for fewer than 180 consecutive days; or

3. Be fully licensed and ready for highway use. As used in this section, "ready for highway use" means that the vehicle is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.

B. For the purpose of this section, "recreational vehicle" means any vehicle which is:

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

24.50.070 Appeals and Variances.

(Amended by Ordinance No. 178741, effective October 19, 2004.)

A. Appeals. Any person aggrieved by a requirement, decision, or determination made pursuant to the administration of this Chapter may appeal such action to the Building Board of Appeal in accord with Chapter 24.10.

B. Variances. If variances from requirements of this Chapter are requested, all relevant factors and standards specified in other sections of this Chapter shall be considered, as well as the following:

1. The danger that materials may be swept into other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing anticipated development;

8. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; Upon consideration of the factors listed above and the purposes of this Chapter, such conditions may be attached to the granting of variances as deemed necessary.

C. Conditions for variances.

1. Generally the only condition under which variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

2. Variances shall not be issued within designated floodway if any increase in flood levels during the base flood discharge would result.

3. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State

Inventory of Historic Places, without regard to the procedures set forth in this Section.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause,

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

c. A determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

7. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

8. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 24.50.070 C.1. and otherwise complies with Section 24.50.060 F.1. and 24.50.060 F.7.

CHAPTER 24.51 - WILDFIRE HAZARD ZONES

(Chapter added by Ordinance No. 177433, effective May 30, 2003.)

Sections:

24.51.010 Purpose.

The purpose of this Chapter is to adopt the criteria that will be used to specify areas of the City to be classified as Wildfire Hazard Zones, so that roof materials may be limited.

24.51.020 Definitions.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The definitions contained in this Section relate to Wildfire Hazard zones and considerations outlined in this Chapter.

A. Chief means the Chief of Portland Fire & Rescue or the Chief's duly authorized representative.

B. Department of Forestry (DOF) means the State of Oregon Department of Forestry.

C. Wildfire Hazard Zone means those areas of the City as determined by the Chief that rate a minimum score of 5 or higher using the following criteria developed by DOF:

1. Topography hazard factor value

2. Natural vegetative fuel hazard factor value

3. Natural vegetative fuel distribution hazard factor value

D. Wildfire Hazard Zone Map means the WHZM attached to Ordinance No. 177433 and as it may be amended from time to time based on the criteria herein.

E. Hazard Factor. Hazard Factors are topography, certain natural vegetative fuels and natural, vegetative fuel distribution. Any of these factors, or a combination thereof, may cause an area of the City to be included within a Wildfire Hazard Zone.

F. Topography Hazard Factor Value means the hazard value as determined by DOF associated with site slope which effects the fire spread velocity.

G. Natural Vegetative Hazard Factor Value means the numerical value assigned by DOF, extrapolated from the "Aids to Determining Fuel Models for Estimating Fire Behavior" published by the Forest Service, USDA Intermountain Forest and Range Experiment Station in 1982 as General Technical Report INT-122, for various common vegetation.

H. Natural Vegetative Fuel Distribution Hazard Factor Value means the numerical value assigned by DOF for the percentage of site that is covered by vegetation described in 24.51.020 G.

24.51.030 Wildfire Hazard Zone Map Adoption.

A. Wildfire Hazard Zone Map Adoption.

1. A Wildfire Hazard Zone Map (WHZM) has been developed for the City of Portland through a review of topography, weather, type vegetation and fuel density. This map is dated October 11, 2002.

2. The WHZM dated October 11, 2002, is hereby adopted by reference and incorporated into this ordinance.

3. The Chief shall provide the Director with a copy of the official map adopted in Subsection one of this Section. Copies of the map shall be available for review in the Development Services Center, First Floor 1900 SW 4th Avenue, Portland Oregon.

B. Revisions to the Wildfire Hazard Zone Map.

1. The WHZM may be amended from time to time to either include or exclude properties as the facts may warrant.

2. The Chief shall have the authority to revise the Wildfire Hazard Zone Map.

3. All Wildfire Hazard Zone map revisions shall be determined using the criteria set forth below. Any site having a cumulative hazard value of five (5) or more shall be included in a wildfire hazard zone.

a. Topography Hazard Factor Value. The topography hazard value shall be calculated as follows:

(1) Determine site slope using the appropriate 7.5 minute quadrangle map published by the U.S. Geological Survey, USDI.

(2) Select appropriate hazard value using Table 1.

TABLE 1
APPROPRIATE TOPOGRAPHY
HAZARD FACTOR VALUE

Site Slope as determined by the 7.5 minute quadrangle map	Hazard Value
Slopes 00 to < 03%	0
Slopes 03 to < 12%	1
Slopes 12 to < 20%	2
Slopes 20% or greater	3

b. Natural Vegetative Fuel Hazard Factor Value. The natural vegetative fuel hazard value shall be calculated as follows:

(1) Divide the jurisdiction into geographic areas which best describe the natural vegetation expected to occupy sites for the next 10 to 15 years.

(2) Select the appropriate hazard value from Table 2.

TABLE 2
NATURAL VEGETATIVE FUEL
HAZARD FACTOR VALUE

Natural Vegetative Fuel Description 1		Hazard Value 2
Limited	Little or no natural vegetative fuels are present.	0
Grass	Very little shrub or timber is present, generally less than one-third of the area. Main fuel is generally less than two feet in height. Fires are surface fires that move rapidly through cured grass and associated material. (Fuel model 1)	3

Natural Vegetative Fuel Description 1		Hazard Value 2
Grass	Open shrub lands and pine stands or scrub oak stands that cover one-third to two-thirds of the area. Main fuel is generally less that two feet in height. Fires are surface fires that spread primarily through the fine herbaceous fuels, either curing or dead. (Fuel model 2)	3
Grass	Beach grasses, prairie grasses, marshland grasses and wild or cultivated grains that have not been harvested. Main fuel is generally less than four feet in height, but considerable variation may occur. Fires are the most intense of the grass group and display high rates of spread under the influence of wind.(Fuel model 3)	3
Shrubs	Stands of mature shrubs have foliage known for its flammability, such as gorse, manzanita and snowberry. Main fuel is generally six feet or more tall. Fires burn with high intensity and spread very rapidly. (Fuel model 4)	3
Shrubs	Young shrubs with little dead material and having foliage not known for its flammability, such as laurel, vine maple and alders. Main fuel is generally three feet tall or less. Fires are generally carried in the surface fuels and are generally not very intense. (Fuel model 5)	1

Natural Vegetative Fuel Description 1		Hazard Value 2
Shrubs	Older shrubs with foliage having a flammability less than fuel model 4, but more than fuel model 5. Widely spaced juniper and sagebrush are represented by this group. Main fuel is generally less than six feet in height. Fires will drop to the ground at low wind speeds and in stand openings. (Fuel model 6)	2
Timber	Areas of timber with little undergrowth and small amounts of litter buildup. Healthy stands of lodgepole pine, spruce, fir and larch are represented by this group. Fires will burn only under severe weather conditions involving high temperatures, low humidity and high winds. (Fuel model 8)	1
Timber	Areas of timber with more surface litter than fuel model 8. Closed stands of healthy ponderosa pine and white oak are in this fuel model. Spread of fires will be aided by rolling or blowing leaves. (Fuel model 9)	2
Timber	Areas of timber with heavy buildups of ground litter caused by over-maturity or natural events of wind throw or insect infestations. Fires are difficult to control due to large extent of ground fuel. (Fuel model 10)	3
1. Some areas may contain vegetative fuels other than those listed in Table 2. Additional natural fuel hazard factors may be found in "Aids to Determining Fuel Models for Estimating Fire Behavior" published by the Forest Service, USDA Intermountain Forest and Ranger Experiment Station in 1982 as General Technical Report INT-122. Vegetative fuel hazard factors determined using General Technical Report INT-122 shall be used as alternative factors, for review under this chapter, as the facts warrant.		

Natural Vegetative Fuel Description 1	Hazard Value 2
2. Due to various factors, such as variations in local vegetation species or vegetation conditions, the fuel models used in Table 2 may not accurately portray wildfire behavior. The Chief may make modifications to the hazard values as necessary to accurately reflect the following characteristics: **(a)** A hazard value of 1 shall describe vegetation that typically produces a flame length of up to 5 feet, a wildfire which exhibits very little spotting, torching, or crowning, and which results in a burned area that can normally be entered within 15 minutes. **(b)** A hazard value of 2 shall describe vegetation that typically produces a flame length of 5 to 8 feet, a wildfire which exhibits sporadic spotting, torching, or crowning, and which results in a burned area that can normally be entered within one hour. **(c)** A hazard value of 3 shall describe vegetation that typically produces a flame length of over 8 feet, a wildfire that exhibits frequent spotting, torching, or crowning, and which results in a burned area that normally cannot be entered for over one hour.	

c. Natural Vegetative Fuel Distribution Hazard Factor Value . To determine the natural vegetative fuel distribution hazard factor value:

(1) Determine the percentage of each individual area that is covered by vegetation.

(2) Using the calculated percentage, assign a value using Table 3.

TABLE 3
NATURAL VEGETATIVE FUEL
DISTRIBUTION HAZARD FACTOR

Natural Vegetative Fuel Distribution	Hazard Value
0 to 10% of the area	0
10 to 25% of the area	1
25 to 40% of the area	2

24.51.040 Map Revision Process.

A. Wildfire Hazard Zones may be applied to or removed from areas of the City as follows:

1. During periodic review by the Chief, based upon the criteria listed in section 24.51.030. Periodic review shall occur every 5 years.

2. Upon request to the Chief by any property owner, prior to periodic review, on the grounds that conditions have changed.

B. Prior to applying the Wildfire Hazard Zone to any property the Chief shall provide notice of such proposed zoning and provide a date for a public hearing.

The notice shall be sent to all properties to which the zone would be applied. The notice shall be sent fourteen days prior to the date of the hearing. Extensions of time for the hearing may be requested and may be provided by the Chief. The notice shall provide information regarding the City's intention to apply the Wildfire Zone, the reasons therefore and the time and place for the hearing.

Within 7 days of the hearing the Chief shall issue a written decision, based upon the criteria listed above, and which shall include findings supporting that decision and shall contain information regarding the right to appeal the Chief's decision to the Bureau of Development Service's Appeals Board (Board). A copy of the decision shall be sent to all properties that received notice of the City's intention to include these properties within a Wildfire Hazard Zone.

C. When a property owner provides the Chief with a written request that the Wildfire Hazard Zone be removed from specific property the Chief shall consider the request and, based upon the criteria listed above, shall either approve or deny the request.

Such action by the Chief shall occur within 14 days of the date of the request and shall be in writing, shall include findings based upon the facts and criteria and shall contain information regarding the right to appeal the Chief's decision to the Board. This decision shall be mailed to the property owner requesting the change in status.

24.51.050 Appeals of Decisions Made by the Chief.

Notwithstanding any contradictory portion of Code Section 24.10.080:

A. Any decision made by the Chief, regarding the application of a Wildfire Hazard Zone to any area in the City, may be appealed to the Bureau of Development Services Board of Appeals (Board) solely in accordance with this subsection. In considering such appeals the Board shall act solely in accord with this section.

B. Such appeal shall be in writing and shall be filed with the Board within fourteen days of the date of the Chief's decision. The appeal shall include a statement regarding the elements of the Chief's decision with which the appellant takes issue. Reference to facts and the criteria listed above, is required.

C. A copy of the appeal shall be provided to the Chief at the same time that it is filed with the Board. The Chief shall have fourteen days from the date of the appeal to respond, in writing, to the Board and all appellants.

D. The Board shall issue a notice of a hearing date and the place and time of the hearing. Notice shall be provided to the appellants and the Chief.

E. The Board shall then hold a hearing upon any such appeal. After considering the issues raised on appeal, and the reasonableness of the Chief's interpretation of applicable criteria, the Board shall, by majority vote, affirm or modify the Chief's decision. The Board's decision shall be based solely upon the criteria set out in this Chapter and shall include findings addressing the facts and the criteria. The decision of the Board shall have full force and effect. A certified copy of the decision shall be delivered to the appellant.

Any appeal of the Board's decision shall by writ of review.

24.51.060 General.

(Amended by Ordinance Nos. 178745 and 179125, effective April 1, 2005.)

A. In addition to the other City codes, all structures located in wildfire hazard zones as identified in the Wildfire Hazard Zone map shall meet the applicable requirements in the State of Oregon Structural Specialty Code or the Residential Specialty Code as applicable.

B. The requirements in Chapter 24.75, Uniform Building Address System, supercede the requirements found in OSSC Appendix L, Section L101.7, for premises identification.

CHAPTER 24.55 - BUILDING DEMOLITION

(Chapter amended by Ordinance No. 171455,
effective August 29, 1997.)

Sections:

24.55.100 Demolition - Debris - Barricades - Nuisances.

(Amended by Ordinance Nos. 171455, 187017 and 189012, effective June 13, 2018.) It is unlawful for any owner or persons in control of any such structure which is being demolished, or which has been damaged by fire, to leave any portion of the structure unsupported for more than 1 hour, if such section is liable to collapse or is in any way a danger to the public. In no event shall a portion of the structure be left unsupported for more than 24 hours. Suitable barricades shall be provided to prevent access to the vicinity of any unsupported section of the structure. Any permanent structural supports provided as a result of application to this section shall be designed by a structural engineer registered to practice in the State of Oregon and hired by the applicant. All such designs, calculations, drawings, and inspection reports shall be approved by the Director.

All combustible debris or material shall be removed from the premises on which the demolition is carried out within 30 days from the completion of the demolition, or from the stoppage of the work thereon if the work remains uncompleted. All non-combustible debris or material resulting from demolition shall be removed within 30 days after the completion of the demolition or stoppage thereof, unless the Director extends the time therefore because of weather, terrain, or other special circumstances, but such extension shall not exceed 3 months. It is unlawful for any owner or person in possession of real property to permit the debris to remain on the property without disposal in excess of the periods mentioned above or of any specific extension thereof as set forth above.

Any of the above-mentioned things existing while there is a duty to remove or correct the same, shall constitute a public nuisance. Any unsupported portions of a building or structure existing beyond the periods set forth above shall be subject to summary abatement by the City. The abatement shall be in accordance with the procedure set forth in Title 29, Chapter 29.60, Administration and Enforcement.

All structures to be demolished shall be taken down in a safe manner. The streets or sidewalks shall not be littered with rubbish and shall be wet down, if necessary. During any demolition work, all receptacles, drop boxes, shafts, or piping used in such demolition work shall be covered in an appropriate manner. After removal of any structure all foundations that are not to be used for new construction shall be removed and all excavations filled in compliance with Chapter 24.70 of this Title, to a level of the adjoining grade. Plans shall be submitted for any new construction proposed, utilizing the remaining foundations. Any remaining foundations approved for further use shall be barricaded by a

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

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

applications for demolition of residential structures. They do not apply to demolitions of accessory structures such as garages or other outbuildings.

C. Application for building permit for demolition.

1. Signed statement. The application for a building permit for demolition must include a statement signed by the owner(s) of the property. The statement must acknowledge that the owner(s) are aware of the primary uses permitted under the current zoning on the site without a conditional use, zone change, Comprehensive Plan Map amendment, or other land use approval and that such an approval will be required before other uses will be permitted on the site. The statement may be on forms that the Director may make available.

2. Delay in issuing. The building permit for demolition will not be issued except as provided for in this Section (24.55.200).

D. Notification.

1. Mailed notice. Within 5 days of receipt of a complete application for a residential demolition permit, the Bureau of Development Services will mail written notice of the demolition request to all properties within 150 feet of the site to be demolished, to the recognized organization(s) whose boundaries include the site, to the Architectural Heritage Center/Bosco-Milligan Foundation, Inc., and to the Historic Preservation League of Oregon, dba Restore Oregon. A complete application means when the Bureau of Development Services has received a complete permit application, project plans and the intake, review and notice fees have been paid. The notification letter will contain at least the following information.

a. Notice that the site has been proposed for demolition,

b. The date the application for demolition was received,

c. Notice that there is a demolition delay period of 35 days which may be extended upon request from the recognized organization(s) whose boundaries include the site or an interested party,

d. The contact information of the applicant,

e. The last day that requests for extended delay may be submitted, and

f. The location where more information is available.

2. Posted notice. Not more than 2 weeks nor less than 72 hours before demolition activity commences, the applicant must post door hangers provided by the Bureau of Development Services on all properties within

300 feet of the site to be demolished. The notice must contain all of the following information.

a. Name and phone number of the Demolition Manager.

b. Notice that the site has been proposed for demolition,

c. The demolition permit number,

d. The approximate date demolition activity will commence,

e. Contact information of the agencies that regulate asbestos and lead-based paint,

f. Contact information for the applicant,

g. Recommended safety information for surrounding properties, such as closing windows and keeping children away from the site, and

h. The location where more information is available.

E. 35-day notice period. The building permit for residential demolition will not be issued during the 35-day notice period. The notice period begins on the day the complete permit application is received and all intake fees have been paid. If no written request to extend the demolition delay is received during the 35-day notice period as provided in Subsection 24.55.200 F. below, then the Bureau of Development Services will issue the building permit for demolition.

F. Requests for extension of demolition delay period. Requests to extend the demolition delay period may be made as follows:

1. Who may request. Requests to extend the demolition delay period an additional 60 days may be made by a recognized organization whose boundaries include the site or any other interested party.

2. How to request. The request to extend the demolition delay period must be made in writing, on forms provided by the Bureau of Development Services. The request must be submitted to the Bureau of Development Services by 4:30 p.m. on the last day of the initial 35-day notice period. The request must be accompanied by an appeal of the demolition permit application submitted to the Bureau for a hearing before the Code Hearings Officer, as provided in Subsection 24.55.200 H. below, along with the appeal fee or a waiver of the fee and a copy of the letter requesting a meeting with the property owner as described in Subsection 24.55.200 H.1. below. A fee waiver will only be granted to recognized organizations whose boundaries include the site.

G. 60-day extension of residential demolition delay period. If a signed request for extension of the demolition delay is received as provided in Subsection 24.55.200 F. above, issuance of the building permit for demolition will be stayed until the Code Hearings Officer has rendered a decision of the appeal filed as provided in Subsection 24.55.200 H. below.

H. Appeal of the residential demolition permit application. An interested party may appeal issuance of the demolition permit by completing an appeal application on forms provided by the Bureau. The appeal application must be accompanied by the appeal fee or a fee waiver, along with a copy of the letter requesting a meeting with the property owner as described in Subsection 1. below. Appeals will be forwarded to the Code Hearings Officer and will be governed by the provisions in Chapter 22.10, unless there is a conflict between Chapter 22.10 and this Section, in which case this Section shall apply. The provisions of Chapter 22.03 shall not apply to appeals under this Section, except for Sections 22.03.050 (Hearing Procedure), 22.03.080 (Evidence), and 22.03.110 (Orders). The appeal may be filed any time within the initial 35-day delay period. The demolition permit may not be issued from the time the Bureau receives an appeal application and the fee or fee waiver, until the Code Hearings Officer has rendered a decision or the 60-day extension period has expired. If the fee waiver is denied, the appealing party must submit the appeal fee to the Bureau within three business days of the denial or the appeal will be rejected. The appealing party has the burden of proving that it is actively pursuing an alternative to demolition and must demonstrate all of the following by submitting evidence to the Code Hearings Officer, either with the appeal application or at the appeal hearing:

1. The requesting party has contacted the property owner or property owner's representative to request a meeting to discuss alternatives to demolition by sending a letter to the property owner by registered or certified mail, return receipt requested;

2. The particular property subject to the demolition permit application has significance to the neighborhood. Evidence of the significance may include, but is not limited to, architectural significance, the age and condition of the structure or other factors;

3. The requesting party has a plan to save the structure; and

4. The requesting party has a reasonable potential to consummate the plan within 95 days of the date the Bureau accepted the complete demolition permit application by providing a proposed budget and either evidence of funds on hand or a fund raising plan sufficient to meet the financial requirements of that budget. "Consummate the plan" as used in this Subsection means coming to an agreement among the parties within the 95 days; it does not mean that the plan itself must be completed in that time.

I. Moving as an alternative. If the applicant decides to move the structure instead of demolishing it, then the demolition notice period and/or extended delay period becomes moot. The demolition delay period is automatically terminated when a building permit to move the structure from the site and a building permit to relocate the structure to another site are issued.

J. Findings of the Code Hearings Officer. If the Code Hearings Officer finds that the requesting party has demonstrated that it is actively pursuing an alternative to demolition and has met all of the criteria in Subsection 24.55.200 H. (1. – 4.) above, the Code Hearings Officer may grant an extension of the demolition delay for up to 60 additional days from the date the initial 35 day delay period has expired. If the Code Hearings Officer finds that the requesting party has not met its burden, then the Bureau may issue the demolition permit immediately upon receipt of the decision, provided that all other requirements for issuing the demolition permit have been satisfied.

K. End of the extension period. If the Code Hearings Officer has not rendered a decision within the 60-day extension period as provided in Subsections 24.55.200 H. and J. above, the building permit for demolition may be issued any time after 60 days have elapsed since the expiration of the initial 35-day notice period. In no event will the permit issuance be delayed more than 95 days from the date the Bureau received the complete demolition permit application if all other requirements for issuing the demolition permit have been satisfied.

L. Exceptions to demolition delay.

1. The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition that are required by the City to remove structures because of a public hazard, nuisance, or liability. The structure must be subject to a demolition order from the City, or be the subject of enforcement proceedings for demolition and be stipulated by the owner as a dangerous building, in order to be exempt from the demolition delay provisions.

2. The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition of structures that are subject to the demolition review provisions of Title 33. In this situation, the provisions of Title 33, Planning and Zoning, apply to the application. Any application not subject to the demolition review provisions of Title 33 is subject to the demolition delay provisions of this Section (24.44.200).

24.55.205 Site Control Measures in Residential Demolitions.
(Added by Ordinance No. 188802; amended by Ordinance No. 189012, effective June 13, 2018.)

A. Scope. The provisions of this Section 24.55.205 apply to demolitions involving the following, regardless of zoning or Comprehensive Plan Map designation:

1. Structures used for residential purposes with four or fewer dwelling units, including mixed use structures. "Mixed use" for purposes of this Section 24.55.205 means the combination on a site of residential uses with commercial or industrial uses.

2. Any detached accessory structures with a floor area over 200 square feet on a site with a structure covered by Subsection 1. above. "Accessory structure" for purposes of this Section 24.55.205 means a structure not greater than 3,000 square feet in floor area, and not more than two stories in height, the use of which is accessory to and incidental to that of the main structure.

B. Documentation Required. A permit to demolish a structure within the scope of this Section as defined in Subsection A. above will not be issued until the Bureau of Development Services (BDS) has received all of the following:

1. A copy of the asbestos survey required under Oregon Revised Statutes 468A.757 and Oregon Administrative Rules Chapter 340, Division 248, as each of these is amended from time-to-time.

2. If asbestos is identified in the asbestos survey:

a. For friable asbestos removal, a copy of the ASN1 (friable notification form) and a close-out letter from the licensed asbestos abatement contractor verifying all of the asbestos identified in the asbestos survey has been abated; and

b. For non-friable asbestos removal, a copy of an ASN6 (nonfriable asbestos notification form), and a copy of the ASN4 (asbestos waste shipment form).

3. A Demolition Plan as described in Section 24.55.150.

4. If the structure to be demolished was built before January 1, 1978, it will be presumed to contain lead-based paint, unless a copy of lead-test results conducted by an "inspector" or "risk assessor," as those terms are defined on OAR 333-069 and as that section is amended from time-to-time, that shows the structure does not have lead-containing materials is submitted to the Bureau of Development Services with the application for a demolition permit.

5. Unless the lead-test results outlined in Subsection 4. above show that the structure does not have lead-containing materials, if the structure to be demolished was built before January 1, 1978, and the person performing the demolition is a contractor, as defined in ORS 701.005 (5)(a), the person performing the demolition must submit proof to BDS verifying that the person has one of the certifications specified in OAR 333-068-0070, as that section is amended from time-to-time, or has hired a person with one of the specified certifications to perform the mechanical demolition activities or deconstruction on the site.

C. Requirements for Demolitions

1. Accredited inspector, certified worker, or certified supervisor. An accredited inspector, certified worker, or certified supervisor as those terms are defined in OAR 340-248-0010, must be present during all mechanical demolition activities and deconstruction on the site, unless Comprehensive Asbestos Inspection and Testing, as that term is defined in the BDS administrative rules, has been completed on the structures to be demolished or deconstructed and asbestos test results certified by a licensed asbestos abatement contractor is included with the asbestos survey provided to BDS, along with evidence that all identified asbestos-containing material has been abated as required by the Oregon Department of Environmental Quality.

2. Lead hazard reduction. Prior to commencing mechanical demolition activities, all painted exterior non-structural surfaces, including, but not limited to, doors, windows, railings, soffits, trim, exterior porches (except for concrete or masonry materials), and all layers of siding (unless such surfaces have been tested as set forth in Section B.4. above and found not to contain lead-containing paint) must be removed, and all such materials must be placed in 6 mil plastic and deposited in a covered container. During the removal of these exterior painted materials, 6-mil plastic sheeting or equivalent must be placed at the base of the exterior shear wall and extend at least 10 feet beyond the perimeter of the structure or work area, whichever is greater. If a property line prevents 10 feet of ground covering, vertical containment must be erected to protect neighboring properties.

3. Dust suppression. During mechanical demolition activities, including transfer and loading of materials, the structure, equipment parts that come in direct contact with building materials, and debris must be continuously wetted with a water spray sufficient in volume and force to prohibit airborne emission of dust and particulates from leaving the site. In addition, the entire demolition site and all debris piles must be wetted down each day prior to commencing mechanical demolition activities and at the end of each day during which mechanical demolition activities have occurred.

4. Wind speed. Mechanical demolition activities must be suspended when winds exceed 25 MPH, verified regularly during mechanical demolition activities by using a hand-held anemometer prior to commencing mechanical demolition activities each day and any time wind speeds noticeably increase. Only deconstruction or other activities that do not generate dust may be conducted on the site when winds exceed 25 MPH.

5. Containment of demolition debris on-site. Containment measures to prevent suspect asbestos-containing material, lead-based paint, and any other pollutants, as defined in the City of Portland Erosion and Sediment Control Manual, from running off the site must be employed consistent with Portland City Code Title 10 and the Solid Waste and Materials Management provisions of the City of Portland Erosion and Sediment Control Manual. If stormwater or any other water generated on the site pools or is collected onsite, including but not limited to water generated from dust suppression activities, then written authorization from the City is required to discharge into a City storm, sanitary, or combined sewer system, unless the Demolition Manager arranges to have the water pumped and hauled off-site for proper disposal. The site will be required to employ approved best management practices, such as settling and filtration, prior to discharge per Portland City Code Subsections 17.34.030 B. and 17.39.040 C.10., and City of Portland Sanitary Discharge and Pretreatment Program Administrative Rules, ENB-4.03(3)(B) and (C).

6. Demolition debris. Any non-salvageable materials and debris generated from demolition activities, including deconstruction, that is deposited into any receptacle, drop box, dumpsters shaft, or piping and any debris left on the site, must be covered at the end of each work day with non-permeable plastic.

7. Exceptions for Full Deconstruction. If the structure to be demolished will be fully deconstructed in accordance with the deconstruction requirements outlined in Portland City Code Subsection 17.106.040 B. and the Portland Deconstruction Administrative Rules adopted October 31, 2016, Parts 4.1 and 4.2, as amended from time-to-time, then the lead hazard reduction requirements in Subsection 2., except the requirement for horizontal and vertical plastic protection; the wetting techniques outlined in Subsection 3., except the requirement to wet mechanically transferred and loaded materials; and the wind restrictions in Subsection 4. above do not apply during deconstruction activities.

8. Exemption for Unsafe or Hazardous Structures. An applicant may request an exemption from the lead hazard reduction requirements in Subsection 2. above if the structure is structurally unsafe or otherwise hazardous to human life to the extent that the activities described in Subsection 2. above could

not be safely executed. The request must accompany the application for the demolition permit, unless the unsafe or hazardous condition is not discovered until after the permit application has been submitted. Reasons for exemption consideration could include, but are not limited to, extensive fire damage, drug manufacturing, or severe structural issues that cannot be mitigated without complete mechanical demolition. Request for an unsafe or hazardous structure exemption must be submitted to the Bureau of Development Services and include all of the following:

a. A letter on company or organization letterhead from one of the following professionals stating that performing the lead hazard reduction requirements would not be safe:

(1) Structural Engineer licensed in the State of Oregon.

(2) Bureau of Development Services.

(3) Hazardous material professional with credentials to perform work in the State of Oregon.

b. A statement by a professional listed in Subsection a.(1) or (3) above who provides a letter indicating that neither the professional, a relative of the professional, nor a business entity with which the professional is associated has a financial or other interest in the property or project. "Relative" means the spouse, parent, stepparent, child, sibling, step-sibling, son-in-law, or daughter-in-law of the professional.

c. Supporting evidence documenting the condition of the structure and reasons why the lead hazard reduction activities are not recommended due to safety concerns.

9. Notification and Posting. All demolitions that are subject to the provisions of this Section 24.55.205 must comply with the notification requirements in Subsection 24.55.200 D.2. All such sites must also be posted with a sign during demolition activities that meets the requirements of Portland City Code Subsection 10.30.020 B.8.a. and includes the name and telephone number of the Demolition Manager, in addition to the information required in Subsection 10.30.020 B.8.a.

D. Demolition-Related Inspections

1. BDS will conduct an initial pre-demolition site assessment to determine whether the site control measures outlined in the Demolition Plan, erosion control measures, sediment control measures, and site security are adequate

based on specific site conditions or other City regulations. The initial site assessment will be used to review the Demolition Plan, including final site grading and any necessary permanent site control measures. In addition, the initial site assessment will ensure that there is a Demolition Manager and that a copy of the Demolition Plan is on site.

2. BDS will conduct an inspection during demolition activities to confirm the Demolition Plan is being properly implemented and maintained during the demolition process, and any dust-suppression and other site control equipment described in the Demolition Plan are on-site.

3. BDS will conduct a post-demolition inspection to verify that site grading has been completed, permanent soil stabilization measures are in place, and the premises is secure as detailed in the Demolition Plan.

E. Enforcement

1. Stop Work Orders. When necessary to obtain compliance with this Section 24.55.205, the Director may issue a stop work order as described in Portland City Code Section 3.30.080 requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. Any person subject to a stop work order may seek administrative review of the order and may appeal the Director's administrative determination as provided in Portland City Code Section 3.30.080.

2. Citation Process and Fines

a. Citation Process

(1) Correction Notice. If BDS finds the demolition project does not comply with any provision of this Section 24.55.205, BDS will issue a correction notice stating the provision(s) violated and the required correction(s) to bring the project into compliance.

(2) Citation for Violations. If a violation for which a correction notice has been issued is not corrected, or if the same responsible party is found to have violated any provision of this Section 24.55.205 on a different project within the City, BDS may issue a citation to the responsible party for such violation. For the purposes of this Section 24.55.205, the responsible party is defined in Section 24.55.150.

(3) Citation service. A citation may be personally delivered to the responsible party, or may be served by Registered or

Certified Mail to the responsible party. For purposes of this Subsection, service by Registered or Certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service.

(4) Fines and corrections. The citation will state the section of this Section 24.55.205 violated, the fine imposed, and the corrective action required.

(5) Corrections not made. If corrections are not made and the violation(s) continue, BDS may impose additional citations or pursue other enforcement remedies as authorized under Portland City Code Section 3.30.040, including assessment of Administrative Enforcement Fees and revocation of issued demolition or building permits.

(6) Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review, see Subsection G below.

b. Fines. Fines are established for violations of this Section 24.55.205 as set forth in the Enforcement Fee and Penalty Schedule as adopted by the City Council. These fines will be assessed as a result of an issued citation for violations of this Section 24.55.205 and are in addition to any other fines authorized by law.

1st Offense – a first offense is based on a single inspection, even if there are multiple violations. For any subsequent offenses, a separate fine may be assessed for each violation of this Section 24.55.205.

Additional violations after the first offense will be set at the maximum amount per individual violation allowed by the fee scheduled adopted by the City Council, unless the Director finds mitigating factors that justify a lesser fine. Multiple citations can be issued to the responsible party for continued violations of this Section 24.55.205, and each day of non-compliance may be considered a separate violation.

Fines must be received by the Bureau of Development Services within 15 calendar days of the date on the citation, or within 15 calendar days of the final administrative review of the Director or the published decision of a citation appealed to the Code Hearings Officer, unless the Code Hearings Officer specifies a different date.

If the citation fine is not paid within 15 calendar days, the fine(s) indicated on the citation will double and the unpaid citation amount may, at the discretion of the Director, be assessed as a City lien against the property.

F. Demolition Permit Compliance Prerequisite for New Building Permit. No building permit for a new structure on the site that is subject to the demolition permit (including all lots in a land division or lot confirmation) will be issued until the final inspection for the demolition permit has been completed and approved.

G. Administrative Review and Appeals. If a responsible party has received a stop work order or written citation and the responsible party believes the order or citation has been issued in error, the responsible party may request that the order or citation be reviewed by the Director or designee. The responsible party must submit a written request for an Administrative Review within 15 calendar days of the date of the order or citation. An Administrative Review appeal fee, see current BDS Enforcement fee schedule, is due when the written request for an Administrative Review is requested. This fee will only be refunded if it is determined that all of the contested violations were cited in error. A written Administrative Review determination will be served on the responsible party by regular mail.

A responsible party may appeal the written Administrative Review determination to the City Code Hearings Office in accordance with Chapter 22.10 of the Portland City Code.

24.55.210 Major Residential Alterations and Additions.
(Added by Ordinance No. 187017; amended by Ordinance No. 189012, effective June 13, 2018.)

A. Purpose. The delay provisions are intended to provide notice of a major residential alteration or addition to recognized organizations and to surrounding neighbors. The dust suppression measures are intended to minimize exposure to neighboring properties from dust that may be generated from mechanical demolition activities during major alteration work.

B. Where the provisions apply. The major residential alteration and addition delay applies 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. If heavy machinery is used in a major alteration project, then the dust suppression measures described in Subsection 24.55.205 C.3. must be implemented during the mechanical demolition activities, as that term is defined in Subsection 24.55.150 H. The delay and dust suppression provisions do not apply to accessory structures such as garages or other outbuildings.

C. Delay in issuing. The building permit for a major residential alteration or addition will not be issued except as provided for in this Section (24.55.210).

D. Notification.

1. Emailed notice. At least 35 days before a building permit is issued for a major residential alteration or addition, the applicant for the permit must email a letter to the recognized organization(s) whose boundaries include the site that contains at least the following information.

a. Notice that an application for a major alteration or addition has been or will be submitted to the Bureau of Development Services,

b. The date the application was filed, if applicable,

c. A general description of the proposed alteration or addition,

d. Notice that there is a delay period of 35 days from the date the notice is sent, and

e. The contact information of the applicant.

2. Posted notice. At least 35 days before the building permit is issued for the major residential alteration or addition, the applicant must post door hangers provided by the Bureau of Development Services on the 10 surrounding properties from the site of the project. See Figure 210-1 below for a typical configuration. The notice must contain all of the following information.

a. Notice that an application for a major alteration or addition has been or will be submitted to the Bureau of Development Services,

b. The permit application number, if an application has already been filed,

c. The approximate date the construction activity will commence,

d. Contact information of the agencies that regulate asbestos and lead-based paint, and

e. Contact information for the applicant.

E. Required information prior to permit issuance. Prior to issuing a major alteration or addition permit, the delay period must expire and the applicant must submit to the Bureau of Development Services:

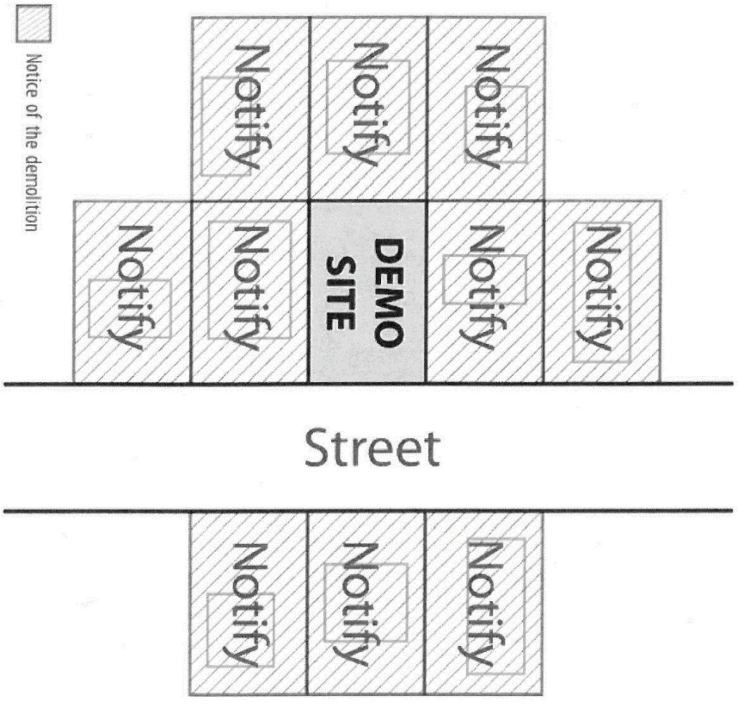
1. A copy of the sent email and a list of the names and email addresses of all recognized organizations that received the notification and the date the notifications were emailed, certified by the applicant or the owner or owner's agent, and

2. A copy of the door hanger and a list of addresses of all properties that received the notification and the date the notifications were posted, certified by the applicant or the owner or owner's agent.

F. End of the delay period. The building permit for the major alteration or addition may be issued any time after the end of the 35-day notice period.

G. Expiration of permit application. If for any reason, the permit application for a major residential alteration or addition expires prior to issuance of the permit or if an issued permit expires prior to the project being commenced, a new permit application, notification and delay period will be required.

FIGURE 210-1



24.55.250 Enforcement.

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.300 Referral to the Hearings Officer.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.350 Appeals.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.400 Rehabilitation and Repair under Direction of Council.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.450 Contracts to Repair or Demolish.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.500 Warehousing of Structures.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.550 Interference with Demolition or Repair Prohibited.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.600 Demolition - Debris - Barricades - Nuisances.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.650 Demolition Permits - Investigations.
(Repealed by Ordinance No. 163608, effective November 7, 1990.)

24.55.700 Demolition Delay - Housing Preservation.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.750 Administrative Review.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.800 Appeals to the Code Hearings Officer.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

24.55.850 Dangerous Building Enforcement Fees.
(Repealed by Ordinance No. 171455, effective August 29, 1997.)

CHAPTER 24.60 - FENCES

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

Sections:

24.60.010 Fences Around Swimming Pools.

(Repealed by Ordinance No. 180330, effective August 18, 2006.)

24.60.020 Barbed Wire Fencing.

(Added by Ordinance No. 176585, effective July 5, 2002.) It is unlawful for any person to construct or maintain a fence containing barbed wire, unless the barbed wire is placed not less than 6 inches above the top of the fence and the fence is not less than 4 feet high.

CHAPTER 24.65 - SIDEWALK VAULT OPENINGS

Sections:

24.65.010 Location of Sidewalk Vault Openings.

The outer edge of all openings constructed in sidewalks for fuel, elevators, stairs, or other purposes shall be located not less than 2 feet from the curb line and the inner edge of any sidewalk opening will not be any closer than 3 feet to the property line.

24.65.020 Number of Sidewalk Vault Openings.

There shall not be more than one opening for each individual building frontage and in no case openings closer than 25 feet to an existing sidewalk opening.

24.65.030 Sidewalk Elevators.

Openings in sidewalks provided for in Section 24.65.010 shall be supplied with doors attached to a frame built into the sidewalk and shall be capable of supporting a load of 100 pounds per square foot. The door shall be constructed of sheet steel or other approved metal which has an approved non-slip surface. The dimensions of the door in any direction shall not exceed the dimension of the opening by more than 6 inches. The doors and frames shall be so constructed and maintained that there is no projection above or below the sidewalk exceeding 1/4 inch and existing doors which do not conform to the requirements shall be changed to conform within a period of 10 days after notice is given to change the same. Sidewalk doors shall be provided with a metal guard which, when the doors are open, will hold the doors open. This guard shall be located on the side of the sidewalk opening nearest the property line. The guard shall be made in the form of a grating with openings not exceeding 6 inches in dimension and so arranged that a child cannot get under or through the guard. This guard shall not be required for doors having metal gratings which are level with the sidewalk when the doors are open and the elevator platform is below the sidewalk level. Such gratings shall be capable of supporting a load of 100 pounds per square foot. Elevators having these sidewalk gratings shall be provided with a 3/4-inch steel bar to hold the doors open.

24.65.040 Operation of Sidewalk Elevator.

A. When not in operation the elevator shall be kept in its down position and the sidewalk doors shall be closed.

B. When the elevator is being raised, pedestrians shall be warned of the fact by an automatic warning device approved by the Director.

C. The sidewalk elevator shall not be raised sooner than 15 minutes prior to a delivery and shall be placed in a down position and the sidewalk doors closed within 15 minutes of the completion of a delivery.

24.65.050 Plans Required.

The construction of sidewalk vaults shall be considered as part of a building and plans shall be submitted showing the construction of the same.

CHAPTER 24.70 – CLEARING, GRADING, AND RETAINING WALLS

(Chapter amended by Ordinance Nos. 184522, 185448, 186053 and 188884, effective April 4, 2018.)

Sections:

24.70.010 General.

(Amended by Ordinance Nos. 165678, 168340, 184522, 185448 and 186053, effective January 1, 2015.) The provisions of this Chapter shall regulate clearing, grading and earthwork construction on private property. Tree removal, whether associated with clearing, grading, earthwork construction or conducted separately shall be regulated pursuant to Title 11, Trees. Erosion control is regulated by Title 10.

24.70.020 Permits.

(Amended by Ordinance Nos. 165678, 168340 172209, 173532, 173979, 184522, 185448, 186053 and 188884, effective April 4, 2018.) Permits for clearing, grading, and retaining walls are required as specified in this Section. Where a specific activity does not require a clearing or grading permit, a separate tree permit may still be required, as specified in Title 11 Trees. Where a clearing or grading development permit shows trees to be removed and has been reviewed and approved by the City, a separate tree permit is not required in conjunction with the clearing or grading permit. An erosion, sediment and pollutant control plan if required by Title 10 shall be submitted with clearing or grading permit applications. Applicants for permits made in conjunction with land divisions shall be responsible for all clearing, grading, tree removal and erosion control within the land division, even where a specific activity is exempt from an individual permit.

A. Clearing Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for clearing activities in the following areas:

1. The Tualatin River sub-basins, Johnson Creek Basin Plan District, environmental zones, greenway zones, or natural resource management plans; or

2. Property larger than five acres. Except that no permit shall be required for clearing an area less than 5,000 square feet.

B. Grading Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for all grading operations with the exception of the following:

1. Grading in an area, where in the opinion of the Director, there is no apparent danger, adverse drainage, or erosion effect on private/public property, or inspection is not necessary;

2. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.

3. Cemetery graves.

4. Refuse disposal sites controlled by other regulations.

5. Excavations for wells or tunnels.

6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

7. Exploratory excavations under the direction of soil (geotechnical) engineers or engineering geologists.

8. An excavation which

a. Is less than 2 feet in depth, or

b. Which does not create a cut slope greater than 5 feet in height and steeper than 1-1/2 horizontal to 1 vertical.

9. A fill less than 1 foot in depth, and placed on natural terrain with a slope flatter than 5 horizontal to 1 vertical, or less than 3 feet in depth, not intended to support structures, which does not obstruct a drainage course and which does not exceed 10 cubic yards on any one lot.

C. Retaining Walls. A permit is required and shall be issued in accordance with Section 24.10.070 for all retaining walls over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, and for retaining walls supporting a surcharge.

D. Tree Removal. Removal of trees six-inches and larger in diameter shall be reviewed with the clearing or grading permits as part of the Tree Plan review pursuant to Title 11. When removing 5 or more trees on a site with an average slope of at least 20 percent, applicants shall provide a geotechnical engineering report that assesses the stability of the site after tree felling and root grubbing operations.

E. Permits required under this Chapter shall be obtained before the commencement of any tree removal, root grubbing or soil disturbance takes place.

24.70.030 Hazards.

(Amended by Ordinance Nos. 165678 and 188884, effective April 4, 2018.) The Director may determine that any clearing, grading, retaining wall, or geologic condition on private property has or may become a hazard to life and limb, or endanger property, or cause erosion, or adversely affect drainage or the safety, use or stability of a public way or drainage channel. Upon receipt of notice in writing from the Director, the owner shall mitigate the hazard and be in conformity with the requirements of this Title. The Director may require that plans and specifications and engineering reports be prepared in compliance with this Chapter.

24.70.040 Special Definitions.

(Amended by Ordinance No. 188884, effective April 4, 2018.) The definitions contained in this Section relate to excavation and grading work only as outlined in this Chapter.

A. "Approval" shall mean a written engineering or geological opinion concerning the progress and completion of the work.

B. "As graded" is the surface conditions exposed on completion of grading.

C. "Bedrock" is in-place solid rock.

D. "Bench" is a relatively level step excavated into earth material on which fill is to be placed.

E. "Borrow" is earth material acquired from an off-site location for use in grading on a site.

F. "Civil engineer" shall mean a professional engineer registered in the State to practice in the field of civil works.

G. "Civil engineering" shall mean the application of the knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.

H. "Clearing" is the cutting or removal of vegetation which results in exposing any bare soil.

I. "Compaction" is the densification of a fill by mechanical means.

J. "Earth material" is any rock, natural soil, or fill and/or any combination thereof.

K. "Engineering geologist" shall mean a geologist experienced and knowledgeable in engineering geology and registered as an engineering geologist in the State of Oregon.

L. "Engineering geology" shall mean the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

M. "Erosion" is the wearing away of the ground surface as a result of the movement of wind, water, and/or ice.

N. "Excavation" is the mechanical removal of earth material.

O. "Fill" is a deposit of earth material placed by artificial means.

P. "Geological hazard" shall mean a potential or apparent risk to persons or property because of geological or soil instability either existing at the time of construction or which would result from construction.

Q. "Grade" shall mean the vertical location of the ground surface.

R. "Existing grade" is the grade prior to grading.

S. "Rough grade" is the stage at which the grade approximately conforms to the approved plan.

T. "Finish grade" is the final grade of the site which conforms to the approved plan.

U. "Grading" is any excavating or filling or combination thereof.

V. "Key" is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

W. "Retaining Wall" is a structure that provides lateral support for a mass of soil or fluid and other imposed loads.

X. "Site" is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

Y. "Slope" is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

Z. "Soil" is naturally occurring surficial deposits overlying bedrock.

AA. "Soil (Geotechnical) engineer" shall mean a civil engineer competent by education, training, and experience in the practice of soil engineering.

BB. "Soil (Geotechnical) engineering" shall mean the application of the principles of soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

CC. "Terrace" is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

24.70.050 Information on Plans and in Specifications.

(Amended by Ordinance Nos. 173532, 184522, 185448, 186053 and 188884, effective April 4, 2018.) Plans and specifications shall be submitted in accordance with Section 24.10.070 and in addition shall comply with the following:

A. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Title and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information.

1. General vicinity of the proposed site.

2. Property limits and accurate contours of existing ground and details of terrain and area drainage for the site and surrounding area.

3. Limiting dimensions, elevations, or finish contours to be achieved by the grading and the proposed drainage channels and related construction.

4. Detailed schedule of when each portion of the site is to be graded; how long the soil is to be exposed; and when the area is to be covered with buildings, paving, new vegetation or temporary erosion control measures.

5. Detailed plans of all surface and subsurface drainage devices, walls, retaining walls, cribbing, dams, and other protective devices to be

constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.

6. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners or trees in the adjacent rights-of-way that are within 15 feet of the property or which may be affected by the proposed grading operations.

7. Specifications shall contain information covering construction and material requirements.

8. Civil engineering report. The civil engineering report, when required by the Director, shall include hydrological calculations of runoff and the existing or required safe storm drainage capacity outlet of channels both on site and off site, and 1 in 100 year flood elevations for any adjacent watercourse. The report shall include recommendations for stormwater control and disposal.

9. Soil (Geotechnical) engineering report. The soil engineering report, when required by the Director, shall include data regarding the nature, distribution, and strength of existing soils, design criteria, and conclusions and recommendations applicable to the proposed development. The report shall include recommendation for subdrainage, and for groundwater control and disposal. Recommendations included in the report and approved by the Director shall be incorporated in the plans and specifications. For single family residences, a surface reconnaissance and stability questionnaire may be substituted for a formal soils report at the discretion of the Director.

10. Engineering geology report. The engineering geology report, when required by the Director, shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the effect of geologic conditions on the proposed development and site(s) to be developed.

Recommendations included in the report and approved by the Director shall be incorporated in the grading plans and specifications.

B. Issuance. Section 24.10.070 is applicable to grading permits. The Director may require that:

1. The amount of the site exposed during any one period of time be limited; and

2. Grading work be scheduled to avoid weather periods or avoid critical habitat use periods for areas existing on, or adjacent to, the development site.

Subsequent to the issuance of the grading permit, the Director may require that grading operations and project designs be modified if delays occur which can result in weather generated problems not considered at the time the permit was issued.

24.70.060 Bonds.

The Director may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.
In lieu of a surety bond the applicant may file a cash bond or instrument of credit with the Director in an amount equal to that which would be required in the surety bond.

24.70.070 Cuts.

A. General. Unless otherwise recommended in the approved soil engineering and/or engineering geology reports, cuts shall conform to the provisions of this Section.

B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use. Cut slopes shall be no steeper than 2 horizontal to 1 vertical.

C. Drainage and terracing. Drainage and terracing shall be provided as required by Section 24.70.100.

24.70.080 Fills.

A. General. Unless otherwise recommended in the approved soil engineering report fills shall conform to the provisions of this Section.

In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures. Such fills shall be subject to review at the discretion of the Director.

B. Ground preparation. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top-soil, and other unsuitable materials scarifying to provide a bond with the new fill, and where slopes are steeper than 5 to 1, and the height greater than 5 feet, by benching into competent material or sound bedrock as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 5 to 1 shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut the bench under the toe of a fill shall be at least 10 feet wide but the cut must be made before placing fill and approved by the soils engineer and engineering geologist as a suitable foundation for fill. Unsuitable soil is soil which in the opinion of the Director or the civil engineer or the soils engineer

or the engineering geologist, is not competent to support either soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.

C. Fill material. Only permitted material free from tree stumps, detrimental amounts of organic matter, trash, garbage, sod, peat, and similar materials shall be used. Rocks larger than 6 inches in greatest dimension shall not be used unless the method of placement is properly devised, continuously inspected, and approved by the Director.

The following shall also apply:

1. Rock sizes greater than 6 inches in maximum dimension shall be 10 feet or more below grade, measured vertically.

2. Rocks shall be placed so as to assure filling all voids with fines. Topsoil may be used in the top 12-inch surface layer to aid in planting and landscaping.

D. Compaction of fill. All fills shall be compacted to a minimum relative dry density of 90 percent as determined in accordance with ASTM Standard D-1557-78. Field density verification shall be determined in accordance with ASTM Standard D-1556-82 or equivalent and must be submitted for any fill 12 inches or more in depth where such fill may support the foundation for a structure. A higher relative dry density, or additional compaction tests, or both, may be required at any time by the Director.

E. Fill slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 2 horizontal to 1 vertical.

F. Drainage and terracing. Drainage and terracing shall be provided and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section 24.70.100.

24.70.085 Retaining Walls.

(Added by Ordinance No. 188884, effective April 4, 2018.)

A. Retaining walls not regulated by the Oregon Residential Specialty Code or the Oregon Structural Specialty Code shall be designed in accordance with ASCE 7-16 and this section.

B. Soil loads shall be determined in accordance with ASCE 7-16. Retaining walls in which horizontal movement is restricted at the top shall be designed for at-rest pressure. Retaining walls free to move and rotate at the top shall be permitted to be designed for active pressure. Lateral pressure from surcharge loads shall be

added to the lateral earth pressure load. Lateral pressure shall be increased if soils at the site are expansive or the retaining wall will support an ascending slope. Retaining walls shall be designed to support the weight of the full hydrostatic pressure of undrained backfill unless a drainage system is installed.

C. Retaining walls supporting more than 6 feet of backfill height, measured from the base of the footing to the top of the wall, shall incorporate an additional dynamic seismic lateral earth pressure. When the Monobe-okabe method is used to calculate the active dynamic seismic lateral earth pressure, a horizontal acceleration coefficient equal to or greater than one-half (0.5) the design peak horizontal ground acceleration shall be used.

D. Retaining walls shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed to resist the lateral action of soil to produce sliding and overturning with a minimum safety factor of 1.5 in each case. The load combinations of ASCE 7-16 shall not apply to this requirement. Instead, the design shall be based on 0.7 times nominal earth-quake loads, 1.0 times other nominal loads, and investigation with one or more of the variable loads set to zero. The safety factor against lateral sliding shall be taken as the available soil resistance at the base of the retaining wall foundation divided by the net lateral force applied to the retaining wall.

Exception: Where earthquake loads are included, the minimum safety factor for retaining wall sliding and overturning shall be 1.1.

24.70.090 Setbacks.

A. General. The setbacks and other restrictions specified by this Section are minimal and may be increased by the Director, or by the recommendation of the civil engineer, soils engineer, or engineering geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Director.

B. Setbacks from property lines. The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope right areas and easements, in accordance with Figure No. 2 and Table No. 24.70-C at the end of this Chapter.

C. Design standards for setbacks. Setbacks between graded slopes (cut or fill) and structures shall be provided in accordance with Figure No. 3 and Table No. 24.70-C at the end of this Chapter.

24.70.100 Drainage and Terracing.

(Amended by Ordinance No. 173270, effective May 21, 1999.)

A. General. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this Section.

B. Terrace. Terraces at least 6 feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the civil engineer and approved by the Director. Suitable access shall be provided to permit proper cleaning and maintenance.

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a downdrain.

C. Subsurface drainage. Cut and fill slopes shall be provided with subdrainage as necessary for stability. Adequate culverts shall be laid under all fills placed in natural watercourses and along the flow line of any tributary branches in such a manner that the hydraulic characteristics of the stream are not adversely altered. In addition, subdrainage shall be installed if active or potential springs or seeps are covered by the fill. All culverts/subdrainage shall be installed after the suitable subgrade preparation. Design details of culverts/subdrainage shall be shown on each plan and be subject to the approval of the Director and of other government/private agencies as may be required.

A subdrain system shall be provided for embedded foundation/ retaining walls and floor slabs where ground water or seepage has a potential to affect the performance of the structure. The plans shall indicate

1. subdrainage details with appropriate specifications,

2. location of footing subdrain/discharge lines and,

3. method of disposal.

In lieu of above, walls/floors may be waterproofed and designed to resist hydrostatic pressure.

D. Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainageway or approved stormwater management facility, as approved by the Director and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.

Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, unless waived by the Director.

Exception: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

1. No proposed fills are greater than 10 feet in maximum depth.

2. No proposed finish cut or fill slope faces have a vertical line in excess of 10 feet.

3. No existing slope faces, which have a slope face steeper than 10 horizontal to 1 vertical, have a vertical height in excess of 10 feet.

E. Interceptor drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete or gunite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of the drain shall be approved by the Director.

24.70.110 Erosion Control.

(Repealed by Ordinance No. 173979, effective March 1, 2000.)

24.70.120 Grading Inspection.

(Amended by Ordinance No. 188647, effective November 17, 2017.)

A. General. All grading operations for which a permit is required shall be subject to inspection by the Director. When required by the Director, special inspection of grading operations and special testing shall be performed in accordance with the provisions of Section 24.70.120 C.

B. Grading designation. All grading in excess of 5,000 cubic yards shall be performed in accordance with the approved grading plan prepared by a civil engineer and shall be designated as "engineered grading." Grading involving less than 5,000 cubic yards may also be designated as "engineered grading" by the Director if the grading will

1. support a building or structure of a permanent nature;

2. support other engineering works such as, but not limited to, tanks, towers, machinery, retaining wall, and paving;

3. be deemed a potential hazard under Section 24.70.030. The permittee with the approval of the Director may also choose to have the grading performed

as "engineered grading." Otherwise, the grading shall be designated as "regular grading."

C. Engineered grading requirements. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. The civil engineer shall also be responsible for the professional inspection and approval of the grading within the civil engineer's area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event that need arises for liaison between the other professionals, the contractor, and the Director. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Director a statement of compliance to said as-graded plan.

Soil engineering and engineering geology reports shall be required as specified in Section 24.70.050. During grading all necessary reports, compaction data, and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Director by the soil engineer and the engineering geologist. The soil engineer's area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes, and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.

The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. The engineering geologist shall report the findings to the soil engineer and the civil engineer for engineering analysis.

The Director shall inspect the project at the various stages of work requiring approval and at more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

D. Regular grading requirements. The Director may require inspection and testing by an approved testing agency. The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills. When the Director has cause to believe that geological factors may be involved the grading operation will be required to conform to "engineered grading" requirements.

E. Notification of noncompliance. If, in the course of fulfilling their responsibility under this Chapter, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformity with this Chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Director. Recommendations for corrective measures, if necessary, shall be submitted.

F. Transfer of responsibility for approval. If the civil engineer, the soil engineer, the engineering geologist, or the testing agency of record are changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

24.70.130 Completion of Work.

(Amended by Ordinance No. 188647, effective November 17, 2017.)

A. Final reports. Upon completion of the rough grading work and that final completion of the work the Director may require the following reports and drawings and supplements thereto:

1. An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and locations and elevations of all surface and sub-surface drainage facilities. The civil engineer shall provide approval that the work was done in accordance with the final approved grading plan.

2. A Soil Grading Report prepared by the soil engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. The soil engineer shall provide approval as to the adequacy of the site for the intended use.

3. A Geological Grading Report prepared by the engineering geologist including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall provide approval as to the adequacy of the site for the intended use as affected by geological factors.

B. Notification of completion. The permittee or his agent shall notify the Director when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in

accordance with the final approved grading plan and the required reports have been submitted.

CHAPTER 24.75 - UNIFORM BUILDING ADDRESS SYSTEM

(Chapter added by Ordinance No. 161984, effective July 1, 1989.)

Sections:

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.

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.

CHAPTER 24.80 - DERELICT COMMERCIAL BUILDINGS

(Chapter repealed by Ordinance No. 171455, effective August 29, 1997.)

CHAPTER 24.85 - SEISMIC DESIGN REQUIREMENTS FOR EXISTING BUILDINGS

(Chapter added by Ordinance No. 168627,effective March 22, 1995.)

Sections:

24.85.010 Scope.

(Amended by Ordinance Nos. 178831,189201, 189309 and 189747, effective October 23, 2019.)

A. The provisions of this chapter prescribe the seismic design requirements for existing buildings undergoing changes of occupancy, additions, alterations, catastrophic damage, fire, or earthquake repair, or mandatory or voluntary seismic strengthening. The requirements of this chapter only apply to buildings for which a building permit has been applied for to change the occupancy classification, add square footage to the building, alter or repair the building.

B. Under the authority provided by State law, the provisions of this chapter prescribing seismic rehabilitation standards for existing buildings can be used in lieu of meeting the requirements of the current edition of the State of Oregon Structural Specialty Code.

24.85.015 Structural Design Meeting.

(Added by Ordinance No. 178831, effective November 20, 2004.) Upon request, BDS engineering staff is available to meet with an owners design engineer to review proposed

seismic strengthening plans in a pre-design meeting. A written record of the meeting discussion and determinations will be placed in the permit record.

24.85.020 Seismic Related Definitions.

(Amended by Ordinance Nos. 169427, 170997, 178831, 180917, 187192, 189201 and 189747, effective October 23, 2019.) The definitions contained in this Section relate to seismic design requirements for existing buildings outlined in this Chapter.

A. ASCE 41 means the Seismic Evaluation and Retrofit of Existing Buildings ASCE/SEI 41-13 published by the American Society of Civil Engineers and the Structural Engineering Institute.

B. ASCE 41 Evaluation means the process of evaluating an existing building for the potential earthquake-related risk to human life posed by that building, or building component, and the documentation of that evaluation, performed and written according to the provisions of ASCE 41. Tier 1 and Tier 2 deficiency based evaluation for both structural and non-structural components using the Basic Performance Objective for Existing Buildings (BPOE) as defined in ASCE 41 shall be the performance objective for the evaluation, unless a Tier 3 evaluation is required by ASCE 41

C. ASCE 41-BPOE Improvement Standard means the Tier 1 and Tier 2 Deficiency based retrofit for both structural and non-structural components using the Basic Performance Objective for Existing Buildings (BPOE) as defined in ASCE 41, unless a Tier 3 evaluation is required by ASCE 41.

D. ASCE 41-BPON Improvement Standard means Tier 3 Retrofit for both structural and non-structural components using the Basic Performance Objective Equivalent to New Buildings (BPON) as defined in ASCE 41.

E. ATC 20 means the latest Edition of the manual on "Procedures for Post Earthquake Safety Evaluation of Buildings" published by Applied Technology Council.

F. BDS means the City of Portland's Bureau of Development Services.

G. BPOE- Basic Performance Objective for Existing Buildings: A series of defined Performance Objectives based on a building's Risk Category meant for evaluation and retrofit of existing buildings; See Table 2-1 of ASCE 41.

H. BPON- Basic Performance Objective Equivalent to New Building Standards: A series of defined Performance Objectives based on a building's Risk Category meant for evaluation and retrofit of existing buildings to achieve a level of performance commensurate with the intended performance of buildings designed to a standard for new construction; See Table 2-2 of ASCE 41.

I. BSE-1E: Basic Safety Earthquake-1 for use with the Basic Performance Objective for Existing Buildings, taken as a seismic hazard with a 20 percent probability of exceedance in 50 years, except that the design spectral response acceleration parameters Sxs and Sx1 for BSE-1E seismic hazard level shall not be taken as less than 75 percent of the respective design spectra response acceleration parameters obtained from BSE-1N seismic hazard level and need not be greater than BSE-2N at a site.

J. BSE-1N: Basic Safety Earthquake-1 for use with the Basic Performance Objective Equivalent to New Buildings Standards, taken as two-thirds of the BSE- 2N.

K. BSE-2E: Basic Safety Earthquake-2 for use with the Basic Performance Objective for Existing Buildings, taken as a seismic hazard with a 5 percent probability of exceedance in 50 years, except that the design spectral response acceleration parameters of Sxs and Sx1 for BSE-2E seismic hazard level shall not be taken as less than 75 percent of the respective design spectra response acceleration parameters obtained from BSE- 2N Seismic hazard level and may not be greater than BSE-2N at a site.

L. BSE-2N: Basic Safety Earthquake-2 for use with the Basic Performance Objective Equivalent to New Buildings Standards, taken as the ground shaking based on Risk-Targeted Maximum Considered Earthquake (MCER) per ASCE 7 at a site.

M. Building Addition means an extension or increase in floor area or height of a building or structure.

N. Building Alteration means any change, addition or modification in construction.

O. Catastrophic Damage means damage to a building that causes an unsafe structural condition from fire, vehicle collision, explosion, or other events of similar nature.

P. Essential Facility has the same meaning as defined in the OSSC.

Q. Fire and Life safety for Existing Buildings (FLEx) Guide means a code guide published by the Bureau of Development Services, outlining alternative materials and methods of construction that are allowed for existing buildings in Portland.

R. FM 41 Agreement means a joint agreement between Portland Fire & Rescue, the Bureau of Development Services and a building owner to schedule improvements to the building following a determination of the fire and life safety hazards posed by the existing condition of the building as provided under Oregon law.

S. Live/Work Space means a combination working space and dwelling unit. A live/work space includes a room or suite of rooms on one or more floors designed for and occupied by not more than one family and including adequate working

space reserved for the resident's occupancy. A live/work space is individually equipped with an enclosed bathroom containing a lavatory, water closet, shower/and or bathtub and appropriate venting.

T. Net Floor Area means the entire area of a structurally independent building, including an occupied basement, measured from the inside of the permanent outer building walls, excluding any major vertical penetrations of the floor, such as elevator and mechanical shafts.

U. Occupant Load means the number of persons for which the means of egress of a building or portion thereof is designed. The occupant load shall be calculated based on occupant load factors in the table assigned to each space in the Oregon Structural Specialty Code (OSSC).

V. Oregon Structural Specialty Code (OSSC) means the provisions of the State of Oregon Structural Specialty Code as adopted by Section 24.10.040 A.

W. Reinforced Masonry means masonry having both vertical and horizontal reinforcement as follows:

1. Vertical reinforcement of at least 0.20 in2 in cross-section at each corner or end, at each side of each opening, and at a maximum spacing of 4 feet throughout. One or two story buildings may have vertical reinforcing spaced at greater than 4 feet throughout provided that a rational engineering analysis is submitted which shows that existing reinforcing and spacing provides adequate resistance to all required design forces without net tension occurring in the wall.

2. Horizontal reinforcement of at least 0.20 in2 in cross-section at the top of the wall, at the top and bottom of wall openings, at structurally connected roof and floor openings, and at a maximum spacing of 10 feet throughout.

3. The sum of the areas of horizontal and vertical reinforcement shall be at least 0.0005 times the gross cross-sectional area of the element.

4. The minimum area of reinforcement in either direction shall not be less than 0.000175 times the gross cross-sectional area of the element.

X. Risk Category: A categorization of a building for determination of earthquake performance based on Oregon Structural Specialty Code (OSSC).

Y. Roof Covering Repair or Replacement means the installation of a new roof covering following the removal of an area of the building's roof covering exceeding 50 percent or more of the total roof area within the previous 5 year period.

Z. Unreinforced Masonry (URM) means adobe, burned clay, concrete or sand-lime brick, hollow clay or concrete block, hollow clay tile, rubble and cut stone and unburned clay masonry that does not satisfy the definition of reinforced masonry as defined herein. Plain unreinforced concrete shall not be considered unreinforced masonry for the purpose of this Chapter.

AA. Unreinforced Masonry Bearing Wall means a URM wall that provides vertical support for a floor or roof for which the total superimposed vertical load exceeds 100 pounds per lineal foot of wall.

BB. Unreinforced Masonry Bearing Wall Building means a building that contains at least one URM bearing wall.

24.85.030 Seismic Improvement Standards.

(Amended by Ordinance Nos. 170997 and 178831, effective November 20, 2004.) For changes of occupancy structural additions, building alterations and catastrophic or earthquake damage repair, the design standard shall be the current edition of the OSSC unless otherwise noted by this Chapter.

24.85.040 Change of Occupancy or Use.

(Amended by Ordinance Nos. 169905, 170997, 178831, 187192, 189201 and 189747, effective October 23, 2019.) The following table shall be used to classify the relative hazard of all building occupancies:

TABLE 24.85-A

Relative Hazard Classification	OSSC Occupancy Classification	Seismic Improvement Standard
5 (Highest)	A, E, I-2, I-3, H-1, H-2, H-3, H-4, H-5	OSSC or ASCE 41-BPON
4	R-1,R-2, SR, I-1, I-4	
3	B, M	41-BPOE
2	F-1, F-2, S-1, S-2	
1 (Lowest)	R-3, U	

A. Occupancy Change to a Higher Relative Hazard Classification. An occupancy change to a higher relative hazard classification will require seismic improvements based upon the factors of changes in the net floor area and the occupant load increases as indicated in Table 24.85-B below. All improvements to either the OSSC or ASCE 41 improvement standard shall be made such that the entire building conforms to the appropriate standard indicated in Table 24.85-B.

TABLE 24.85-B				
Percentage of Building Net Floor Area Changed		**Occupant Load Increase**	**Required Improvement Standard**	**Relative Hazard Classification**
1/3 of area or less	and	Less than 150	None	1 through 5
More than 1/3 of area	or	150 and above	ASCE 41-BPOE	1, 2, and 3
More than 1/3 of area	or	150 and above	OSSC or ASCE 41-BPON	4 and 5

Multiple occupancy changes to a single building may be made under this section without triggering a seismic upgrade provided the cumulative changes do not exceed 1/3 of the building net floor area or add more than 149 occupants with respect to the legal building occupancy as of October 1, 2004.

B. Occupancy Change to Same or Lower Relative Hazard Classification. An occupancy change to the same or a lower relative hazard classification or a change in use within any occupancy classification will require seismic improvements using either the OSSC or ASCE 41 improvement standard, as identified in Table 24.85-A above, where the change results in an increase in occupant load of more than 149 people as defined by the OSSC. Where seismic improvement is required, the entire building shall be improved to conform to the appropriate improvement standard identified in Table 24.85-A.

Multiple occupancy changes to a single building may be made under this section without triggering a seismic upgrade provided the cumulative changes do not result in the addition of more than 149 occupants with respect to the legal building occupancy as of October 1, 2004.

C. Occupancy Change to Live Work Space. Any building occupancy classified as relative hazard category 1, 2, or 3 may undergo a change of occupancy to live/work space provided that:

1. The building shall be improved such that the entire building conforms to the ASCE 41-BPOE improvement standard; and

2. The building meets the fire and life safety standards of either the FLEx Guide or the current OSSC.

3. Any Unreinforced Masonry bearing wall building converted to live/work space, regardless of construction costs, shall be improved such that the entire building conforms to the ASCE 41-BPOE improvement standard.

D. Occupancy Change to Essential Facilities. All structures which are being converted to essential facilities, as defined in the OSSC, shall comply with current state code seismic requirements or ASCE 41-BPON improvement standard, regardless of other requirements in this section.

24.85.050 Building Additions or Structural Alterations.

(Amended by Ordinance Nos. 178831 and 187192, effective July 17, 2015.) An addition that is not structurally independent from an existing building shall be designed and constructed such that the entire building conforms to the seismic force resistance requirements for new buildings unless the following two conditions listed below are met. Furthermore, structural alterations to an existing building or its structural elements shall also meet the following two conditions:

A. The addition or structural alteration shall comply with the requirements for new buildings; and

B. Any existing lateral load-carrying structural element whose demand-capacity ratio with the addition(s) or structural alteration(s) considered is no more than 10 percent greater than its demand-capacity ratio with the addition(s) or structural alteration(s) ignored shall be permitted to remain unaltered. For purposes of this paragraph, comparisons of demand-capacity ratios and calculation of design lateral loads, forces, and capacities shall account for the cumulative effects of additions and structural alterations since original construction.

24.85.051 Mezzanine Additions.

(Added by Ordinance No. 178831, effective November 20, 2004.) A mezzanine addition shall not require seismic strengthening of the entire building when all of the following conditions are met:

A. Entire building strengthening is not required by any other provision contained in this Title;

B. The net floor area of the of the proposed mezzanine addition is less than 1/3 of the net floor area of the building;

C. The mezzanine addition does not result in an occupant load increase, as defined by the OSSC, of more than 149 people; and

D. Subsections 24.85.050 A. - C. shall also apply to mezzanine additions.

24.85.055 Structural Systems Damaged by Catastrophic Events.

(Added by Ordinance No. 170997; amended by Ordinance Nos. 178831 and 187192, effective July 17, 2015.)

A. Building Lateral Load Resisting systems along any principal axis damaged less than or equal to 50 percent.

1. If a building is damaged by a catastrophic event such that less than or equal to 50 percent of the capacity of the existing lateral load resisting system along any principal axis of the building are damaged, only the damaged lateral load resisting components of the building's structural system must be designed and constructed to current provisions of the OSSC. These components must also be connected to the balance of the undamaged lateral load resisting system in conformance with current code provisions. Undamaged components need not be upgraded to current lateral load provisions of the current code, unless required by other provisions of this title.

2. New lateral system vertical elements must be compatible with any existing lateral system elements, including foundations. In multistory buildings, the engineer shall confirm that the new lateral system vertical elements do not introduce soft or weak story seismic deficiencies, as defined by ASCE 41, where they did not previously exist, or make existing conditions more hazardous.

B. Building Lateral Load Resisting systems along any principal axis damaged more than 50 percent. Where a building is damaged by a catastrophic event such that more than 50 percent of the capacity of the existing lateral load resisting system along any principal axis of the building is damaged, all lateral load resisting components of the entire building's structural system along that principal axis must be designed and constructed to the current provisions of the OSSC or ASCE 41-BPON improvement standard.

24.85.056 Structural Systems Damaged by an Earthquake.

(Added by Ordinance No. 178831; amended by Ordinance No. 187192, effective July 17, 2015.) As a result of an earthquake, the Director may determine through either an ATC 20 procedure or through subsequent discovery any structure or portion thereof to be in an unsafe condition as defined by State law. As a result of making this determination, the Director may declare the structure or portion thereof to be a public nuisance and to be repaired or rehabilitation as provided in Subsections 24.85.056 A.-C., or abated by demolition or removal in accordance with Title 29. For the purposes of this Section, an "unsafe condition" includes, but is not limited to any portion, member or appurtenance of a building that has become detached or dislodged or appears likely to fail or collapse and thereby injure persons or damage property; or any portion of a building or structure that has been damaged to the extent that the structural strength or stability of the building is substantially less than it was prior to the damaging event.

A. Buildings built prior to January 1, 1974 with lateral support systems that have unsafe conditions shall be repaired or improved to resist seismic forces such that the repaired lateral system conforms to the ASCE 41-BPOE improvement standard.

1. Where less than 50 percent of the lateral support system has been damaged, only the damaged elements must be repaired.

2. Where 50 percent or more of the lateral support system has been damaged, then the entire lateral support system must be repaired to resist seismic forces such that the repaired system conforms to the ASCE 41-BPOE improvement standard.

B. Buildings built on or after January 1, 1974 with lateral support systems that have unsafe conditions shall be repaired or improved to resist seismic forces such that the repaired lateral system conforms to the code to which the building was originally designed, but not less than that required to conform to the ASCE 41-BPOE improvement standard.

1. Where less than 50 percent of the lateral support system has been damaged, only the damaged elements must be repaired.

2. Where 50 percent or more of the lateral support system has been damaged, then the entire lateral support system must be repaired to resist seismic forces such that the repaired system conforms to the code to which the building was originally designed, but not less than that required to conform to the ASCE 41-BPOE improvement standard.

C. New lateral system vertical elements must be compatible with any existing lateral system elements, including foundations. In multistory buildings, the engineer shall confirm that the new lateral system vertical elements do not introduce soft or weak story seismic deficiencies, as defined by ASCE 41, where they did not previously exist, or make existing conditions more hazardous.

24.85.060 Required Seismic Evaluation.

(Added by Ordinance No. 169427; amended by Ordinance Nos. 178831 and 187192, effective July 17, 2015). When an alteration for which a building permit is required has a value (not including costs of mechanical, electrical, plumbing, permanent equipment, painting, fire extinguishing systems, site improvements, eco-roofs and finish works) of more than $175,000, an ASCE 41 evaluation is required. This value of $175,000 shall be modified each year after 2004 by the percent change in the R.S Means Construction Index for Portland on file with the Director. A letter of intent to have an ASCE 41 evaluation performed may be submitted along with the permit application. The evaluation must be completed before any future permits will be issued. The following shall be exempted from this requirement:

A. Buildings constructed or renovated to seismic zone 2, 2b or 3 under a permit issued after January 1, 1974.

B. Detached One- and two-family dwellings, and their accessory structures.

C. Single story, light frame metal and light wood frame buildings, not more than 20 feet in height from the top surface of the lowest floor to the highest interior overhead finish and ground area of 4,000 square feet or less.

A previously prepared seismic study may be submitted for consideration by the Director as equivalent to an ASCE 41 evaluation.

24.85.065 Seismic Strengthening of Unreinforced Masonry Bearing Wall Buildings.
(Added by Ordinance No. 169427; amended by Ordinance Nos. 170997, 178831, 187192, 189201, 189399, 189479 and 189747, effective October 23, 2019.) When any building alterations or repairs occur at an Unreinforced Masonry Bearing Wall Building, all seismic hazards shall be mitigated as set forth in Subsections 24.85.065 A. and B. A previously permitted seismic strengthening scheme designed in accordance with FEMA 178/310/ASCE 31 may be submitted for consideration by the Bureau Director as equivalent to the ASCE 41 improvement standard.

A. Roof Repair or Replacement. When a roof covering is repaired or replaced, as defined in 24.85.020, the building structural roof system, anchorage, and parapets shall be repaired or rehabilitated such that, at a minimum, the wall anchorage for both in-plane and out-of-plane forces at the roof and parapet bracing conform to the ASCE 41-BPOE improvement standard. In-plane brick shear tests are not required as part of the ASCE evaluation under this subsection.

B. Additional Triggers.

1. Building alterations or repair. When the cost of alteration or repair work which requires a building permit in a 2-year period exceeds the following criteria, then the building shall be improved to resist seismic forces such that the entire building conforms to the ASCE 41-BPOE improvement standard.

Table 24.85-C

Building Description	Cost of Alteration or Repair
Single Story Building	$40 per square foot
Buildings Two Stories or Greater	$30 per square foot

2. Special building hazards. Where an Unreinforced Masonry Building of any size contains any of the following hazards, the building shall be seismically improved if the cost of alteration or repair exceeds $30 per square foot:

a. The Building possesses an Occupancy Classification listed within the Relative Hazard Category 5 as determined in Section 24.85.040 of this Chapter; or

b. The building is classified as possessing either vertical or plan irregularities as defined in the OSSC.

3. Exclusions from cost calculations. Costs for site improvements, eco-roofs, mandated FM41 agreements, mandated ADA improvements, mandated non-conforming upgrades under Title 33, mandated elevator improvements and mandated or voluntary seismic improvements or work exempted from permit as described in Chapter 1 of the OSSC will not be included in the dollar amounts listed in Subsections 24.85.065 B.1. and 2.

4. Live/Work spaces in Unreinforced Masonry buildings. See Section 24.85.040 B for requirements when a Unreinforced Masonry building is converted to contain live/work spaces.

5. Automatic cost increase. The dollar amounts listed in Subsections 24.85.065 B.1. and 2. shall be modified each year after 2004 by the percent change in the R.S. Means of Construction Cost Index for Portland, Oregon. The revised dollar amounts will be made available at the Development Services Center.

24.85.067 Voluntary Seismic Strengthening.

(Added by Ordinance No. 178831, effective November 20, 2004.) Subject to permit approval, a building may be strengthened to resist seismic forces on a voluntary basis provided all of the following conditions are met:

A. Mandatory seismic strengthening is not required by other provisions of this Title;

B. The overall seismic resistance of the building or elements shall not be decreased such that the building is more hazardous;

C. Testing and special inspection are in accordance with the OSSC and the City of Portland Administrative Rules;

D. The standard used for the seismic strengthening is clearly noted on the drawings along with the pertinent design parameters; and

E. A written narrative shall be clearly noted on the drawings summarizing the building lateral system, seismic strengthening and known remaining deficiencies. The summary information shall reflect the level of analysis that was performed on the building.

24.85.070 Phasing of Improvements.

(Amended by Ordinance No. 178831, effective November 20, 2004.)

A. The Director may approve a multi-year phased program of seismic improvements when the improvements are pre-designed and an improvement/implementation plan is approved by the Director. The maximum total time allowed for completion of phased improvements shall be ten years. A legal agreement between the building owner and the City of Portland shall be formulated outlining the phased seismic improvements and shall be recorded with the property deed at the County.

B. Upon review, the Director may extend the maximum time for the phased improvements. The Director shall adopt rules under Section 3.30.035 describing the process for granting an extension.

24.85.075 Egress Through Existing Buildings.

(Added by Ordinance No. 178831, effective November 20, 2004.) The building structure and seismic resistance of an egress path through, under or over an existing building must meet the required seismic improvement standard specified in Section 24.85.040, Table 24.85-A, under any of the following conditions:

A. The egress path is from an adjacent new building or addition and the new building or addition area equals 1/3 or more of the existing building area; or,

B. The egress path is from an adjacent existing building that undergoes alterations or a change of occupancy requiring its egress path(s) meet the seismic improvement standards as required by this Chapter; or

C. The additional occupant load, as determined by the OSSC, using the egress path through the existing building is 150 people or more.

24.85.080 Application of Other Requirements.

(Amended by Ordinance No. 178831, effective November 20, 2004.) Building permit applications to improve the seismic capability of a building shall not trigger: accessibility improvements so long as the seismic improvement does not lessen accessibility; fire life safety improvements so long as the seismic improvement does not lessen the buildings fire resistance or exiting capability; landscape improvements required by Chapter 33; street tree improvements required by Section 20.40.070.

Conformance with these regulations may not exempt buildings from future seismic regulations.

24.85.090 Fee Reductions.

(Amended by Ordinance No. 178831, effective November 20, 2004.) Building permit, plan review and fire life safety review fees for structural work related to seismic strengthening covered by this Chapter will be waived when such fees total less than $2,500, and will be and reduced by 50 percent when such fees would total $2,500 or more.

24.85.095 Appeals.

(Replaced by Ordinance No. 189747, effective October 23, 2019.) Because unanticipated circumstances may arise in the enforcement of these requirements for existing buildings, consideration as to the reasonable application of this Chapter may be addressed through the Board of Appeals as provided in Section 24.10.080.

CHAPTER 24.90 - MANUFACTURED DWELLING INSTALLATION AND ACCESSORY STRUCTURES, MANUFACTURED DWELLING PARKS, RECREATION PARKS, RECREATIONAL PARK TRAILER INSTALLATION AND ACCESSORY STRUCTURES

(Chapter added by Ordinance No. 169312; Amended by Ordinance No. 185798 effective December 12, 2012).

Sections:

24.90.010 Purpose.

The purpose of this Chapter is to provide minimum standards for the following:

A. Installation and maintenance of manufactured dwellings and accessory structures.

B. Development and maintenance of manufactured dwelling parks.

C. Installation and maintenance of park trailers and recreational vehicle accessory structures.

D. Development and maintenance of recreational vehicle parks.

24.90.020 Scope.

(Amended by Ordinance No. 185798, effective December 12, 2012.) Regulation under this Chapter covers all installations or alteration of manufactured dwellings, recreational park trailers and other recreational vehicles, and accessory structures. Regulation under this Chapter covers the development and maintenance of manufactured dwelling parks, recreational vehicle parks, recreation parks, picnic parks, and organizational camps.

24.90.030 Adoption of Codes and Regulatory Authority.

(Amended by Ordinance Nos. 176955 and 185798, effective December 12, 2012.)

TITLE 27 - HEATING AND VENTILATING REGULATIONS

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TITLE 27
HEATING AND VENTILATING REGULATIONS

CHAPTER 27.01 - TITLE AND SCOPE

Sections:

27.01.010 Title.

(Amended by Ordinance No. 187432, effective December 4, 2015.) This shall be known as Title 27, Heating and Ventilating Regulations and will be referred to herein as "this Title."

27.01.020 Purpose.

(Amended by Ordinance No. 187432, effective December 4, 2015.) The purpose of this Title is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, and maintenance of heating, ventilating, comfort cooling, refrigeration systems, incinerators, and other miscellaneous heat-producing appliances.

27.01.030 Scope.

(Amended by Ordinance Nos. 150873, 158654, 162693, 166110, 166438, 169905, 174891, 176956, 177414, 178745, 181359, 184140, 186932, 187432 and 189806, effective December 18, 2019.)

A. Mechanical Specialty Code. The provisions of the State of Oregon Mechanical Specialty Code, 2019 Edition including Chapter 1 thereof, as published by the International Code Council as the International Mechanical Code, 2018 Edition along with the International Fuel Gas Code, 2012 Edition, and as amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, are hereby adopted by reference. The Mechanical Specialty Code is on file in the Development Services Center of the City of Portland.

Unless specifically provided for in other Chapters of this Title, where requirements of this Title do not provide for or are not fully detailed with regard to processes, methods, specifications, equipment testing and maintenance standards of design performance and installation, and other pertinent criteria, applicable standards and recommendations of the National Fire Protection Association (hereinafter referred to as NFPA) as set forth in its National Fire Codes, shall apply.

In the following Chapters references may have been made to equipment not governed by this Title, in which case other Code or Codes shall apply.

27.01.035 Solar Installation Specialty Code.

(Added by Ordinance No. 185798; repealed by Ordinance No. 189806, effective December 18, 2019.)

27.01.040 Existing Equipment.

(Amended by Ordinance Nos. 187432 and 188647, effective November 17, 2017.) Heating, ventilating, comfort cooling or refrigeration systems, incinerators or other miscellaneous heat-producing appliances lawfully installed prior to the effective date of this Title may have their existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and is not a hazard to life, health, or property.

All heating, ventilating, comfort cooling, or refrigeration systems, incinerators or other miscellaneous heat-producing appliances, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Title in heating, ventilating, comfort cooling, or refrigeration systems, incinerators or other miscellaneous heat-producing appliances when installed, altered, or repaired, shall be maintained in good working order. The owner or the owner's designated agent shall be responsible for the maintenance of heating, ventilating, comfort cooling, refrigeration systems, incinerators, or other miscellaneous heat-producing appliances.

27.01.050 Alternate Materials and Methods of Construction.

(Repealed by Ordinance No. 187432, effective December 4, 2015.)

CHAPTER 27.02 - ORGANIZATION AND ENFORCEMENT

Sections:

27.02.010 General.

(Amended by Ordinance Nos. 150873, 176955 and 187432, effective December 4, 2015.) The Director of the Bureau of Development Services is hereby authorized and directed to enforce all the provisions of this Title.

A. Appointees. The Director may appoint officers, inspectors, assistants, and other employees to perform any duty imposed by this Title. Such appointees may, for the sake of this Title, hereafter be known as building officials, inspectors, or authorized representatives.

B. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Title, or whenever the Director or authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or Code violation which makes such building or premises unsafe, dangerous, or hazardous, or upon presentation of a lawfully issued warrant, the Director or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Director by this Title. If such building or premises is occupied, the Director shall first present proper credentials and request entry; and if such building or premises is unoccupied, the Director shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Director or authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Director or authorized representative has first obtained a lawfully issued warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building or premises shall fail or neglect, after proper request is made, to promptly allow the Director or authorized representative to enter the building or premises for the purpose of inspection and examination pursuant to this Title.

C. Stop Work Orders. 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 elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, activity subject to the order may not be resumed until such time as the Director gives specific approval in writing. The stop

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TITLE 30 - AFFORDABLE HOUSING

(Title added by Ordinance No. 172844, effective November 4, 1998)

CHAPTER 30.01 - AFFORDABLE HOUSING PRESERVATION AND PORTLAND RENTER PROTECTIONS

(Chapter amended by Ordinance No. 187380, effective November 13, 2015.)

Sections:

30.01.010 Policy.

(Amended by Ordinance No. 187380, effective November 13, 2015.) It is the policy of the City of Portland that all Portlanders, regardless of income level, family composition, race, ethnicity or physical ability, have reasonable certainty in their housing, whether publicly assisted or on the private market. Consequently, publicly assisted rental housing affordable to low and moderate income persons and households should be preserved as a long-term resource to the maximum extent practicable, and the tenants of such properties should receive protections to facilitate securing new housing should the affordable units be converted to market rate units or otherwise be lost as a resource for low and moderate income housing. Likewise, Portland renters in unregulated housing on the private market, need additional protections to ensure that there is adequate time to find alternative housing in the case of a no cause eviction and adequate time to budget for an increase in rent.

30.01.020 Intent.

(Amended by Ordinance No. 187380, effective November 13, 2015.) The intent of this Title is to protect the availability of publicly assisted affordable housing for low and moderate income households by: providing for notice to the City and tenants when transitions from current assistance programs and/or affordable housing uses are planned;

providing purchase opportunities for the City to attempt to preserve the affordable housing while respecting ownership interests of building owners; providing tenant relocation assistance when the affordable housing is converted; and, ensuring long term affordability in future projects that the City assists with public financing designed to create or preserve affordable housing; and ensuring that all Portland renters, have additional protections to ensure more certainty in their housing security.

30.01.030 Definitions.

(Amended by Ordinance Nos. 186028, 187380, 188163 and 189323, effective December 19, 2018.)

A. **"Administrative Rules"** means the program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth program requirements, processes, and procedures, and are filed through the City's publically available Portland Policy Documents (PPD).

B. **"Affordable housing."** The term "affordable housing", "affordable rental housing" or "housing affordable to rental households" means that the rent is structured so that the targeted tenant population pays no more than 30 percent of their gross household income for rent and utilities. The targeted tenant populations referred to in this section include households up to 80 percent of MFI.

C. **"Associated Housing Costs."** include, but are not limited to, fees or utility or service charges, means the compensation or fees paid or charged, usually periodically, for the use of any property, land, buildings, or equipment. For purposes of this Chapter, housing costs include the basic rent charge and any periodic or monthly fees for other services paid to the Landlord by the Tenant, but do not include utility charges that are based on usage and that the Tenant has agreed in the Rental Agreement to pay, unless the obligation to pay those charges is itself a change in the terms of the Rental Agreement.

D. **"City Subsidy."** Locally controlled public funds administered by PDC, PHB, or other City bureau or agency, allocated for the purpose of creating or preserving affordable rental housing to households below 80 percent of MFI. City subsidies may be provided to developers through direct financial assistance such as low interest or deferred loans, grants, equity gap investments, credit enhancements or loan guarantees, or other mechanisms.

E. **"City Subsidy Projects."** Privately owned properties of five or more units which receive a City Subsidy after the effective date of Title 30.01 through programs designed to create or preserve rental housing affordable at or below 80 percent of MFI.

F. **"Commercial Market Compatible Offer."** A Fair Market Value purchase offer made by the City or its designee which is consistent with the terms and conditions

which would be made by a buyer on the open market such that a seller negotiating with the City on such terms would not experience any significant disadvantage as compared to a market rate transaction with a private party.

G. **"Fair Market Value."** The amount of money in cash that real property would bring in the open market if it were offered for sale by one who desired, but was not obligated to sell, and was bought by one willing but not obliged to buy. It is the actual value of the property on the date when a City offer pursuant to Title 30.01.050 is made. As may be further refined by PHB through its Administrative Procedures developed in reference to the Uniform Standards of Professional Appraisal Practice, the Oregon Uniform Trial Instructions, and relevant case law, Fair Market Value is based on the best and highest use of the property, which may be greater than the use being made of the property by the current owner. However, Fair Market Value does not include speculative value, or possible value based on future expenditures and improvements, or potential changes in applicable zoning regulations or laws, which are not reasonably probable. Fair Market Value includes assessment of environmental, structural or mechanical information derived from inspections or other due diligence activities.

H. **"Federal Preservation Projects."** Properties having project-based rental assistance contracts for some or all of the units (such as Section 8 and Project Rental Assistance Contracts) including those developed under a variety of HUD mortgage assistance and interest rate reduction programs. Federal preservation projects include properties with loans, contracts, or insurance under the following federal subsidy programs: section 221(d)(4) with project-based Section 8; Section 202; Section 236(J)(1); Section 221(D)(3) BMIR; Section 221(D)(3) MIR; Section 811; Project based Section 8 contracts administered through HUD, Oregon Housing and Community Services, or the Housing Authority of Portland; Project Rental Assistance Contracts (PRAC); LIHPRHA capital grant program; and Section 241(f) preservation grant. An updated list of all known Federal Preservation Projects will be maintained and available upon request to the public.

I. **"HUD."** The United States Department of Housing and Urban Development

J. **"Involuntary Displacement."** Tenants of Federal Preservation Projects are considered to be involuntarily displaced if:

1. They are served a notice to vacate the property for reasons other than just cause as defined herein; or

2. They are not offered a one year lease under their tenant based voucher by the property owner; or

3. They are offered a one year lease under their tenant based voucher, but are required to pay as rent and utilities an amount greater than the tenant

contribution to rent (and utilities) in effect under the project-based Section 8 contract, and they then choose to move from the property rather than enter into a lease under the voucher. This form of displacement is referred to as "economic displacement."

K. **"Just Cause Eviction."** Evictions for serious or repeated violations of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause.

L. **"Local Preservation Projects."** Properties with 10 or more rental units which received financial assistance (from the programs listed below), to create or preserve housing serving households below 80 percent of MFI since January 1, 1988 and through the effective date of Title 30.01, which have affordability restrictions that are still in force as of the effective date of Title 30.01. Financial assistance programs include subsidies from the City of Portland through the Portland Development Commission (Rental Housing Development Loan Program, Investor Rehabilitation Loan Program, Rental Rehabilitation Loan Program, or Downtown Housing Preservation Program), and/or from the State of Oregon Housing and Community Services Department (Housing Development Grant Program, Oregon Affordable Housing Tax Credit Program, and the former Oregon Lenders Tax Credit Program, Risk Sharing Bond program, Elderly and Disabled Bond Program), and/or which have received bond financing issued by the Housing Authority of Portland or the Portland Development Commission. An updated list of all known Local Preservation Projects will be maintained and available upon request to the public.

M. **"Low Income."** Low income individuals, households or tenants are those with a gross household income below 50 percent of MFI.

N. **"Mass shelter."** A structure that contains one or more open sleeping areas or is divided only by non-permanent partitions and is 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, with or without a fee, on a daily basis.

O. **"MFI."** Median family income for the Portland Metropolitan Statistical Area as defined by HUD as adjusted for inflation and published periodically.

P. **"Moderate Income."** Moderate income individuals, households or tenants are those with a gross household income below 80 percent of MFI.

Q. **"Opt Out."** An owner's non-renewal of an available project-based Section 8 contract in a Federal Preservation Project. Owners may consider "opting out" when they contemplate conversion to open market rental housing, other housing or commercial uses, or a sale of the property.

R. **"PHB."** The Portland Housing Bureau.

S. **"PDC."** The Portland Development Commission

T. **"Preservation Process."** The requirements contained in 30.01.050 - 30.01.070 for Federal Preservation Projects and in 30.01.080 for Local Preservation Projects respectively.

U. **"Qualifying Household."** A household legally residing in a Federal Preservation Project with a gross household income at or below 50 percent of MFI.

V. **"Receiving Site"** means a new or existing housing development with transferred Inclusionary Housing requirements from a Sending Site.

W. **"Regulatory Agreement"** means a recorded agreement between the owner and PHB stating the approval and compliance criteria of a PHB program.

X. **"Residential Landlord and Tenant Act"** or **"Act."** ORS Chapter 90.

Y. **"Sending Site"** means a new development project which is subject to Inclusionary Housing requirements and is opting to provide affordable units off-site.

Z. **"Short-term housing."** One or more structures that each contains one or more individual sleeping rooms and for which tenancy of all rooms may be arranged for periods of less than one month. A short-term housing facility may or may not have food preparation facilities, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency that may or may not charge a fee. Examples include transitional housing and emergency shelters in which individual rooms are provided. Tenancy may be less than 30 days or more than 30 days.

30.01.040 Title 30.01 Responsibilities.

(Amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.) PHB will have primary responsibility for implementation of Title 30.01. This responsibility will include the development and administration of operating procedures, and taking any and all City actions referenced herein as may be necessary for implementation of the requirements of this Title. PDC will work with PHB to implement property acquisition responsibilities described in this Title. PDC is also expected to develop strategies to implement the 60-year affordability requirements in 30.01.090.

30.01.050 Federal Preservation Projects - City Notice and Preservation Opportunities.

(Replaced by Ordinance No. 174180; amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

A. Owners of Federal Preservation Projects must provide the City and each building tenant with a one year's notice of a pending HUD Section 8 contract expiration. In

order to facilitate the owner's knowledge of the City's interest in notification, PHB shall provide written confirmation of the City's interest in the property to each Section 8 property within the City of which PHB is aware.

B. Owners of Federal Preservation Projects who have decided to Opt Out must provide to the City a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:

1. whether the owner intends to withdraw the property from the Section 8 program;

2. whether the owner intends to convert the participating property to a nonparticipating use; and

3. whether the owner is involved in negotiations with HUD or the Housing and Community Services Department regarding an extension of an expiring contract.

C. Owners of Federal Preservation Projects who have decided to Opt Out must consent to reasonable inspection of the property and inspection of the owner reports on file with HUD or the State of Oregon Housing and Community Services Department. These inspections are designed to facilitate the City's ability to assess the Fair Market Value of the property and evaluate status of the tenants, viability of transfer and/or continuation of a Section 8 agreement with HUD and other pertinent information.

D. To the extent allowed by HUD, owners of Federal Preservation Projects must maintain an available HUD Section 8 contract in good standing during the notice periods identified in this chapter as well as any condemnation proceeding commenced under ORS Chapter 35.

E. Owners of Federal Preservation Projects must refrain from taking any action, other than notifying HUD of the owner's intention to not renew the contract, that would preclude the City or its designee from succeeding to the contract or negotiating with the owner for purchase of the property during the notice periods identified in this Chapter as well as any condemnation proceeding commenced under ORS Chapter 35.

F. In addition to any other times, during the notice periods identified in this Chapter, the City may pursue preservation of the Federal Preservation Project through negotiation for purchase or through condemnation under ORS Chapter 35.

30.01.060 Federal Preservation Projects - Tenant Provisions.

(Replaced by Ordinance No. 174180; amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

A. Owners of Federal Preservation Projects who have decided to Opt Out must provide to each affected building tenant a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:

1. whether the owner intends to withdraw the property from the Section 8 program;

2. whether the owner intends to convert the participating property to a nonparticipating use; and

3. whether the owner is involved in negotiations with HUD or the State of Oregon Housing and Community Services Department regarding an extension of an expiring contract

B. Owners of Federal Preservation Projects who have decided to Opt Out may not disturb any tenancy other than for cause defined in the contract, for a period of 180 days after expiration of the contract, if the City has paid or arranged to pay to the owner on the first day of each month, the monthly subsidy that the owner was receiving under the contract.

C. PHB shall identify and make available adequate financial resources for tenant relocation assistance for all tenants who experience involuntary displacement from Federal Preservation Properties. PHB shall request voluntary contributions to a tenant relocation fund from owners of Federal Preservation Projects who have decided to Opt Out.

30.01.070 Federal Preservation Projects - Civil Fines.

(Replaced by Ordinance No.174180; amended by Ordinance No. 186028, effective May 15, 2013.)

A. An owner who fails to comply with any of the requirements specified in PCC 30.01.050 A.-E., tenant notice requirements in 30.01.060 A., or PHB procedures implementing those specified provisions of this Chapter, shall pay a civil fine. The fine shall be calculated in relation to the costs and damages caused by the owner's failure to comply, up to full replacement costs of each project-based Section 8 housing unit lost. Such civil fines shall be payable into a housing replacement fund to be established and managed by the City. If the civil fine is not received within the timeframes specified in the Administrative Procedures developed by PHB, the City may commence enforcement proceedings.

B. Any civil fines received shall be used only for creating replacement housing serving households at or below 50 percent MFI.

30.01.080 Local Preservation Projects - Tenant and City Notice Provisions.
(Amended by Ordinance No. 186028, effective May 15, 2013.)

A. When the owner of a Local Preservation Project takes action which will make the affordable housing no longer affordable, whether the affordability requirements which were established under prior agreement with the City, PDC or State have expired or are still in effect, the owner must provide a notice of 90 days to the City. The notice shall meet standards developed by PHB. During the 90-day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with other interested parties. Within this period, the City or its designee may make an offer to purchase or attempt to coordinate a purchase by an owner committed to maintaining affordability.

B. Owners of Local Preservation Projects who have decided to take action described in 30.01.080 A., must provide a notice of 90 days to tenants. This shall be in addition to the City notice to be provided to the City under 30.01.080 A. During this notice period the Owner may not initiate a no-cause eviction. The notice must meet standards developed by PHB.

30.01.085 Portland Renter Additional Protections.
(Added by Ordinance No. 187380; amended by Ordinance Nos. 188219, 188519, 188558, 188628, 188849, 189421 and 189726, effective November 1, 2019.)

A. In addition to the protections set forth in the Residential Landlord and Tenant Act, the following additional protections apply to Tenants that have a Rental Agreement for a Dwelling Unit covered by the Act. For purposes of this chapter, unless otherwise defined herein, capitalized terms have the meaning set forth in the Act.

B. A Landlord may terminate a Rental Agreement without a cause or for a qualifying landlord reason specified in the Act only by delivering a written notice of termination (the "Termination Notice") to the Tenant of (a) not less than 90 days before the termination date designated in that notice as calculated under the Act; or (b) the time period designated in the Rental Agreement, whichever is longer. Not less than 45 days prior to the termination date provided in the Termination Notice, a Landlord shall pay to the Tenant, as relocation assistance, a payment ("Relocation Assistance") in the amount that follows: $2,900 for a studio or single room occupancy ("SRO") Dwelling Unit, $3,300 for a one-bedroom Dwelling Unit, $4,200 for a two-bedroom Dwelling Unit and $4,500 for a three-bedroom or larger Dwelling Unit. For purposes of this Subsection, a Landlord that declines to renew or replace an expiring Rental Agreement is subject to the provisions of this Subsection. The requirements of this Subsection are intended to apply per Dwelling Unit, not per individual Tenant.

C. As allowed by the Act, a Landlord may not increase a Tenant's Rent or Associated Housing Costs by 5 percent or more over a rolling 12-month period unless the Landlord gives notice in writing (the "Increase Notice") to each affected Tenant: (a) at least 90 days prior to the effective date of the Rent increase; or (b) the time period designated in the Rental Agreement, whichever is longer. The Increase Notice must specify the amount of the increase, the amount of the new Rent or Associated Housing Costs and the date, as calculated under the Act, when the increase becomes effective. If, within 45 calendar days after a Tenant receives an Increase Notice indicating a Rent increase of 10 percent or more within a rolling 12-month period and a Tenant provides written notice to the Landlord of the Tenant's request for Relocation Assistance (the "Tenant's Notice"), then, within 31 calendar days of receiving the Tenant's Notice, the Landlord shall pay to the Tenant Relocation Assistance in the amount that follows: $2,900 for a studio or SRO Dwelling Unit, $3,300 for a one-bedroom Dwelling Unit, $4,200 for a two-bedroom Dwelling Unit and $4,500 for a three-bedroom or larger Dwelling Unit. After the Tenant receives the Relocation Assistance from the Landlord, the Tenant shall have 6 months from the effective date of the Rent increase (the "Relocation Period") to either: (i) pay back the Relocation Assistance and remain in the Dwelling Unit and, subject to the Act, shall be obligated to pay the increased Rent in accordance with the Increase Notice for the duration of the Tenant's occupancy of the Dwelling Unit; or (ii) provide the Landlord with a notice to terminate the Rental Agreement in accordance with the Act (the "Tenant's Termination Notice"). In the event that the Tenant has not repaid the Relocation Assistance to the Landlord or provided the Landlord with the Tenant's Termination Notice on or before the expiration of the Relocation Period, the Tenant shall be in violation of this Subsection. For purposes of this Subsection, a Landlord that conditions the renewal or replacement of an expiring Rental Agreement on the Tenant's agreement to pay a Rent increase of 10 percent or more within a rolling 12-month period is subject to the provisions of this Subsection. For purposes of this Subsection, a Landlord that declines to renew or replace an expiring Rental Agreement on substantially the same terms except for the amount of Rent or Associated Housing Costs terminates the Rental Agreement and is subject to the provisions of this Subsection. The requirements of this Subsection are intended to apply per Dwelling Unit, not per individual Tenant. For purposes of this Subsection, a Tenant may only receive and retain Relocation Assistance once per tenancy per Dwelling Unit.

D. A Landlord shall include a description of a Tenant's rights and obligations and the eligible amount of Relocation Assistance under this Section 30.01.085 with each and any Termination Notice, Increase Notice, and Relocation Assistance payment.

E. A Landlord shall provide notice to the Portland Housing Bureau (PHB) of all payments to Tenants of Relocation Assistance within 30 days of making such payments. This Subsection shall be effective beginning May 1, 2018.

F. For the purposes of this Section 30.01.085, the expiration of Rent concessions specified in the Rental Agreement is not considered a substantial change to a Rental Agreement.

G. For the purposes of this Section 30.01.085 and determining the amount of Relocation Assistance a Landlord shall pay, a Rental Agreement for a single bedroom in a Dwelling Unit as defined by PCC 33.910 is considered a SRO Dwelling Unit.

H. For the purposes of this Section 30.01.085 and determining the amount of Relocation Assistance a Landlord shall pay, if a Landlord is paying relocation assistance required by the Act and Relocation Assistance required by Section 30.01.085 to the Tenant for the same Termination Notice, the Relocation Assistance required by Section 30.01.085 may be reduced by the relocation assistance required by the Act if both payments are paid at the same time and as a single payment.

I. The provisions of this Section 30.01.085 that pertain to Relocation Assistance do not apply to the following so long as the Landlord has submitted a required exemption application form to PHB for which PHB shall have issued an exemption acknowledgement letter, a copy of which the Landlord shall have provided to the Tenant:

1. Rental Agreements for week-to-week tenancies;

2. Tenants that occupy the same Dwelling Unit as the Landlord;

3. Tenants that occupy one Dwelling Unit in a Duplex where the Landlord's principal residence is the second Dwelling Unit in the same Duplex;

4. Tenants that occupy an Accessory Dwelling Unit that is subject to the Act in the City of Portland so long as the owner of the Accessory Dwelling Unit lives on the site, or Tenancies where the owner occupies the Accessory Dwelling Unit and the Tenant occupies a Dwelling Unit on the site;

5. a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years;

6. a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence due to active duty military service;

7. a Dwelling Unit where the Landlord is terminating the Rental Agreement in order for an Immediate Family member to occupy the Dwelling Unit;

8. a Dwelling Unit regulated or certified as affordable housing by a federal, state or local government is exempt from paying Relocation Assistance for a Rent increase of 10 percent or more within a rolling 12-month period:

a. so long as such increase does not increase a Tenant's portion of the Rent payment by 10 percent or more within a rolling 12-month period; or

b. in Lease Agreements where the Rent or eligibility is periodically calculated based on the Tenant's income or other program eligibility requirements and a Rent increase is necessary due to program eligibility requirements or a change in the Tenant's income.

This exemption by Subsection 30.01.085 I.8. does not apply to private market-rate Dwelling Units with a Tenant who is the recipient of a federal, state, or local government voucher;

This exemption by Subsection 30.01.085 I.8. applies to Rent increases and does not apply to Termination Notices;

9. a Dwelling Unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

10. a Dwelling Unit rendered immediately uninhabitable not due to the action or inaction of a Landlord or Tenant;

11. a Dwelling Unit rented for less than 6 months with appropriate verification of the submission of a demolition permit prior to the Tenant renting the Dwelling Unit;

12. a Dwelling Unit where the Landlord has provided a Fixed Term Tenancy and notified the Tenant prior to occupancy, of the Landlord's intent to sell or permanently convert the Dwelling Unit to a use other than as a Dwelling Unit subject to the Act.

A Landlord that authorizes a property manager that is subject to, and manages property in accordance with ORS 696, to manage a Dwelling Unit, does not waive a Dwelling Unit exemption as a result of the collective number of Dwelling Units managed by such a property manager. For purposes of the exemptions provided in this Subsection, "Dwelling Unit" is defined by PCC 33.910, and not by ORS 90.100. For purposes of the exemptions provided in this Subsection, "Accessory Dwelling Unit" is defined by PCC 33.205. For purposes of the exemptions provided in this Subsection, "Duplex" is defined by PCC 33.910. For purposes of the exemptions provided in this Subsection, "Immediate Family" is defined by PHB in administrative rules.

J. A Landlord that fails to comply with any of the requirements set forth in this Section 30.01.085 shall be liable to the Tenant for an amount up to 3 times the monthly

Rent as well as actual damages, Relocation Assistance, reasonable attorney fees and costs (collectively, "Damages"). Any Tenant claiming to be aggrieved by a Landlord's noncompliance with the foregoing has a cause of action in any court of competent jurisdiction for Damages and such other remedies as may be appropriate.

K. In carrying out the provisions of this Section 30.01.085, the Director of PHB, or a designee, is authorized to adopt, amend and repeal administrative rules to carry out and administer the provisions of this Section 30.01.085.

30.01.090 City Subsidy Projects - Long-Term Affordability Requirements.
(Amended by Ordinance Nos. 186028, 187380 and 188440, effective July 8, 2017.)

A. City Subsidy Projects that in the future request and receive a City Subsidy from PDC, PHB or other City bureau or agency for the purpose of creating or preserving rental housing affordable to households below 80 percent of MFI, will be subject to a minimum of 60 year affordability contract requirements developed by PHB consistent with the implementing charge in Subsection 30.01.090 B. Notwithstanding the foregoing, City Subsidy Projects that receive a Rental Rehabilitation Conditional Grant will be subject to a minimum of 10 year affordability contract requirement in accordance with the Rental Rehabilitation Conditional Grant Product Guidelines.

B. All City Bureaus and agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the City to negotiate and confer affordable housing subsidies, PHB will develop implementing strategies consistent with the 60 year affordability principles contained in this section, the Administrative Procedures Implementing Title 30.01 and the approved 1998/99 Consolidated Plan, Principle III (Ordinance No. 172259).

30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.
(Added by Ordinance No. 183448; Amended by Ordinance Nos. 186712, 186744, 187380, 187975 and 189323, effective December 19, 2018.)

A. The purpose of this Section is to reduce the costs of developing permanent affordable housing by exempting system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.

B. The City will exempt qualified affordable housing developments from paying all or part of system development charges required by Code. The Applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more

of the uses described in this Section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The Applicant has the burden to prove entitlement to exemptions so requested.

C. The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section. Exemptions are applicable to the portions of residential properties that are directly used in providing housing for its low-income residents such as on-site manager units and shared space including but not limited to restrooms, community rooms and laundry facilities.

D. To obtain the exemption, the applicant must present to the City, at the time of Application, documentation from PHB that the development qualifies for the exemption pursuant to this Chapter. Applicant must also pay an administration fee per unit on rental and/or owner-occupied units as determined by PHB.

E. The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by PHB in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.

F. Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of system development charges based on the type of housing provided:

1. Rental Units.

a. For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30 percent of the gross household income at the level of the rent restrictions.

b. The units receiving an exemption shall be affordable to households earning 60 percent or less of MFI at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, except as provided for below. Such units shall remain affordable for a period of 60 years.

c. Effective July 1, 2014, developments of new buildings in Old Town/Chinatown shall be eligible for exemption subject to the following conditions:

(1) Units must be located in the Old Town/Chinatown Action Plan Focus Area;

(2) Financial need must be verified through project pro forma underwriting conducted by the PDC;

(3) All units shall remain affordable for a period of not less than 10 years, to persons or households whose incomes are 100 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, and for not less than 5 years thereafter shall continue to remain affordable to persons or households whose incomes are 120 percent or less of MFI, as so described; and

(4) The exemption granted by this Subsection shall not be available to developments for which a building permit application is filed on or after July 1, 2019, or after permit applications have been filed for development of 500 qualifying units, in the aggregate, whichever occurs first.

2. Owner-Occupied Units.

a. For the purposes of this Section, "Affordable" means that ownership units are sold to persons or households whose incomes are at or below 100 percent of MFI for a family of four as determined annually for the Portland Metropolitan Area by HUD, which income may be adjusted upward for households with more than four persons; and

b. The ownership units sell at or below the price limit as provided by Subsection 3.102.090 D.

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.

30.01.096 Partial and Full Exemptions of System Development Charges for Mass Shelters and Short-Term Housing.

(Added by Ordinance No. 189323, effective December 19, 2018.)

A. The purpose of this Section is to reduce the costs of developing permanent transitional housing in the form of mass shelters and short-term housing by exempting system development charges for qualified developments. This section advances a Council-recognized public policy goal of providing a continuum of safe and affordable housing opportunities including transitional housing, emergency shelters, and campgrounds/rest areas to meet the needs of Portland residents.

B. The City will exempt qualified mass shelter and short-term housing developments from paying all or part of system development charges required by Code. The applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more of the uses described in this Section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The applicant has the burden to prove entitlement to exemptions so requested.

C. The City shall calculate exemptions in the manner authorized for calculating system development charges. Exemptions are applicable to the portions of mass shelter and short-term housing projects that are directly used in providing shelter and services for their residents such as on-site manager facilities and shared space including but not limited to restrooms, kitchens, community rooms, social service facilities, and laundry facilities.

D. To obtain the exemption, the applicant must present to the City, at the time of application, documentation from the Joint Office of Homeless Services, or other

designated agency, that the development qualifies for the exemption pursuant to this Chapter.

E. The applicant must provide permit drawings that clearly note the exemption, if granted, in order to ensure compliance. Alternatively, the drawings must provide remedies for failure to comply that are acceptable to the City. Permit drawings must state the following, "This project received SDC exemptions for mass shelters or short-term housing. The exemptions only apply to the mass shelter or short-term housing development and associated facilities including social services. If a future tenant improvement or change of occupancy creates a use that is not a mass shelter or short-term housing or associated service, system development charges will be assessed for the new use. It is the permittee's responsibility to maintain proper documentation of the continued mass shelter or short-term housing use."

30.01.100 Compliance and Enforcement.

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

A. PHB shall develop and implement procedures to enforce the provisions of this code. Such procedures should include, where feasible, record notice of the applicability of this code to affected properties, filing a lien to enforce the provisions of this code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this code.

B. The City Attorney's Office may enforce the provisions of this code on behalf of the City in any court of competent jurisdiction or City administrative body.

30.01.110 No Restriction of Powers of Eminent Domain; Severability.

A. This Chapter shall not be construed to restrict the City's existing authority to exercise powers of eminent domain through condemnation as outlined in state law.

B. If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

30.01.120 Inclusionary Housing.

(Added by Ordinance No. 188163; amended by Ordinance Nos. 189071, 189213 and 189302, effective December 12, 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, 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, 2020:

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 a built or base FAR of 5:1 or greater 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, 2020:

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 a built or base FAR of 5:1 or greater, the tax exemption applies to all residential units; and

b. Construction Excise Tax exemption for the IH Units in accordance with Subsection 6.08.060 A.2.; and

c. SDC exemption for the IH Units in accordance with Section 30.01.095.

3. When the proposed development elects to construct IH Units offsite:

a. Construction Excise Tax exemption for the Receiving Site's IH Units in accordance with Subsection 6.08.060 A.2.; and

b. SDC exemption for the Receiving Site's IH Units in accordance with Section 30.01.095.

4. When the applicant elects to dedicate IH Units in an existing development, there are no financial incentives provided under Section 30.01.120.

5. When the applicant elects the fee-in-lieu option, there are no financial incentives provided under Section 30.01.120.

D. Standards. Developments providing IH Units must satisfy the following standards:

1. The IH Units must meet clear and objective administrative criteria that ensure a reasonable equivalency between the IH Units and the market-rate units in the development;

2. The IH Units shall remain affordable for a period of 99 years;

3. Owners of property subject to the IH Program are required to sign a Regulatory Agreement to be recorded with the property where the IH Units are located;

4. The owner or a representative shall submit annual documentation of tenant income and rents for the IH Units to PHB;

5. The City may inspect the IH Units for fire, life and safety hazards and for compliance with IH Program requirements and may inspect files documenting tenant income and rents of the IH Units; and

6. Subsequent failure to meet the requirements of the IH Program previously determined at the time the permit is reviewed will result in a penalty equal to the amount of the current fee-in-lieu calculation plus accrued interest, and could result in legal action if unpaid.

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, 2020
$19
Fee per GSF after December 31, 2020
$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

30.01.130 Manufactured Dwelling Park Affordable Housing Density Bonus.
(Added by Ordinance No. 189783, effective December 4, 2019.)

A. Purpose Statement. By implementing the Manufactured Dwelling Park Affordable Housing Bonus Density Program (the "MDP Program"), the City has the following goals:

1. Support the preservation of lower-cost market rate housing in manufactured dwelling parks; and

2. Ensure there are a variety of housing types available to low income and otherwise vulnerable people.

B. PHB will certify whether a manufactured dwelling park meets the affordability standards in PCC 33.120.205 F.2. The PHB Director is authorized to adopt administrative rules to enforce the affordability standards.

C. Manufactured dwellings parks approved for the MDP Program must satisfy the following criteria:

1. Manufactured dwellings shall remain affordable for a period of 99 years.

2. Owners are required to sign a Regulatory Agreement to be recorded on the title to the property receiving a density bonus under the MDP Program.

3. Owners shall submit annual documentation of tenant income and rents for the affordable manufactured dwellings to PHB.

4. The Regulatory Agreement will authorize PHB to inspect files documenting tenant income and rents of the affordable manufactured dwellings for compliance with MDP Program requirements.

5. Failure to meet the requirements of the MDP Program will result in a penalty, and could result in legal action.

D. The Director of PHB or a designee may adopt, amend and repeal Administrative Rules, and establish procedures, 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.