

Exhibit C

Title 7 Business Licenses

CHAPTER 7.02 - BUSINESS LICENSE LAW

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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.

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.

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, for the purposes of this Chapter, the revenue service and program of the City Administrator under Chapter 3.06 of this Code and may also be referenced as the Revenue Division, along with its employees and agents.

B. Business income has the same meaning as “apportionable income” defined in

Oregon Revised Statutes 314.610.

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 City Administrator or their designee who carries out the work of the revenue service and program, which may be referred to as the "Revenue Division."

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 the person's 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” refers to the joint taxfiler.

N. Large retailer means a business that:

1. is subject to the Portland Business License Tax;
2. for tax years beginning before January 1, 2023, has:
 - a. total gross income, as reported per Section 7.02.610, from Retail Sales of \$1 billion or more in the tax year; and
 - b. Portland gross income, as reported per Section 7.02.610, from Retail Sales of \$500,000 or more in the tax year; or
3. for tax years beginning on or after January 1, 2023, has:
 - a. total sales, as reported per Section 7.02.611, from Retail Sales of \$1 billion or more in the tax year; and
 - b. Portland sales, as reported per Section 7.02.611, 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 has the same meaning as “nonapportionable income” defined in Oregon Revised Statutes 314.610.

R. Notice means a written document mailed by 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. Alternatively, notice may be delivered in person, by facsimile, email, or other means with taxfiler consent.

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, 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 Portland City Code Sections 17.102.140 or 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. Residential rental unit means a "dwelling unit" a defined by ORS 90.100, and subject to Oregon's Residential Landlord and Tenant Act in ORS Chapter, that is rented or offered for rent for a period of more than 30 consecutive days.

CC. Retail gross revenue means retail sales excluding the deductions outlined in Subsection 7.02.500 F.3.

DD. 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.

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

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

GG. 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.

A. Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, and trusts 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.

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 Division.

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.

The City Administrator may adopt administrative rules as authorized by Charter.

7.02.220 Presumption of Doing Business.

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.

A. In accordance with ORS 314.835, except as otherwise specifically provided by Oregon law or Section 7.02.240 and related rules or written policies, it is unlawful for the Division or any officer or employee of the Division to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of any tax, surcharge or fee imposed under the Business License Law.

B. It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Subsection 7.02.240 B., to divulge, release or make known in any manner any information submitted or disclosed to the City under the terms of the Business License Law for any purpose other than that specified in the provisions of law authorizing the use or disclosure.

C. No subpoena or judicial order may be issued compelling the Division or any of its officers or employees, or any person who has acquired information pursuant to Section 7.02.240 or any other provision of state or City law, to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxfiler's liability for any tax,

surcharge or fee imposed under the Business License Law is to be adjudicated by the court from which such process issues.

D. As used in this Section:

- 1. Officer, employee or person** includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.
- 2. Particulars** includes, but is not limited to, a taxfiler's name, address, telephone number, Social Security number, employer identification number or other taxfiler identification number, the amount of refund claimed by or granted to a taxfiler, and whether a report or return has been filed.

7.02.240 Persons to Whom Information May be Furnished.

A. The Division may:

- 1.** Furnish any taxfiler, representative authorized to represent the taxfiler under ORS 305.239 or person designated by the taxfiler under ORS 305.193, upon request of the taxfiler, representative or designee, with a copy of the taxfiler's tax return filed with the Division for any year, or with a copy of any report filed by the taxfiler in connection with the return, or with any other information the Division considers necessary.
- 2.** Publish lists of taxfilers who are entitled to unclaimed tax refunds.
- 3.** Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.
- 4.** Disclose a taxfiler's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxfiler identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report or return required in the administration of any local tax.

B. Only to the extent necessary to meet the business purpose of the disclosure, the Division also may disclose and give access to information described in Subsection 7.02.230 A. to:

- 1.** The Commissioner of Internal Revenue or authorized representative, for tax administration and compliance purposes only.
- 2.** The Oregon Department of Revenue or authorized representative, for tax administration and compliance purposes only.

3. For tax administration and compliance purposes, the proper officer or authorized representative of any of the following entities that has or is governed by a provision of law that meets the requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

- a.** A state;
- b.** A city, county or other political subdivision of a state;
- c.** The District of Columbia; or
- d.** An association established exclusively to provide services to federal, state or local taxing authorities.

4. The City Attorney, their deputies and subordinates, 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.

5. The attorney, the attorney's assistants and employees, or other legal representatives of a local government that the City administers a tax for, to the extent the Division deems disclosure or access is necessary for consultation and advice in tax administration of the local government's tax. Any disclosure under this paragraph may be made only pursuant to a written agreement between the City and that local government that ensures the confidentiality of the information disclosed.

6. The proper officer or authorized representative of a city, county, or other subdivision of this state, to the extent the Division deems disclosure or access necessary for purposes of administration of a tax on behalf of the city, county, or other subdivision. Any disclosure under this paragraph may be made only pursuant to a written agreement between the City and that other city, county, or other subdivision of this state that ensures the confidentiality of the information disclosed.

7. Prosper Portland or its authorized representative, for the purposes of economic and business development, the name and address of active businesses, and statistics so classified as to prevent the identification of income or other particulars contained in any report or return.

8. The Portland Housing Bureau or its authorized representative, for the purposes of official correspondence and to manage the Residential Rental Registration Program, the name and address of active businesses filing a Schedule R and Schedule R information. This information may be used to maintain the inventory of residential rental housing within the City for the

bureau's use and for statistical purposes and trending analysis, but may not otherwise be shared publicly.

9. The authorized representative of any bureau, office or sub-unit of the City, for the purposes of official correspondence or developing funding proposals, the name and address of active businesses, and statistics so classified as to prevent the identification of income or other particulars contained in any report or return.

10. The Auditor or their authorized representative, to the extent pursuant to City Charter, Chapter 2, Article 5.

11. The Revenue Division Appeals Board (Appeals Board), per Section 7.02.295, is authorized to receive relevant tax information for the purpose of considering and issuing decisions with respect to appeals of taxfilers to the Division actions increasing tax due or reducing a refund of taxes paid. The Appeals Board is a public body subject to Oregon public meeting laws in ORS 192.610 to 192.705. ORS 192.660(2)(f) authorizes an executive session meeting to privately consider records or information that are exempt by law from public disclosure. Tax information is exempt from public disclosure.

12. The Bureau of Technology Services or its authorized representative, for the purpose of managing access, security and communications.

13. Authorized City procurement employees and agents, for the purpose of determining whether a potential City vendor is in compliance with the requirements of Chapter 5.10 and Portland Public Contracting Rules.

14. City Printing and Distribution employees and agents, for the purpose of printing and mailing notices that may contain confidential information.

15. City Treasury and Central Accounting employees and agents, for the purpose of performing functions related to the issuance of refunds.

16. City Payroll employees and agents, for the purpose of reconciling withholding of City employees.

17. Other persons, partnerships, corporations and other legal entities, and their employees, to the extent the Division deems disclosure or access necessary for the performance of such others' duties under contracts or agreements between the Division and such legal entities, in the Division's administration of the tax laws.

C. Each officer or employee of the Division and each person described or referred to in Subsections B.4. to 17. of this Section to whom disclosure or access to the tax information is given under Subsection B. of this Section or any other provision of law, prior to beginning employment or the performance of duties involving such disclosure or

access, will be advised in writing of the provisions of Sections 7.02.230 and 7.02.730, relating to penalties for the violation of Section 7.02.230, and will as a condition of employment or performance of duties execute a certificate for the Division, in a form prescribed by the Division, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of Section 7.02.230.

7.02.250 Taxfiler Representation.

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.

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.

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 under this Section. 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. 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 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.

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 City 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.

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 initial notice of determination to the taxfiler. Failure to file such a written notice within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed. 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 180 days after the protest is filed with a final determination. The Division's final determination must include the reasons for the determination and state the time and manner for appealing the final 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 Revenue Division 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 Appeals Board 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 Subsections 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 Subsection 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 Revenue Division Appeals Board.

The Revenue Division Appeals Board (the "Appeals Board") hears appeals and consists of the following members, whose membership on the Appeals Board is subject to Council confirmation:

A. Five members of the public appointed by the Mayor:

1. One member appointed for a two-year term that expires every even year.
2. One member appointed for a two-year term that expires every odd year.
3. Three members whose terms will be staggered by one year allowing a new appointment each year.

B. A vacancy occurring prior to the expiration of a member's term will be filled for the remainder of the term the vacated member held or for a new term if the vacancy occurs near the end of a term.

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

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

7.02.300 Certificates of Compliance.

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.

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.

7.02.400 Exemptions.

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 that 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 that 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 that is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

7.02.500 Tax Rate.

A. Except as otherwise provided in this Chapter, a tax is imposed upon each person doing business within the City. 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.

- 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. 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 2027. 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 street maintenance and safety and will 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 2016 through 2027, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more heavy vehicles on streets owned or maintained by the City. For the 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. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018, and January 1, 2019, this tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year. For the tax years beginning on or after January 1, 2020, this tax is 3 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year. For the tax years beginning on or after January 1, 2024, this tax is 2.6 percent of the total Oregon Weight-Mile Tax calculated for all periods with 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.

4. The Heavy Vehicle Use Tax will have a four-year revenue target, beginning with tax year 2020, of \$11 million plus City costs. If at the end of tax year 2021, the City projects four-year revenues to be above or below the target by an amount that is more than 10 percent of the target, the City will adjust the rate for subsequent tax years to reach the four-year target.

5. The Heavy Vehicle Use Tax will have a four-year revenue target, beginning with tax year 2024, of \$10.5 million plus City costs. If at the end of tax year 2025, the City projects four-year revenues to be above or below the target by an amount that is more than 10 percent of the target, the City will adjust the rate for subsequent tax years to reach the four-year target.

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's Climate Action Plan and will be deposited into the Portland Clean Energy Community Benefits Fund.

1. Filing Requirement.

a. For tax years beginning before January 1, 2023, 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, must file a form that is due at the same time as their Combined Tax Return.

b. For tax years beginning on or after January 1, 2023, all businesses with total sales of \$1 billion or more and Portland sales of \$500,000 or more, as reported on the Combined Tax Return per Section 7.02.611, must file a form that is due at the same time as their Combined Tax Return.

2. Imposition of surcharge and rate. Large retailers must 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.

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 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 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 Division 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.

E. Authority to require filing of returns by electronic means.

1. As used in this Section:

a. Electronic means includes computer-generated electronic or magnetic media, Internet-based applications or similar computer-based methods or applications.

b. Paid tax preparer means a person who prepares a tax return for

another or advises or assists in the preparation of a tax return for another, or who employs or authorizes another to do the same, for valuable consideration.

c. Tax return means a return filed under the Business License Law.

2. The City Administrator may by rule require a paid tax preparer to file tax returns by electronic means if the paid tax preparer is required to file federal tax returns by electronic means.
3. The City Administrator may require by rule that a business subject to the Business License Law file tax returns by electronic means if it is required to file, or voluntarily files, federal tax returns by electronic means.
4. The City Administrator may by rule establish exceptions to the electronic filing requirements of this Section.

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.

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 4th month of the tax year; and
- B.** One quarter or more of the estimated tax on or before the 15th day of the 6th month of the tax year; and
- C.** One quarter or more of the estimated tax on or before the 15th day of the 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 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.

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 Subsection 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.

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 that is less than or greater than \$500 per license tax year.

C. 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.

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.

This Section applies to tax years beginning prior to January 1, 2023. For Tax years beginning on or after January 1, 2023, see Section 7.02.601.

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 percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five 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.

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. A net operating loss may not 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 unless specifically provided for by administrative rule or written policy.

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 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.

7.02.601 Income Determinations.

This Section applies to tax years beginning on or after January 1, 2023.

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 5 percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than 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. 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.

G. 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.

H. 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.

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 7.02.611. A net operating loss may not 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 unless specifically provided for by administrative rule or written policy.

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 7.02.601 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 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.

This Section applies to tax years beginning prior to January 1, 2023. For Tax years beginning on or after January 1, 2023, see Section 7.02.611.

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 will 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 will include all business incomes from sources within the City 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 City Administrator 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.

7.02.611 Apportionment of Income.

This Section applies to tax years beginning on or after January 1, 2023

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. The City's standard for jurisdiction to tax, or nexus, is the same as the State of Oregon's found in the Oregon Revised Statutes and Oregon Administrative Rules related to taxation. If a taxpayer's business is based in the City, a taxpayer must have business activity outside the City that results in a jurisdiction to tax outside the City to apportion the income of the business. Without jurisdiction to tax outside the City, all income of a business is taxable by the City.

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

C. The City adopts the apportionment and allocation provisions found in the Oregon Revised Statutes, Chapters 314, 317, and 318 and related Oregon Administrative Rules unless otherwise provided in this chapter or by administrative rule. All references to Oregon or the state should be read as referring to the City. All business income must be apportioned to the City by multiplying business income by the sales factor only.

D. In determining the sales factor numerator under Subsection 7.02.611 C.: 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.

E. Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in the code and administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes and Oregon Administrative Rules for the sales factor, will be used in cases where no rule has been adopted by the City Administrator regarding the apportionment of such industry or income. All apportionment methodologies directed under this Chapter will be a single factor sales apportionment as directed under Subsections 7.02.611 C. and Subsection 7.02.611 D.

7.02.620 Changes to Federal and/or State Tax Returns.

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 4th month following the end of the prior license tax year during that 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.

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 months;

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

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.

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.

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 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 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 or by imprisonment for a period not exceeding six 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 years thereafter. Any agent of the City that is convicted is ineligible for participation in any City contract for a period of five years thereafter.

7.02.800 Refundable Credit.

For tax years beginning on or after January 1, 2005, a maximum of four 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 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,
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- to 24-year-old member of a family that is receiving (or has received in the last six 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 City 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 Section 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 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 Subsection 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four 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 their 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 Frivolous Filing.

A \$500 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 150-316-0652 are adopted by direct reference.

7.02.840 Hacking.

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, 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.

7.02.850 First Year Adjustment Credit.

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.

7.02.860 Business Retention Credit for Qualifying Investment Management Firms.

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 and either

1. The Investment Management Firm was not doing business in the City 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 may 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) 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, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent may 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) 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, 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, 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 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.

7.02.870 Downtown Business Incentive Credit.

A. Businesses eligible for the Downtown Business Incentive Credit:

- 1.** A business located within the Central City may be eligible for a Downtown Business Incentive (DBI) credit against its Business License Tax (BLT) due.
- 2.** For purposes of this credit, the Central City is that area within the boundaries, and the tax lots abutting those boundaries, described below:

The Central City is that area within the boundaries established by the I-405 Fwy, from the Fremont Bridge to N Stanton St; the I-5 Fwy, from N Stanton to a point due west of NE Schuyler St; NE Schuyler St, from a point due west on the I-5 Fwy (through tax lots) to NE 16th Ave; NE 16th Ave, from NE Schuyler St to NE Multnomah St; NE 16th Dr from NE Multnomah St to NE 12th Ave; NE 12th Ave, from NE 16th Dr to the railroad right-of-way; the railroad right of way, from SE 12th Ave to SE Powell Blvd; SE Powell Blvd, from the railroad right-of-way to the Willamette River on the Ross Island Bridge; the Willamette River, from the Ross Island Bridge to a point due east of S Hamilton Ct; S Hamilton Ct; from a point due east to S Macadam Ave; S Macadam Ave, from S Hamilton Ct to a point in line with the north edge of tax lot R247833; tax lot R247833 boundary, from S Macadam Ave to the I-5 Fwy; the I-5 Fwy, from a point in line with the north edge of tax lot R247833 to the I-405 Fwy; the I-405 Fwy, from the I-5 Fwy to the Sunset Hwy; the Sunset Hwy, from the I-405 Fwy to a point in line with the west edge of tax lot R213476; following and intersecting tax lots (R213476, R213477, R213483, R213481, R213486, R128326, R128324, R499778), from the west edge of tax lot R213476 to SW 21st Ave; SW 21st Ave, from SW Market Street Dr to a point in line with the north edge of tax lot R238620; following and intersecting tax lots (R238620, R238619, R238618, R128349, R123869, R128350, R326772), from the north edge of tax lot R238620 to SW Vista Ave; SW Vista Ave, from a point in line with the south edge of tax lot R326772 to the south edge of tax lot R107412; following and intersecting tax lots (R107412, R107411, R107408, R107409, R623631, R623633, R105821, R105820, R105814, R105819, R105797), from SW Vista Ave to SW 20th Ave; SW 20th Ave, from the northern edge of tax lot R105797 to the southern edge of tax lot R541677; following tax lot R541677, from SW 20th Ave to SW Main St; SW Main St from the western edge of tax lot R541677 to the western edge of tax lot

R105807; following tax lots (R105807, R105808), from SW Main St to SW Salmon St; SW Salmon St from the west edge of tax lot R105808 to SW 21st Ave; SW 21st Ave, from SW Salmon St to SW Taylor St; SW Taylor St from SW 21st Ave to the west edge of tax lot R316760; following tax lot R316760, from SW Taylor St to SW Yamhill St; SW Yamhill St from the west edge of R316760 to SW King Ave; SW King Ave, from SW Yamhill St to the south edge of tax lot R193332; following tax lots (R193332, R193339, R193338, R193337), from SW King Ave to SW St Clair Ave; following and intersecting tax lots (R193348, R193349), from SW St Clair Ave to SW Green Ave; SW Green Ave, from SW Vista Ave to SW Osage St; SW Osage St, from SW Green Ave to W Burnside St; W Burnside St, from SW Osage St to a point intersecting tax lot R577748; intersecting tax lot R577748, from W Burnside St to NW Westover Rd; NW Westover Rd, from NW Flanders St to NW 23rd Ave; NW 23rd Ave, from NW Westover Rd to the south edge of tax lot R277713; following tax lots (R277713, R277708, R277700, R198696), from NW 23rd Ave to NW 22nd Ave; NW 22nd Ave, from the north edge of tax lot R198696 to the south edge of tax lot R198679; following tax lots (R198679, R143138), from NW 22nd Ave to NW King Ave; NW King Ave, from the south edge of tax lot R143138 to the south edge of tax lot R143133; following tax lot R143133 from NW King Ave to the west edge of tax lot R198678; following tax lot R198678, from the south edge of tax lot R143133 to NW Davis St; NW Davis St, from the west edge of tax lot R198678 to NW 21st Ave; NW 21st Ave, from NW Davis St to the south edge of tax lot R198673; following tax lots (R198673, R198670), from NW 21st Ave to NW 20th Pl; NW 20th Pl, from the north edge of tax lot R198670 to the south edge of R198664; following tax lot R198660, from NW 20th Pl to NW 20th Ave; NW 20th Ave, from the north edge of tax lot R198660 to the north edge of tax lot R141193; following tax lots (R141193, R141205, R198657, R198658, R198656, R141206), from NW 20th Ave to NW Trinity Pl; NW Trinity Pl, from the south edge of tax lot R141206 to the south edge of tax lot R141200; following and intersecting tax lots (R141200, R141198), from NW Trinity Pl to NW 19th Ave; NW 19th Ave, from the intersection point through tax lot R141198 to NW Couch St; NW Couch St, from NW 19th Ave to NW 18th Ave; NW 18th Ave, from NW Couch St to the south edge of tax lot R140866; following tax lots (R140866, R592298), from NW 18th Ave to NW Couch St; NW Couch St, from the east edge of tax lot R592298 to the I-405 Fwy; the I-405 Fwy, from NW Couch St to the Fremont Bridge; the Fremont Bridge from the I-405 Fwy to NW Front Ave; NW Front Ave, from the Fremont Bridge to just south of tax lot R298562; intersecting tax lots (R298517, R298565), from NW Front Ave to NW 17th Ave; railroad right-of-way, from NW 17th Ave to the north edge of tax lot R269769; following tax lots (R269769, R269771), from the railroad right-of-way to the Willamette River; the Willamette River from the point in line with the north edge of tax lot R269771 to the Fremont Bridge.

3. Criteria for qualifying for, calculating, and claiming the credit are in Subsections D., E., and F.

B. A one-time DBI credit is available in either calendar year 2023 or 2024, but not both. If the year of origination is 2023, the credit will be calculated on the tax year 2023 BLT return. If the year of origination is 2024, the credit will be on the tax year 2024 BLT return. The credit is divided and taken equally over four years beginning with the tax year of origination. The one fourth of the credit allowed in each tax year cannot exceed the amount of tax owed in the year. There is no carryover of any unused credit and the credit is nonrefundable.

C. Pre-return application for the credit:

- 1.** A BLT taxpayer that qualifies for a DBI credit under Subsection D. must apply to the Revenue Division for preapproval of the credit amount the taxpayer may claim.
- 2.** The total amount of credits the Revenue Division can approve for all taxpayers is limited to \$25 million over the two years of the program. In the event that the total amount of the credits claimed exceeds this limit, the Revenue Division will reduce the amount of the credit each qualifying BLT taxpayer may claim on a pro rata basis.

D. Qualifying for the credit:

A BLT taxpayer is eligible for the credit if it meets each of criteria in Subsections 3. through 5. as applicable plus either criterion in Subsections 1. or 2.

- 1.** The taxpayer enters into a new lease, or extends a current lease, during the 2023 or 2024 calendar year for building space within the eligible sub-district boundaries for a period of four years or more; or
- 2.** The taxpayer owns and occupies that building space within the eligible sub-district boundaries; and
- 3.** The taxpayer maintains at least 15 employees with each employee working at least half their time in the leased or owned building space within the eligible sub-district boundaries over the four year period. The taxpayer must file/provide an attestation for each tax year that they claim the credit.
- 4.** If leased building space, a lease/extension entered into in 2023 may be used to calculate the credit on either the 2023 or 2024 BLT return. The year of origination will be 2023 if calculated on the 2023 BLT return or 2024 if calculated on the 2024 BLT return. Building space owned during 2023 can also be used to calculate the credit on either the 2023 or 2024 BLT return.
- 5.** If leased building space, an extended lease must be extended from the end date of an existing lease.

E. Calculating the credit:

The maximum credit is \$250,000 in the year of origination, limited to the lesser of:

1. 100 percent of “City of Portland Business License Tax” as shown on the BLT return, Section IV, in the year of origination; or
2. 1 percent of “income subject to tax” as shown on the BLT return, Section IV, in the year of origination; or
3. \$30 per square footage of building space covered in the lease/extension or building space used by a building owner’s staff.
4. The amount approved or adjusted by application of Subsection C.

F. Claiming the credit:

The credit calculated in Subsection E. is divided by four, with 1/4 of the credit claimed on the BLT return in the year of origination and 1/4 claimed on the BLT return for each of the succeeding consecutive three years.

1. The portion of the credit claimed, in each of the four years the credit is claimed, cannot exceed the “City of Portland Business License Tax” amount in Section IV of the BLT return for that year.
2. If the portion of the credit allowed for one of the years exceeds the “City of Portland Business License Tax” amount in Section IV of the BLT return for that year, it cannot be carried or used on the BLT return for another year.

G. If a taxpayer breaks the lease/extension prior to the end of the lease/extension period, sells the building sold before the four-year period of the credit, or fails to meet the requirements of Subsection D.3. above during the four-year period of the credit, the entire credit previously claimed must be repaid with statutory interest under Section 7.02.710. No penalty will apply to the tax due related to the lost credit.

7.02.880 Youth Employment Credit Programs.

A. For tax years beginning on or after January 1, 2011, any youth employment credit authorized by the 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 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.

7.02.890 Residential Rental Registration Program.

A. For tax years beginning on or after January 1, 2018, all owners of a residential rental unit in the City are required to register the unit and annually provide a schedule that includes the address of all owned residential rental units within the City. The City Administrator may require additional data about the unit by administrative rule. If a property or structure contains more than one dwelling unit, the term residential rental unit refers to each separate dwelling unit.

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. Penalties will not apply for failure to file rental registration data in the 2018 tax year. Beginning in tax year 2019 and beyond, the penalty and interest provisions of Sections 7.02.700 and 7.02.710 A. will apply.

C. A person who rents a space for a manufactured dwelling, recreational vehicle, or moorage space for a floating home, but does not rent the actual manufactured dwelling, recreational vehicle, or floating home, is exempt from the registration requirements of this Section.

D. Also exempt from the registration requirements of this Section is any residential rental unit regulated or certified as affordable housing by federal, state, or local government, which requires the unit to be affordable to households earning no more than 60 percent of the median family income, as determined under guidelines established by the United States Department of Housing and Urban Development.

CHAPTER 7.03 - TEMPORARY BUSINESSES

Sections:

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

7.03.010 Temporary Businesses Exempt from Business License Law.

A. Persons doing business as defined in Section 7.03.030 are considered “temporary businesses” and are not subject to the provisions of the Business License Law, Chapter 7.02, but are subject to the provisions of this Chapter. This Chapter does not apply to a business that is currently licensed under the provisions of Chapter 7.02.

B. The term “person” includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

7.03.020 Fees for Revenue.

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

7.03.030 Temporary Businesses Defined.

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

A. Amusement ride operator means an operator of amusement rides not in the same location for more than 14 days.

B. Temporary structure vendor” means a vendor not located in a permanent structure for more than 14 days.

C. Promoter means a promoter of commercial entertainment doing business in the City for no more than three days in any calendar year.

D. Production Company means a production company filming in the City for no more than three 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.

Temporary businesses must apply for and obtain temporary business license certificates from the revenue service and program of the City Administrator under Chapter 3.06. 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 7.07 – PORTLAND CLEAN ENERGY COMMUNITY BENEFITS

Sections:

7.07.010	Findings.
7.07.020	Policy and Purpose.
7.07.030	Definitions.
7.07.033	Authority of Director.
7.07.035	Surcharge Collection and Enforcement.
7.07.040	Portland Clean Energy Community Benefits Fund.
7.07.050	The Portland Clean Energy Community Benefits Fund Committee.
7.07.060	Funding Categories.
7.07.070	Severability Clause.

7.07.010 Findings.

A. The City of Portland has adopted numerous climate action goals. These goals affirm the importance of environmental justice; community-based efforts to decrease greenhouse gas emissions; and maximizing the social, economic, and environmental benefits of transitioning away from fossil fuels.

B. To meet the City’s goals there is an urgent need to fund and accelerate greenhouse gas emissions reductions and sequestration, especially within low-income communities and communities of color.

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 City’s climate action goals and this Chapter, there is a critical need for more skilled workers. Members of historically disadvantaged groups, including people with disabilities, people experiencing gender or sex-based discrimination in the workplace, women, and people of color are under-represented in the skilled work force, and therefore offer an enormous untapped resource to meet the City’s climate action goals.

E. Large retail businesses are a significant contributor to greenhouse gas 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.

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 invest in climate action projects that support environmental justice and social, economic, and environmental benefits for all Portlanders, including the development of a diverse and well-trained workforce and contractor pool to perform work that reduces or sequesters greenhouse gases.

B. This Chapter requires large retailers (those with gross revenues nationally exceeding \$1 billion, and \$500,000 in Portland) to pay a surcharge of one 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.

7.07.030 Definitions.

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

A. Administrative expenses means the salaries and benefits of Program staff; Committee management; planning, developing, and designing the Program; public outreach and communication; preparing solicitations; monitoring, evaluating, and reporting on Program activities; coordinating with local, state, and federal officials; official travel; accounting services; rental and purchase of equipment, utilities, and office supplies; and other overhead.

B. City means the City of Portland.

C. Clean renewable energy means energy that is not produced from fossil fuels or nuclear power and that is produced from sun, wind, water or other sources of renewable energy as identified by the City. 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, are not appropriate for support under this Chapter.

D. Climate Investment Plan means a 5-year plan, regardless of the document's name, recommended by the Committee and adopted by City Council that sets funding priorities and funding levels in accordance with the purpose of this Chapter and the funding categories in Section 7.07.060. The Plan may further refine eligibility for grants and contracts under the funding categories. The Plan includes funding levels for community responsive grants, strategic initiatives, and the Green Infrastructure Maintenance Reserve.

E. Community responsive grant means a grant to address one or more of the funding categories in Section 7.07.060 that is awarded to a qualified organization after a competitive, transparent process.

F. Director means the Director of the City's Bureau of Planning and Sustainability or the Director's authorized representative, designee or agent.

G. Energy efficiency means a measure of how efficiently an appliance, building, or organization 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.

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

I. Greenhouse gas sequestration project 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 by rebuilding soil organic matter and restoring degraded soil biodiversity, also known as regenerative agriculture.

J. Green infrastructure maintenance reserve means an annual allocation from the Fund to support the long-term maintenance of green infrastructure in a manner defined in the Climate Investment Plan.

K. Green infrastructure project 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.

L. 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.

M. Portland Clean Energy Community Benefits Fund Program or Program means the City program designed to effectively meet the purpose of this Chapter.

N. Priority populations means low-income communities and communities of color.

O. Project or projects means an organized effort with measurable outcomes and goals aligned with the categories in Section 7.07.060. These projects are the primary way funds collected under this Chapter are distributed to achieve the purpose of the Chapter.

P. Qualified business means a for-profit business.

Q. Qualified organization means a non-profit organization or government entity.

R. Strategic initiative means an organized effort to address a specific community need or opportunity that is aligned with the categories in Section 7.07.060 and that has measurable outcomes, goals and budget that is set in the Climate Investment Plan.

S. Workforce priority populations means people with disabilities, people experiencing gender or sex-based discrimination in the workplace, women and people of color.

7.07.033 Authority of Director.

A. Authority granted to the Director may be delegated, in writing, to employees or duly authorized agents of the Program.

B. The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.

7.07.035 Surcharge Collection and Enforcement.

A. The City administers and enforces collection of the Clean Energy Surcharge. The City Administrator may adopt administrative rules as authorized by Charter.

B. The Division may recover all reasonable costs for such work from the Fund and such costs will not be considered part of the Fund’s administrative expenses.

C. 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 must be deposited in a Climate Transportation Investment Account to be managed by the Portland Bureau of Transportation. Such funds must, consistent with

the limitations in Section 3a, be used in a manner that promotes the purpose of this Chapter.

7.07.040 Portland Clean Energy Community Benefits Fund.

A. Proceeds from the Clean Energy Surcharge will be placed in a special fund to be designated as the Portland Clean Energy Community Benefits Fund (Fund).

B. Fund proceeds will be distributed through grants and contracts.

C. Qualified organizations are eligible to receive grants, solely or in partnership with other non-profit entities, government entities, or for-profit businesses.

D. Qualified organizations and qualified businesses are eligible to receive contracts, solely or in partnership with other non-profit entities, government entities, or for-profit businesses.

E. No more than 12 percent of the Fund will be spent on administrative expenses. The percent for a fiscal year will be calculated by dividing the administrative expenses for the fiscal year with the sum of the administrative expenses for the fiscal year and the average of the prior three fiscal years' annual Fund revenues.

F. The Fund is subject to a financial audit every year and a performance audit every two years, with the costs of any audit excluded from the administrative expenses limit.

7.07.050 The Portland Clean Energy Community Benefits Fund Committee.

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

1. Recommend the Climate Investment Plan to City Council; and
2. Evaluate the effectiveness of the Program in achieving the goals of this Chapter.

B. The Committee is made up of nine members who live, work, go to school or worship in the City. Members are appointed by the Mayor for staggered four-year terms.

C. When a Committee member resigns or the member's term expires, the Committee recommends a replacement member. The Mayor considers the Committee's recommendation when appointing Committee members.

D. The Mayor appoints Committee members, subject to confirmation by City Council, based on the following background and expertise:

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

- 2.** Committee members will have demonstrated a commitment to furthering the City's climate action goals and empowering priority populations or workforce priority populations.
- 3.** At least one member will have significant demonstrated experience in the following fields:
 - a.** Residential renewable energy and energy efficiency;
 - b.** Commercial renewable energy and energy efficiency;
 - c.** Workforce development, job training or apprenticeship projects that target workforce priority populations;
 - d.** Experience promoting minority-owned or women-owned businesses;
 - e.** Regenerative agriculture, green infrastructure and greenhouse gas sequestration;
 - f.** Financing tools that help make renewable energy and energy efficiency available to a broader spectrum of the public; and
 - g.** Transportation decarbonization.
- 4.** While Committee members may have experience in multiple fields, members with deep expertise in a single field will create a balanced Committee in which no one area of expertise dominates.

E. Program staff will:

- 1.** Maintain a public website that includes the Committee's membership, bylaws, meeting agendas, meeting notes and relevant code, administrative rules and policy statements.
- 2.** Implement the Program in accordance with the purpose of this Chapter.
- 3.** Solicit grant applications from qualified organizations. Staff will post to a public website the City's grant solicitation documents as documents are released to the public; staff will post to a public website relevant grant application materials within a reasonable time period after the City Administrator makes an award decision.
- 4.** Solicit contract applications from qualified organizations and qualified businesses in accordance with City procurement practices.
- 5.** Evaluate grant and contract applications to determine whether: (a) the project described in the application meets the priorities identified in the Climate

Investment Plan; and (b) the applicant has the capacity to implement the project and ensure fiscal accountability.

- 6.** Manage the selection of grants and contracts in accordance with existing City rules and grant and procurement best practices, including but not limited to publishing on a public website the selection criteria and process for each funding opportunity.
- 7.** Track progress in meeting workforce and contractor equity plan goals on a public website.
- 8.** Perform additional work necessary to implement the Program.

F. The Committee will:

- 1.** Recommend the Climate Investment Plan to the City Council. If City Council modifies the Climate Investment Plan, it must explain and post its explanation on the Program's website. The Committee will recommend subsequent Climate Investment Plans to City Council no later than six months after the expiration of the previous Climate Investment Plan.
- 2.** Adopt a methodology to measure, track and report to the public, and City Council the effectiveness of the Program in achieving the purpose of this Chapter. All grant and contract recipients will file reports consistent with the Committee's methodology on forms provided by the Program.
- 3.** Adopt workforce and contractor equity plans with measurable goals to ensure projects are performed by workforce priority populations and include goals for contracting with businesses owned or operated by such populations. The Committee will develop the plans in consultation with workforce and contractor equity stakeholders and incorporate best practices from City's procurement practices.
- 4.** Recommend City Council amend the Climate Investment Plan if the Committee determines that the Climate Investment Plan no longer meets the purpose of this Chapter.
- 5.** Recommend to City Council amendments to this Chapter necessary to further the purpose of the Chapter.
- G.** If amendments to this Chapter are proposed by City Council, the proposed amendments will be reviewed by the Committee at a regular or special Committee meeting before the amendments may be submitted as an item for the Council agenda. Committee review will be documented in a staff report and the report will be included when the item is submitted for the agenda.

7.07.060 Funding Categories.

A. Funding priorities and funding levels in the Climate Investment Plan and funded projects must further the purpose of this Chapter and fall within the following categories:

- 1.** Renewable energy and energy efficiency projects.
 - a.** This category includes residential, commercial, industrial, and school-based projects that reduce greenhouse gases within the City.
 - b.** Projects that broaden access to energy efficiency and renewable energy, such as community-initiated energy strategies and decentralized renewable energy, are a high priority.
 - c.** At least one half of the projects should benefit priority populations.
 - d.** Projects that impact tenants must include terms to encourage rent stability including but not limited to a term that prohibits landlords from using improvements funded by this Chapter as a basis for rent increases.
- 2.** Climate jobs training, apprenticeships, and contractor development projects.
 - a.** This category includes projects serving populations within the Portland metropolitan statistical area that directly facilitate and promote job training, pre-apprenticeship programs, apprenticeship programs, and contractor development in businesses that produce goods or services that reduce or sequester greenhouse gases.
 - b.** Projects supporting workforce priority populations are a high priority.
 - c.** Projects supporting entry into union-registered apprentice trades are a high priority.
- 3.** Regenerative agriculture and green infrastructure projects.
 - a.** This category includes projects that reduce or sequester greenhouse gases within the City.
 - b.** Projects must demonstrate or promote the adoption of regenerative agriculture or green infrastructure practices, with a focus on priority populations.
 - c.** Projects that provide benefits to priority populations are a high priority.
- 4.** Transportation decarbonization projects.
 - a.** This category includes projects that reduce greenhouse gases by

displacing fossil fuel use.

b. Projects that provide direct benefits to priority populations are a high priority.

5. Organizational capacity building projects.

a. This category includes projects to provide non-profit organizations with trainings, technical assistance, consultation, operational funding, staff support and other resources that contribute to effective functioning.

b. Non-profit organizations that support priority populations are a high priority.

c. Organizations funded under this category should have a mission, vision, workplan, strategic plan, or other guiding document that demonstrates a meaningful connection to the purpose of this Chapter.

6. Other projects that reduce or sequester greenhouse gases.

a. This category includes projects that do not fall under another category but provide meaningful, measurable reduction or sequestration of greenhouse gases.

b. Projects that provide benefits to priority populations are a high priority.

B. Funding decisions must consider:

1. Co-benefits. Whether a project prioritizes greenhouse gas reduction or sequestration in a manner that promotes environmental justice and social, economic, and environmental benefits.

2. Geographical diversity. Whether projects operate at the neighborhood level (including east of 82nd Avenue) as well as citywide.

3. Organizational representation. To ensure that the Program is inclusive as well as effective, at least 20 percent of the Funds will be awarded to non-profit organizations with a stated mission and track-record of benefitting economically disadvantaged community members, including workforce priority populations.

4. Leverage. Projects that leverage additional government or private funding and therefore increase the Program's effectiveness should be prioritized, but leverage is not required.

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

C. Terms of grants and contracts.

1. U.S.-made renewable energy products. Solar, wind or other renewable energy systems purchases must be predominantly manufactured in the United States unless such a product is unavailable or the cost is prohibitive.
2. Workforce and contractor equity agreement. Funding recipients must agree to workforce and contractor equity agreements developed by staff in alignment with workforce and contractor equity plans adopted by the Committee.
3. Family wage standards. Wage standards for employees working on projects must 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). For purposes of this Subsection, an employee is not a volunteer or trainee.

D. Notwithstanding the purpose in Subsection 7.07.020 A. and the funding criteria in Subsections 7.07.060 A.-C. above, the City Council may allocate funding for fiscal year 2024-2025 expenditures in an amount that is less than or equal to the actual interest earned on the Fund in fiscal year 2022-2023 to needs determined by the Council. The amount of the actual interest is recorded in the City’s audited Annual Comprehensive Financial Report. The City Council must explain its decision and post its explanation on the Program’s website.

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 will remain in full force and effect.

CHAPTER 7.12 - FRANCHISES AND UTILITY PRIVILEGE TAX LAW

Sections:

- 7.12.010 Definitions.
- 7.12.020 Record of Franchises.
- 7.12.030 Authority to Inspect Franchisee Records and Require Reports.
- 7.12.040 Contents of Franchise.
- 7.12.050 Short Title and Administration.
- 7.12.060 Payment of Privilege Tax Required.
- 7.12.070 Privilege Tax Applicable to Other Cases.
- 7.12.080 Report of Earnings.

- 7.12.090 Time Payment of the Privilege Tax.
- 7.12.100 No Waiver or Estoppel.
- 7.12.110 Credits Allowable.
- 7.12.120 Interest and Penalty Applicable.

7.12.010 Definitions.

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

A. Bureau means the Bureau of Planning and Sustainability of the City of Portland, Oregon, along with its employees and agents.

B. Director means the Bureau Director, or the Director's designee.

7.12.020 Record of Franchises.

A. Except as otherwise required by the City Charter, the Bureau will keep a separate record of each franchise granted by the City, 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 or Code.

B. Records and data required under the City Charter or Code, including such information that the Bureau may require the franchisee to furnish to the City. Franchisees must provide 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 may 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 may require, in writing and upon reasonable notice, reports and information as appropriate to determine whether franchisees are in compliance with their franchises. Franchisees must cooperate with the Bureau and must 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 to do so, on behalf of the City and if so directed by the Mayor or the City Administrator, 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, **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 will 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, will be kept on file in the Bureau and will be open to public inspection. Each franchise will also contain provisions setting forth and requiring that:

A. Each franchise granted by the City is subject to the Charter 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 will incorporate by reference Sections 10-201 through 10-218, inclusive, of the Charter, and made a part of such franchise.

C. Nothing in any franchise granted by the City will 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 must 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, nothing in any franchise granted by the City will 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. This Chapter is 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 will be administered by the City Administrator. The City Administrator may adopt administrative rules as authorized by Charter.
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.

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 will 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 must pay a privilege tax. The privilege tax imposed upon telecommunications utilities under this Subsection will be in an amount of seven percent of the telecommunications utility's gross revenues earned within the corporate limits of the City for each consecutive three month period. For the purposes of this paragraph, "gross revenues" means all revenues derived from exchange access services, as defined in ORS 401.710, less uncollectibles from such revenues. The privilege tax will 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 will 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 must pay a privilege tax for the use and occupancy of any street, alley or highway. The privilege tax imposed under this Subsection will be in an amount of five percent of the utility's Gross Revenues of the City for each consecutive three-month period. The privilege tax will 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 will 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 will cease to apply from the effective date of the franchise. The franchise holder must pay the proportionate earned amount of the privilege tax for the current quarterly period. The privilege tax will 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 will not apply to any holder of a current, valid franchise granted or issued by the City.

B. The terms of this Chapter 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 must file with the Bureau a report of the revenues earned within the corporate limits of the City for each consecutive three-month period in the form and manner specified by the Bureau ("quarterly report").

A. The first quarterly report must be filed on or before the first payment date of privilege tax. Subsequent quarterly reports must be filed on or before February 15th, May 15th, August 15th, and November 15th 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 must 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 must 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 must 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, will 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 may be credited against the amount or amounts which have accrued or will 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 will 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 will be subject to the penalties, including the criminal penalties, provided for violations of Section 7.02.700 Penalties.

CHAPTER 7.14 - UTILITY LICENSE LAW

Sections:

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

7.14.005 Short Title.

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

7.14.010 Fees for Revenue.

The term “license” as used in the Utility License Law may 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 must obtain a license for the person’s business covering the period of the calendar year from January 1st through December 31st or, if application is made after January 1st of any year, then for the balance of the same calendar year.

7.14.030 Administration.

A. The Utility License Law will be administered by the City Administrator. The City Administrator may adopt administrative rules as authorized by Charter.

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.

7.14.040 Definitions.

A. Bureau means the Bureau of Planning and Sustainability, along with its employees and agents.

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 the 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 or revenues associated with taxes for emergency communications under ORS Chapter 403.
4. The calculation of gross revenues for telecommunications utilities for purposes of the Utility License Fee will 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) 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 must 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 must be filed with the Bureau on or before December 31st 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 the utility must apply for a utility license on or before the date of commencing the operations. The application must include the 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 will issue a utility license to the applicant. A utility license will be valid for no longer than one year. Each utility license will expire on December 31st of the year of issuance.

E. The Bureau will prepare application forms and make them publicly available. Failure to receive or secure a form will 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.

A. Except as provided in Section 7.14.070, the fee for a utility license is 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 is:

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

B. The licensee must pay the utility license fee to the Bureau on the following basis: on or before May 15th the fee for the period extending from January 1st through March 31st, inclusive, of the same calendar year; on or before August 15th the fee for the period extending from April 1st through June 30th, inclusive, of the same calendar year; on or before November 15th the fee for the period extending from July 1 through September 30th, inclusive, of the same calendar year; on or before February 15th the fee for the period extending from October 1st through December 31st, inclusive, of the preceding calendar year. All payments will 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. must 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 must be made on or before the 45th day following the date of the termination.

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. A licensee may not deduct amounts paid to the City for interest charges or penalties. This Subsection will not relieve any licensee from paying in accordance with the provisions of a franchise, temporary revocable permit, Charter provision or ordinance when the amount to be paid thereunder exceeds the amount of the utility license fee required under the Utility License Law.

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

7.14.080 Reports and Review of Records.

A. Each person paying a utility license fee must simultaneously file a report to the Bureau in a form satisfactory to the Director. The report must 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. The reports must 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 the limitation must 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 may arrange for and conduct audits for all amounts paid under Chapter 7.14, provided that only payments which occurred during a period of three years prior to the date the City notifies licensee of its intent to perform an audit will be subject to audit. The Director will make all requests related to the audit in writing. The Director may determinate the scope of audit in each instance.

D. The Director may 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. These records and documentation must be open for inspection or examination by the Director or a duly authorized agent. The Director will 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 will have the power to administer oaths. The employees must 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 three year periods under Subsections 7.14.080 C. and 7.14.120 A. will 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, the 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 will notify the licensee in writing of the amount of the fee so determined, together with any penalty or interest due. The total of the amounts will 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 an appeal, the licensee will 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 may 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 three years from the date of payment. The claim must be made on forms provided by the Bureau. If the claim is approved by the Bureau, the excess amount collected or paid may be credited against any amounts due and payable under the Utility License Law from the licensee from whom the overpayment was collected or by whom it was paid, until the licensee is repaid.

7.14.090 Appeals.

A. Any person who has received a written determination from the Director applying the provisions of the Utility License Law may appeal the determination of the Director to the Revenue Division Appeals Board of the City as provided in Section 7.02.290 of this Code.

B. The filing of any notice of appeal will not stay the effectiveness of the Director's determination unless the Revenue Division 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 will 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 will 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 will 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.

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 will produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making the determination, the Director will 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 Mayor or the City Administrator, 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 will 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 Mayor or the City Administrator, 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, will 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 will 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 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 7.22 - STREET AND SIDEWALK USE PERMITS

Sections:

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

7.22.010 Purpose.

The purpose of this Chapter is to regulate walks, marches, parades, athletic events or other processions in streets or on sidewalks held by sponsors that require use of City resources. This Chapter and the administrative rules 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.

Adoption of Administrative Rules. The City Administrator may adopt and amend administrative rules as authorized by Charter. Administrative rules pertaining to use of sidewalks and streets may be known as Street and Sidewalk Use Administrative Regulations. All administrative rules will be in writing.

7.22.030 Permit Required.

A permit 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, 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 Portland Bureau of Transportation will 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 must 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 Portland Police Bureau may 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

Sections:

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

7.24.010 Towing of Vehicles from Private Property.

A. Short Title. Sections 7.24.010 through 7.24.100 will be known as the PPI (Private Property Impound) Code.

B. Purpose. The purpose of the PPI Code is to require that towing from private parking facilities be performed safely and at a reasonable price. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure that the public safety and convenience are protected.

C. Conformity to State Laws. The PPI Code will be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property.

D. Savings Clause. If any provision of the PPI Code is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, the decision will not affect the validity, legality and enforceability of any other provision of the PPI Code.

7.24.020 Administrative Authority.

A. The City Administrator may adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code and pursuant to the City Charter. The City Administrator is authorized and directed to interpret, apply, and enforce all provisions of the PPI Code. The City Administrator may 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 City Administrator may make written findings of fact and, in consultation with the City Attorney, conclusions of law to support all decisions.

C. 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.

D. Inspection of records. The City reserves the right to review and/or copy the records of any PPI tow for purposes of auditing or complaint resolution. The records will be made available for inspection during normal business hours within 24 hours of written notice by the Director.

7.24.030 Definitions.

For the purposes of the PPI Code and administrative rules, 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. Owner's 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 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, 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.

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 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. An 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 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.

A. Initial registration. No PPI tower will tow or store vehicles towed from private parking facilities located inside the City 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. The 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 the 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 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 one 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, 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 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. The 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 must the policy deductible for garage keepers and cargo insurance exceed \$2,500 per event.

3. The limits of the insurance will 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 must name as additional insureds 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 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. The coverage will apply as to claims between insureds on the policy.

5. The insurance must provide that the insurance will not terminate or be canceled without thirty days written notice first being given to the Towing Coordinator.

6. The adequacy of the insurance will be subject to the approval of the City Attorney.

7. Failure to maintain liability insurance will be cause for immediate revocation of the registration by the Director.

7.24.050 Towing Regulations.

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 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. The 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 the requests and decide whether 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, containing the current list of approved PPI rates; and,

F. Prominently display at the vehicle release location a placard, provided by the City, 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 10:00 a.m. and 6:00 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 8:00 a.m. and 10:00 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. The 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. The service fees are payable to the City 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 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 must 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 will 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 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 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 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. 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.

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.

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 the action of the Director or Director's designee by submitting a written request for a hearing before the Code Hearings Officer of the City, within 10 business days of receiving the Director's written findings, as set out in Portland City Code Chapter 22.10.

B. PPI Board of Appeals. The PPI Board of Appeals will hear and resolve protests and appeals arising from adoption of administrative rules. The findings of the PPI Board of Appeals are final.

1. Composition of the PPI Board of Appeals. The PPI Board of Appeals will consist of three members. A quorum will consist of three members. The Mayor will appoint a representative member from a public agency and a representative member of the general public, and will approve a representative member from the towing industry selected by the towing industry.

2. Compensation. All members of the PPI Board of Appeals will serve without pay, except that they may receive their regular salaries during the time spent on Board matters.

3. Procedures and Rules. The City Administrator is authorized to establish rules and procedures for the Board and the Board will follow those procedures in all matters heard by the Board.

4. Staff. The Portland Bureau of Transportation will provide staff and assistance to the Board.

5. Powers of the Board. The PPI Appeals Board will hear protests of administrative rules adopted. 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

Sections:

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

7.25.010 Purpose.

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.

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

7.25.030 Definitions.

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 City Administrator or their designee who carries out the work of the Revenue Division.

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 five 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. Revenue Division means, for the purposes of this Chapter, the revenue service and program of the City Administrator under Portland City Code Chapter 3.06, and may be referred to as Division.

N. 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.

A. Enforcement. The City Administrator is authorized to enforce all provisions of this Chapter.

1. Investigation. The City Administrator has the power to investigate any and all complaints regarding alleged violations of this Chapter.
2. Inspection. The City Administrator may inspect any operator records required to be maintained pursuant to this Chapter. The records must be made available for inspection during normal business hours within 24 hours of notice by the Director.
3. Delegation. The City Administrator may delegate the authority provided under this Chapter to any City employee or agent thereof.

B. Adoption of rules. Pursuant to the City Charter, the City Administrator may adopt rules pertaining to matters within the scope of this Chapter.

7.25.050 Registration as the Operator of a Facility.

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 9:00 a.m. to 5:00 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. 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 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 may reject any incomplete application.

7.25.060 Registration of a Facility.

No operator may 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 must hold the City and its officers and employees free and harmless, and must 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 will 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 reapplication without payment of registration fees may be made with respect to each facility. If upon 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 one month prior to the expiration date. Registrations will be renewed upon payment of the nonrefundable fee for each facility as required by the Administrative Rules.

G. Non-assignability. A registration issued or renewed pursuant to the provisions of this Chapter is not assignable or otherwise transferable.

7.25.070 Payment Device.

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

7.25.080 Signage Requirements.

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 the 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 seven 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 three 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 nine 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 four 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 they are 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.

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.

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 one year, and
3. All records of penalty notices must be available to the Director upon request.

7.25.110 Penalty Payment Letters.

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.

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 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 two-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 will retain a copy of each notice for not less than one year and make copies available upon request of the Director. The notice must be in a form approved by the City Attorney's Office; and,
5. The 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. The towing is performed in compliance with Chapter 7.24 Private Property Impound Towing.

7.25.130 Complaint Handling Procedures.

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 City Administrator will conduct an investigation.

1. Upon a finding by the City Administrator 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 City Administrator will initiate remedies provided in this Chapter.

3. The City Administrator will 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.

A. The operator must 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 one 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 City Administrator may require the operator to report financial and operating data listed in Subsection 7.25.140 A., in the form as the Director requires.

C. The operator must compile the necessary data and submit reports to the City Administrator within 10 days of a written request.

7.25.150 Insurance Required.

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

A. The insurance must provide coverage of not less than \$1 million combined single limit per occurrence, with aggregate of \$1 million for bodily injury or property damage.

B. The limits of the insurance are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.

C. The insurance must be without prejudice to coverage otherwise existing.

D. The insurance must name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance must protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein will operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.

E. The coverage must apply as to claims between insureds on the policy.

F. The insurance policy must provide that it will not terminate or be canceled without 30 days written notice first being given to the Director.

G. The adequacy of the insurance is subject to the approval of the City Attorney.

H. Failure to maintain liability insurance is cause for immediate revocation of the registration of the operator by the City.

7.25.160 Prohibitions.

No operator may:

A. Require any person to make any statement or sign any document promising not to dispute the validity of a penalty or relieving the operator from responsibility for the condition of the vehicle.

B. Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a facility.

C. Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle.

7.25.170 Remedies.

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

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

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

7.25.180 Appeals.

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

CHAPTER 7.26 - REGULATION OF PAYDAY LENDING

Sections:

- 7.26.010 Purpose.
- 7.26.020 Definitions.
- 7.26.030 Permits.
- 7.26.040 Administrative Authority.

7.26.050	Payment of Principal Prior to Payday Loan Renewal.
7.26.060	Cancellation of Payday Loan.
7.26.070	Payment Plan for a Payday Loan.
7.26.080	Remedies.
7.26.090	Appeals.
7.26.100	Complaints.
7.26.110	Severability.

7.26.010 Purpose.

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

7.26.020 Definitions.

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 City Administrator or designee who carries out the work 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.

G. Revenue Division means, for the purposes of this Chapter, the revenue services and program of the City Administrator under Portland City Code Chapter 3.06, and may be referred to as “Division.”

7.26.030 Permits.

A payday lender must apply for and obtain a permit to operate as a payday lender in the City. Permits will be required for each location a lender operates in the City and must be renewed annually. The application will be in a form to be determined by the Director. The Director will require the payday lender to report its fee schedule in the payday

lenders permit application. No person may operate a payday lending business or loan any funds as a payday loan without a current permit to do business issued by the City. The annual cost for the permit is \$1,500 or as established by administrative rule and payable to the City. This permit is in addition to the City of Portland business license required by Chapter 7.02 of this Code.

7.26.040 Administrative Authority.

A. The City Administrator is authorized and directed to enforce all provisions of this Chapter. The City Administrator may investigate all complaints regarding alleged violations of this Chapter. The City Administrator may delegate the authority granted under this Section to any Revenue Division officer, employee or agent.

B. The City Administrator may adopt and enforce administrative rules interpreting and applying this Chapter. The City Administrator will make written findings of fact and conclusions of law to support all decisions.

C. Inspection of records. The City reserves the right to review and/or copy the records of any payday lender for purposes of auditing or complaint resolution. The records must 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 25 percent of the principal of the original payday loan, plus interest on the remaining balance of the payday loan. The payday lender must 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 must 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 must 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 must 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 must disclose to each borrower that a payment plan described in this Section is available to the borrower after the maximum number of renewals allowed by state law. The payday lender must 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 must allow a borrower to convert the borrower's payday loan into a payment plan. Each payment plan must be in writing and acknowledged by both the payday lender and the borrower.

D. The payday lender may 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 must 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 City Administrator may impose a civil penalty of up to \$1,500 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 will be payable to the City.

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

D. No civil penalties will 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 City Administrator may investigate all complaints alleging violations of this Chapter or administrative rules.

A. The City Administrator may receive complaints from borrowers by telephone or in writing. Within a reasonable time, the City Administrator will forward the complaint by telephone or in writing to the payday lender it concerns for investigation.

B. The payday lender must investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the City Administrator by telephone or in writing within two business days from initial contact by the Director.

C. If the proposed resolution is satisfactory to the City Administrator, the payday lender must proceed to resolve the complaint directly with the borrower according to the resolution proposed to the City Administrator.

D. If the proposed resolution is not satisfactory to the City Administrator, the City Administrator will 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 will be final. If the payday lender refuses to accept and implement the proposed alternative resolution it will be subject to remedies as provided by Section 7.26.080. In the event of imposition of remedies, the payday lender may appeal as provided by Section 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 will not be affected and the affected provision of the Chapter will be severed.

CHAPTER 7.27 REGULATION OF THIRD-PARTY FOOD PLATFORMS

Sections:

- 7.27.010 Definitions.
- 7.27.020 Third-Party Food Platform Standards.
- 7.27.030 Authority, Complaints and Investigation.

- 7.27.040 Remedies.
- 7.27.050 Appeals.
- 7.27.060 Severability.

7.27.010 Definitions.

For the purpose of this Chapter, the following words and terms are defined and must be construed as hereinafter set forth:

A. Delivery service means a service that:

1. Lists a restaurant, and makes the restaurant discoverable, on modalities or platforms offered by a third-party food platform, including but not limited to any website, mobile application, or other internet service where a third-party food platform lists restaurants; and
2. Facilitates and/or performs the delivery (through employees or independent contractors of the third-party food platform and/or establishments) of food and/or beverages from restaurants to customers. Delivery service does not include any other service that may be provided by a third-party food platform to a restaurant, including but not limited to advertising services, search engine optimization, business consulting, or credit card processing.

B. Restaurant has the meaning set forth in ORS 624.010.

C. Director means the City Administrator or their designee who carries out the work of the Revenue Division.

D. Order means a telephone order or an order placed by a customer through a third-party food platform for delivery or pickup within the City.

E. Purchase price means the menu price of an order excluding taxes, gratuities, or any other fees that may make up the total cost to the customer of an order.

F. Revenue division means, for the purposes of this Chapter, the revenue service and program of the City Administrator under Portland City Code Chapter 3.06, and may be referred to as "Division."

G. Takeout service means a service that:

1. Lists a restaurant, and makes the restaurant discoverable, on modalities or platforms offered by a third-party food platform, including but not limited to any website, mobile application, or other internet service where a third-party food platform lists restaurants; and
2. Allows a customer to place an order with the restaurant through the third-party food platform, but the order does not include delivery service by the third-party food platform as described in Subsection 7.27.010 A. Takeout service does not

include any other service that may be provided by a third-party food platform to a restaurant, including but not limited to advertising services, search engine optimization, business consulting, or credit card processing.

H. Telephone order means an order placed by a customer to a restaurant through a telephone call forwarded by a call system provided by a third-party food platform for delivery or pickup within the City.

I. Third-party food platform means any website, mobile application, or other internet platform, owned or operated independently of the restaurant, that offers or arranges for the order of and the same day delivery service or same day takeout service of food and beverages from a restaurant.

I. Transaction fee means a charge for the processing of a payment for an order imposed upon a third-party food platform by a third-party payment processor.

7.27.020 Third-Party Food Platform Standards.

A. A third-party food platform may not list, advertise, promote, or sell a restaurant's products on, or arrange for the delivery of an order of products through, the website, mobile application or other modalities or platforms of the third-party food platform without a written agreement between the third-party food platform and the restaurant to include the restaurant's products on the website, mobile application or other modality or platform.

B. A third-party food delivery platform may not impose, by written agreement or other means, any restrictions on the prices that a restaurant may charge for the restaurant's products, whether sold through the third-party food platform, sold directly from the restaurant, or sold through any other means.

C. A third-party food platform may not charge any fee to a restaurant that the restaurant has not voluntarily agreed to pay.

D. A third-party food platform may not charge a restaurant an amount for delivery service that exceeds 15 percent of the purchase price per order.

1. The limitation of 15 percent of a purchase price per order for delivery service does not apply to orders that have a purchase price of less than \$10.

2. For orders that have a purchase price of less than \$10, a maximum fee of \$1.50 may be charged by a third-party food platform to a restaurant.

E. A third-party food platform may not charge a restaurant an amount for takeout service that exceeds four percent of the purchase price per order.

F. In addition to the fees established in Subsections D. and E. above, a third-party food platform may pass onto a restaurant a transaction fee in the same amount charged by the payment processor to the third-party food platform. The third-party food platform

must include in its contract with the restaurant the amount of the transaction fee and must provide to the restaurant, upon request, proof of the charge imposed by the payment processor.

1. If the amount charged by a payment processor to a third-party food platform changes, the third-party food platform must notify, in writing and in a timely manner, all restaurants under contract of the amount of the change.
2. No change in the amount charged by a payment processor to a third-party food platform will authorize the third-party food platform to pass onto a restaurant a fee that is a different amount than the third-party food platform is charged by the payment processor.

G. The fee limits in Subsections D. and E. of this Section do not apply to a third-party food platform that does all of the following:

1. Offers, in a clear and transparent manner, all restaurants the option to obtain delivery service for a total fee, commission, or charge not to exceed 15 percent of the purchase price per order, without requiring the purchase of additional services;
2. Offers, in a clear and transparent manner, all restaurants the option to obtain takeout service for a total fee, commission, or charge not to exceed 4 percent of the purchase price per order, without requiring the purchase of additional services;
3. The third-party food platform charges fees in excess of those set forth in Subsections D., E., and F., only for services in addition to delivery service, takeout service, and a transaction fee; and
4. Notifies all restaurants in writing, that have an existing contract with the third-party food platform of the options described in Subsections D. and E. This written notification must be available in each language spoken by approximately 1,000 or more limited English proficiency individuals in the Portland service area, as available on the City's website.

H. A third-party food platform is prohibited from refusing to provide delivery or refusing to process an order for take-out on behalf of a restaurant based solely on the restaurant's decision to select only services described in Subsections D. and E.

I. All contracts between a third-party food platform and a restaurant must clearly define the fees, commissions, or charges associated with contracted services. For example, if a restaurant enters into a contract with a third-party food platform for only delivery service, that contract must clearly state a fee, commission, or charge of not more than 15 percent of the purchase price per order for delivery service.

J. A third-party food platform may not reduce the compensation rate paid to a delivery service driver or request that a delivery service driver accept lower compensation in the

future or garnish gratuities to comply with the terms of this Chapter.

K. At the time a final price is disclosed to a customer for the intended order from a restaurant through a third-party food platform and before that transaction is completed by the customer, the third-party food platform must disclose to the customer, in plain language and in a conspicuous manner, any commission, fee, or any other monetary payment charged to the customer by the third-party food platform.

L. After a transaction occurs for an order from a restaurant through a third-party food platform, the third-party food platform must provide an electronic or printed receipt to the customer. The receipt must disclose, in plain and simple language and in a conspicuous manner:

1. The purchase price.
2. Any delivery charge, gratuity, or service fee imposed on and collected from the customer by the third-party food platform.
3. Any delivery charge, gratuity, or service fee imposed on and collected from the customer by the restaurant, in addition to the purchase price.
4. Any tip or gratuity that will be paid to the person delivering the food, and not to the third-party food platform or restaurant, that was added into the transaction when it occurred.

M. A third-party food platform may not charge any fee from a restaurant for a telephone order if a telephone call between the restaurant and a customer does not result in an actual transaction during the telephone call.

N. A third-party food platform must terminate a restaurant service contract within three business days of receipt of notice from the restaurant.

7.27.030 Authority, Complaints and Investigation.

A. The City Administrator may adopt administrative rules as authorized by Charter.

B. The City Administrator may enforce the provisions of this Chapter. The City Administrator may delegate the authority granted under this Section to any Revenue Division officer, employee or agent.

C. The City Administrator may receive complaints from restaurants and delivery service drivers by telephone or in writing.

D. The City Administrator may investigate complaints regarding alleged violations of this Chapter or the administrative rules.

E. The City Administrator may issue an administrative subpoena for the purpose of collecting any information necessary to investigate complaints and enforce any

provisions of this Chapter. The City Administrator may inspect, examine, and copy any books, papers, records, invoices and other data needed to investigate a complaint. Third-party food platforms must maintain books and records for at least three years, including but not limited to all written agreements with restaurants and delivery service drivers, records listing itemized fees the third-party food platform has charged to restaurants, and records demonstrating compliance with this Chapter, sufficient for the City Administrator to investigate complaints and issue a decision. The books and records must be made available to the City Administrator immediately upon demand.

F. Upon completing an investigation into allegations in a complaint, the City Administrator will issue a decision that includes written findings of fact and conclusions of law to support all decisions. The decision may also include remedies.

7.27.040 Remedies.

A. Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties and payment of restitution imposed by order of the Director or designee. The City Administrator may impose a civil penalty of up to \$1,000 for violations of this Chapter or the administrative rules. The penalty is limited to \$1,000 per restaurant per day. The City Administrator may order payment of restitution in an amount determined by the City Administrator. For purposes of assessing penalties for violations of this Chapter or administrative rules, a separate violation will accrue for each order that is processed, each time a restaurant is charged a fee, or each time a delivery service driver is compensated or is asked to accept reduced compensation.

B. Civil penalties will be payable to the City. Restitution will be payable to the restaurant or delivery service driver.

C. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies. Any restaurant or delivery service driver claiming to be aggrieved by a third-party food platform's noncompliance with this Chapter has a cause of action in any court of competent jurisdiction for damages and other remedies as may be appropriate.

7.27.050 Appeals.

A. Any third-party food platform upon which a civil penalty or restitution has been imposed by the City Administrator may appeal to the City Administrator for review and issuance of a final determination. Written notice of the appeal must be received by the Division within 30 days after the Division mailed or delivered the notice of decision to third-party food platform. The time to file an appeal may be extended by the City Administrator for good cause. Requests for extensions of time must be received prior to the expiration of the original 30-day deadline. The appeal must state the name and address of the third-party food platform, include a copy of the decision being appealed, and provide an explanation of the grounds for the appeal.

B. The City Administrator will respond within 60 days after the appeal is filed with a final determination unless the time is extended by the City Administrator for good cause. If

this time is extended, written notice will be given to the third-party food platform, prior to the expiration of the original 60-day deadline. The City Administrator's determination must include written findings of fact and conclusions of law to support the final determination.

C. Any third-party food platform upon which their appeal of civil penalty or restitution has been denied by the City Administrator, may appeal to the Code Hearings Officer pursuant to the provisions of Portland City Code Chapter 22.10 of this Code.

7.27.060 Severability.

If any Section, Subsection, sentence, clause or phrase of this Code is, for any reason, held to be invalid or unconstitutional, the validity of the remainder of the Code will not be affected. Council expressly declares that it would have passed this Code and each of its Sections, Subsections, sentences, clauses, and phrases regardless of such invalidity or unconstitutionality.