

## **UPDATE INFORMATION SHEET**

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The Auditor's office is responsible for providing update pages to

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

Updates will be available periodically throughout the year. This sheet will provide you with the current update information to assist you in keeping your book current.

**Retain this sheet. It will be replaced with each mailing.  
Please contact us should you  
have any questions 503-823-4082.**

<b>Update Packet Enclosed</b>	<b>June 30, 2006</b>
Previous Update Packet	March 31, 2006



**CODE OF THE CITY OF PORTLAND, OREGON**  
**Insertion Guide for Code Revisions**  
**Office of the City Auditor 503-823-4082**  
**2nd Quarter 2006 (June 2006)**

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### **2.12.010 Purpose.**

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

### **2.12.020 Definitions.**

(Amended by Ordinance No. 180205, effective June 7, 2006.) As used in this Chapter unless the context requires otherwise:

- A. “Calendar quarter” means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. “Calendar year” means the period of January 1 through December 31.
- C. “City director” means the director or individual in charge of the following or its successors: the Office of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Neighborhood Involvement, the Office of Sustainable Development, the Office of Cable Communications and Franchise Management, the Portland Office of Emergency Management, the Bureau of Emergency Communications, the Bureau of Fire, Rescue and Emergency Services, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of Environmental Services, the Bureau of Water Works, the Bureau of Development Services, the Bureau of Housing and Community Development, the Bureau of Planning, the Bureau of Revenue, and the Portland Development Commission.
- D. “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Portland Planning Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.

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- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:
- 1.** Time spent by an individual representing his or her own opinion to a City official.
  - 2.** Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
  - 3.** Time spent by a City official or City employee acting in their official capacity as a official for the City.
  - 4.** Time spent submitting a bid, responding to related information requests, negotiating terms on a competitively bid contract.
  - 5.** Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.
  - 6.** Formal appearances to give testimony before public hearings or meetings of City Council.
- H.** “Lobbying entity” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group who lobbies either by employing or otherwise authorizing a lobbyist to lobby on that person’s behalf.
- I.** “Lobbyist” means:

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1. Any individual who is authorized to lobby on behalf of a lobbying entity for money or any other consideration.
  2. Any individual not otherwise subject to subsection 2.12.020 I.1. who is authorized to lobby on behalf of a lobbying entity.
- J.** “Person” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group.

**2.12.030 Registration for Lobbying Entities.**

(Amended by Ordinance No. 180205, effective June 7, 2006.)

- A.** Within three working days after a lobbying entity spends a cumulative total of more than 16 hours or estimates that it has spent more than a cumulative total of 16 hours during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
1. The name, address, email, website and telephone number of the lobbying entity;
  2. A general description of the trade, business, profession or area of endeavor of the lobbying entity;
  3. The names, addresses, email, website and telephone number of all lobbyists who are employed by or otherwise authorized to lobby on behalf of the lobbying entity. The list must include:
    - a. Individuals who are paid to lobby for the interests of the lobbying entity.
    - b. Other persons, including lobbying entity employees or volunteers, who are authorized to lobby on behalf of the lobbying entity.
  4. The subjects and any specific official actions of interest to the lobbying entity.
- B.** A business, organization, or association who anticipates registering as a lobbying entity is encouraged to register at the beginning of each calendar year.
- C.** Registrations shall expire December 31 of every year. Lobbying entities shall renew their registrations once the 16-hour threshold has been reached in each calendar year.

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- D.** An authorized representative of the lobbying entity must sign the registration required by this Section.

#### **2.12.040 Quarterly Reporting Requirements for Lobbying Entities.**

(Amended by Ordinance No. 180205, effective June 7, 2006.)

- A.** A lobbying entity registered with the City Auditor or required to register with the City Auditor shall file a report, if the lobbying entity has spent an estimated 16 hours during the preceding calendar quarter lobbying, with the City Auditor, by April 15, July 15, October 15, and January 15, showing:
- 1.** The specific subject or subjects of the official action of interest to the lobbying entity, including but not limited to the names of City officials a lobbying entity met with or contacted through direct mail, email or telephone regarding such subject or subjects and the date of the contact
  - 2.** A good faith estimate of total moneys, if the total exceeds \$1000.00, expended by the lobbying entity or any lobbyist employed by or otherwise authorized to lobby on behalf of the lobbying entity, for the purpose of lobbying City officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:
    - a.** Food, refreshments, travel and entertainment;
    - b.** Printing, postage and telephone;
    - c.** Advertising, direct mail and email;
    - d.** Miscellaneous and gifts;
    - e.** Compensation paid to lobbyists; and
    - f.** Reimbursements to lobbyists for their expenses.
  - 3.** The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25.00 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B.** Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to be included



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in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.

- C.** A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D.** A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100(3).
- E.** The lobbying entity official must sign the declaration required by Section 2.12.090 A for each quarterly report.
- F.** Lobbying entities who do not anticipate spending over \$1,000 per calendar quarter for the purpose of lobbying may sign and file a certificate of limited expenditure provided by the Auditor's office in lieu of the financial portion of the quarterly report described in Section 2.10.040 A.2. The certificate affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A.2. If a lobbying entity that files a certificate of limited expenditure spends over \$1,000 in a calendar quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.

### **2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.**

In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Lobbying entities who employ lobbyists or otherwise authorize persons to lobby on their behalf if such lobbyists cumulatively spend not more than 16 hours lobbying on behalf of a lobbying entity during any calendar quarter.
- C.** Any lobbying entity that satisfies all three of the following requirements:
  - 1.** Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;

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2. Is an Internal Revenue Code Section 501 (c) 3 Organization; and
3. Is formally recognized or acknowledged by the City of Portland through City Council resolution or ordinance.

#### **2.12.060 Declaration Required by Lobbyists**

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

#### **2.12.070 Reporting Requirements for City Officials**

(Amended by Ordinance No. 180205, effective June 7, 2006.)

- A. City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25.00 received from a lobbying entity or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
  1. Name of lobbying entity, and if applicable, name of lobbyist;
  2. Subject of lobbying;
  3. Value of gift, meal or entertainment; and
  4. Date of receipt.
- B. City officials shall file written reports after a lobbyist or lobbying entity has agreed to make a donation of personal or real property to the City. Such reports shall include:
  1. Name of lobbying entity, and if applicable, name of lobbyist;
  2. Gift or donation requested;
  3. Purpose of donation; and
  4. Date of request.
- C. The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25.00 or if no gifts or donations have been requested in the calendar quarter.

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- D.** Elected officials and City directors shall post their calendars of activities related to official City business to the lobbyist website designated by the City Auditor 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.

**2.12.080 Prohibited Conduct.**

- A.** No former City elected official, City director or other employee shall, for a period of one year after the termination of the employee's term of office or employment, lobby for money or other consideration a City official, regarding any subject matter on which the employee participated personally and substantially during the employee's term of office or employment; provided, that if the employee exercised contract management authority with respect to a contract, this prohibition shall be permanent as to that contract.
- B.** The prohibitions in this Section shall not apply to:
- 1.** Prevent any former City elected official or other City employee from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before the City;
  - 2.** The activities of any former City elected official or other City employee who is an elected or appointed officer or employee of any public body, when that former City elected official or other City employee is solely representing that agency in his or her official capacity as an officer or employee of the public body;
  - 3.** Any ministerial action. For purposes of this subsection, a ministerial action is one that does not require a City official or other City employee to exercise discretion concerning any outcome or course of action.
  - 4.** Prevent City officials or other City employees from seeking information or participation from former City elected officials or other City employees where the public interest would be served by the information or participation.

**2.12.090 Verification of Reports, Registrations and Statements.**

- A.** Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.

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- B.** No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not believe to be true and correct to every matter.

#### **2.12.100 Public Nature of Reports, Registrations and Statements.**

All information submitted to the City Auditor in any report, registration or statement required by this Chapter is a public record and will be posted on Office of the Auditor website within three business days.

#### **2.12.110 Auditor's Duties.**

In carrying out the provisions of this Chapter, the City Auditor:

- A.** Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B.** Shall accept registrations and reports in an electronic format;
- C.** Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D.** Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;
- E.** May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F.** Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

#### **2.12.120 Penalties.**

A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$500.00 per violation. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue.

#### **2.12.130 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is held invalid by any court, the remainder of this Chapter and its application to other persons and circumstances, other than that which has been held invalid, shall not be affected by such invalidity, and to that extent the provisions of this Chapter are declared to be severable.

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- 3.126.030 Membership.
- 3.126.040 Staff Support to Emergency Management Committee.

**3.15.100 Bureau of Communications and Networking.**

(Repealed by Ordinance No. 177852, effective September 3, 2003.)

**3.15.110 Revenue Bureau.**

(Added by Ordinance No. 179566; amended by Ordinance No. 179978, effective April 7, 2006.) The Revenue Bureau shall be under the direction and control of the Office of Management and Finance. The Revenue Bureau shall be supervised by a Director, or designee, who shall report to the Chief Administrative Officer. The Revenue Bureau shall include such other employees and shall perform responsibilities as Council may provide. The Revenue Bureau shall include the following divisions, and such other divisions as needed.

- A.** Utilities Customer Services Division. The Utilities Customer Services Division shall be supervised by a Manager who shall report to the Director and shall perform the following responsibilities:
  - 1.** Management of billing and collection services for City water, sewer, and storm water systems including but not limited to establishment of new accounts, close out of terminated accounts, bill generation, payment application, remittance processing, approval of adjustments and refunds and other such duties as requested by the Director.
  - 2.** Direct water, sewer and storm water customer services including response to customer inquiries and appeals and management of financial assistance programs.
  - 3.** Collection of unpaid accounts, using all lawful remedies available.
  - 4.** Meter reading and meter inspection services including regularly scheduled meter reading, delinquent account notification, leak repair notification, shutting off water service for non-payment, and turning on water after receiving payment.
- B.** Licenses Division. The Licenses Division shall be supervised by a Manager who shall report to the Director and shall perform the following responsibilities:
  - 1.** Management, enforcement and collection of business license fees.
  - 2.** Management, enforcement and collection of transient lodging taxes.
  - 3.** Management and enforcement of all regulatory programs formerly the responsibility of the Bureau of Licenses, including the authority to enact administrative rules and regulations.

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4. The Licenses Division Manager, and designees, shall have full policy authority in the performance of their duties.
- C. Operations Division. The Operations Division shall be supervised by a Manager who shall report to the Director and shall perform the following responsibilities:
  1. Management and collection of assessments and liens formerly the responsibility of the Auditor's Office.
  2. Business Management functions including mail processing, receipting, and distribution; and overall financial accounting of bureau revenues.
  3. Audit functions including audits of the Portland area business license tax returns, transient lodging taxes, internal audits of internal systems and processes as well as other special audits as deemed necessary.
  4. General clerical and administrative support for the management of the Revenue Bureau.
- D. To the extent any other provision of the Portland City Code conflicts with this section 3.15.110, this section shall control.

#### **Chapter 3.18**

#### **BUREAU OF PERSONNEL**

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

#### **Chapter 3.20**

#### **BUREAU OF POLICE**

##### **Sections:**

- |          |  |
|----------|--|
| 3.20.010 | General Organization.  |
| 3.20.030 | Authority of Chief of Police.  |
| 3.20.050 | Subordinate Officers.  |
| 3.20.070 | Fees to be Paid Over to Treasurer.   |
| 3.20.080 | Policemen Receiving Gifts and Employing Attorneys - Penalty for Violation. |
| 3.20.110 | Duties of Police Force.  |

wage and minimum total compensation figure for covered services which is anticipated to be adjusted annually in light of any year-to-year percentage increase in the Portland/Salem Consumer Price Index wage earners (cpi-w) as published by the Bureau of Labor Statistics in February of each year. In making these adjustments, the Office of Management and Finance shall take into account the City's overall financial picture, and this code shall not be interpreted to require any increase which is inconsistent with the City's financial health and capabilities.

### **Chapter 3.100**

### **EQUAL OPPORTUNITY**

(New Chapters substituted by  
Ordinance No. 144724,  
effective Nov. 10, 1977.)

**Sections:**

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

### **TITLE 3 ADMINISTRATION**

- 3.100.083 Liaison Officer.
- 3.100.084 Minority/Female Business Enterprise List.
- 3.100.085 Advertising.
- 3.100.086 Minority/Female Purchasing Associations.
- 3.100.087 Monitoring.
- 3.100.088 Certification.
- 3.100.089 Rules and Regulations.

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

(Substituted by Ordinance No. 165383; amended by Ordinance No. 171993, effective February 11, 1998.) The City of Portland has a compelling governmental interest in prohibiting discrimination in programs, activities, services, benefits and employment whether carried out by the City itself or through a contractor with whom the City arranges to carry out its programs and activities. In addition to provision found elsewhere in this Code, provisions relating to equal employment opportunity, affirmative action and civil rights are specifically to be found in Chapter 4.02 and Chapter 23.01. The City of Portland's policies and programs relating to affirmative action are contained in its annual Affirmative Action Plan. Individual City bureaus may have specific programs designed to further the broad goals of equal employment opportunity, affirmative action and civil rights. It is unlawful to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in programs, activities, services, benefits, and employment whether carried out by the City of Portland, directly or through a contractor or any other entity with whom the City of Portland arranges to carry out its programs and activities except as allowed by federal law, rules and regulations.

#### **3.100.010 Affirmative Action Program.**

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

#### **3.100.011 Definitions.**

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

#### **3.100.012 Policy.**

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

#### **3.100.013 Objectives.**

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

#### **3.100.014 Management Commitment.**

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

**3.100.015 Regulatory Committee.**

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

**3.100.016 Bureau EEO Advisory Committees.**

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

**3.100.017 Reports and Audits.**

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

**3.100.018 Complaints of Discrimination.**

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

**3.100.019 Sanction.**

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

**3.100.020 Rules and Regulations.**

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

**3.100.021 Identification of Handicapped.**

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

**3.100.022 Management Commitment.**

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

**3.100.023 Objectives.**

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

**3.100.030 Contractor Equal Employment Opportunity Program.**

**3.100.031 Definitions.**

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

**3.100.032 Contracts with the City.**

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

**3.100.033 Franchises.**

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

**3.100.034 Certification of Contractors.**

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

**3.100.035 Rules and Regulations.**

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

## **TITLE 3 ADMINISTRATION**

### **3.100.036 Compliance by Contractors.**

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

### **3.100.037 Denial or Revocation of Certification.**

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

### **3.100.038 Compatibility with Other Rules.**

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

### **3.100.039 State of Emergency.**

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

### **3.100.040 Exemptions.**

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

### **3.100.041 Contracts with City.**

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

- A. Equal Opportunity Employer.** An “Equal Employment Opportunity Employer” (“EEO Employer”) is one who does not engage in the discrimination prohibited by Section 3.100.005 of this Code and who is certified by the Bureau of Purchases as an EEO Employer.
- B. Contracts with EEO Employers.** The City has a compelling governmental interest to ensure that it is neither an active nor passive participant in legally prohibited discrimination. Therefore, the City will award contracts only to EEO Employers and will require that any subcontract to such contract be awarded to an EEO Employer. Any person, vendor, contractor, or entity of any type must be certified as an EEO Employer in order to be eligible to be awarded any contract from the City, unless the amount of all their contracts with the City total less than \$2,500 in any single fiscal year or unless the contractor has been exempted from such requirements as determined by the Bureau of Purchases. As used in the Code provisions regarding EEO Employers, the term “contractor” shall include all persons, contractors, vendors and entities who are required to obtain certification. In addition, all persons, vendors or entities that wish to be subcontractors on City awarded contracts shall be certified as EEO Employers unless the total of their subcontracts is less than \$2,500 in any single fiscal year or unless the subcontractor has been exempted from such requirements as determined by the Bureau of Purchases.
- C. Contracts Voidable.** Any contract between the City and a contractor who is not EEO certified or exempt from EEO certification requirements is voidable at the option of the City, regardless of whether the contractor was EEO certified when the contract was awarded or executed. Similarly, a contract is voidable if the



contractor subcontracts a portion of the work to a subcontractor or supplier that is not EEO certified or exempt from EEO certification requirements.

**3.100.042 Certification of Contractors.**

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

**3.100.043 Information Required.**

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

**3.100.044 Compliance Review.**

(Added by Ordinance No. 171418, effective July 23, 1997.) If the Bureau of Purchases receives a complaint filed by any person or entity that alleges prohibited discrimination by a Contractor or Subcontractor, or when information comes into its possession indicating that a Contractor or Subcontractor may have engaged in prohibited discrimination, the Bureau may conduct a Compliance Review to determine whether the complaint or the information is correct. The purpose of the Compliance Review is to determine whether an EEO Certification should be revoked or suspended or whether a request for certification or recertification should be denied.

**3.100.045 Denial, Suspension, Revocation**

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

- A.** Actions by Bureau. The Bureau may deny, suspend or revoke an EEO certification of the contractor or subcontractor if:
- 1.** Employs a workforce that shows underutilization of minorities and women, as reflected by their availability in the workforce, and thereafter fails to take positive steps to diversify its workforce after notification from the Bureau that such steps are required to maintain the EEO certification. Underutilization determinations shall be based on federal Title VII standards including the “Four-Fifths Rule” and “Manifest Imbalance” concepts;
  - 2.** Engages in discrimination prohibited by state, federal or local law;
  - 3.** Refuses to provide information to the Bureau of Purchases to determine whether it should be EEO certified or recertified;

### **TITLE 3**

### **ADMINISTRATION**

4. Refuses to provide information when the Bureau is conducting a Compliance Review;
  5. Intentionally provides false information to the Bureau in regard to its EEO certification or in response to the Bureau's request for information; or
  6. Intentionally employs subcontractors that are not EEO certified.
- B.** Appeal. EEO certification that has been denied, suspended or revoked may be appealed to the City Council by filing a written notice with the City Auditor within 10 days after the date of denial, suspension, or revocation. Action on such appeal shall be as directed by the City Council.
- C.** Enforcement. If no appeal to the City Council is filed within the time allowed, or if the appeal is denied by the City Council, the decision of the Bureau immediately shall go into effect.

#### **3.100.050 Nondiscrimination in Contracting.**

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

#### **3.100.051 Policy regarding Benefits.**

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

#### **3.100.052 Definitions.**

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

- A.** "Bureau" means the Bureau of Purchases.
- B.** "Contract" means all formal solicitation contracts for Public Improvements and Construction Services authorized and executed pursuant to PCC Chapter 5.34, and all formal solicitation contracts for Goods and Services authorized and executed pursuant to PCC Chapter 5.33 and all formal solicitation contracts for Professional, Technical and Expert services (PTE) authorized and executed pursuant to PCC Chapter 5.68.
- C.** "Director" or "Purchasing Agent" means the Director of the Bureau of Purchases or that person to whom those duties have been properly delegated.

- D.** "Domestic Partner" means any person who is registered with his or her employer as a domestic partner, or, in the absence of an employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration and who is in fact a current domestic partner with the person with whom that person was registered. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the Bureau.
- E.** "Employee benefits" means any plan, program or policy provided by an employer to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**3.100.053 Discrimination in the provision of benefits prohibited.**

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

- A.** No contractor on a City contract shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following exceptions:
- 1.** In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs.
  - 2.** The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.
- B.** Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:

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1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
  2. Elect to provide benefits in a manner unrelated to spousal or domestic partner status; or
  3. Provide benefits neither to employees' spouses nor to employees' domestic partners.
- C.** Requirements inapplicable under certain conditions. The Director may waive the requirements of this chapter where it is found not to be in the best interest of the City. Examples of situations that require waiving the requirements of this chapter include but are not limited to:
1. Award of a contract or amendment is necessary to respond to an emergency;
  2. No compliant contractors are capable of providing goods or services that respond to the City's requirements;
  3. The contractor is a public entity;
  4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
  5. The City is purchasing through a cooperative or joint purchasing agreement;
- D.** Requests for waivers of the terms of this Chapter are to be submitted to the Bureau of Purchases in a manner prescribed by the Bureau. Decisions by the Bureau to issue or deny waivers are final.
- E.** The Director may reject an entity's bid or proposal, or terminate a contract, if the Director determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.
- F.** The City shall not execute a contract with a contractor unless such contractor has agreed not to discriminate in the provision of employee benefits as provided for in this chapter.

- G.** All contracts awarded by the City shall contain provisions developed by the Bureau of Purchases prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by Section 3.100.054, except as exempted by this chapter or rule.

**3.100.054 Limitations.**

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

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

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

**3.100.055 Powers and duties of the Director.**

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

- A.** Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Portland (PCC 3.02), establishing standards and procedures for effectively carrying out this chapter;
- B.** Examine contractor's benefit programs covered by this chapter;
- C.** Allow for remedial action after a finding of non-compliance, as specified by rule.
- D.** Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but are not limited to:
  - 1.** Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to 3 years; and
  - 2.** Contractual remedies, including, but not limited to, termination of the contract.

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- E.** Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- F.** Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.

#### **3.100.056 Severability of Provisions.**

(Added by Ordinance No. 180077, effective May 19, 2006) If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

#### **3.100.060 Grant Equal Opportunity Compliance Program.**

##### **3.100.061 Definitions.**

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

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

##### **3.100.062 Purpose.**

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

- A.** To provide a uniform and consistent review of all equal opportunity and labor standard requirements associated with grants from other governmental agencies to the City of Portland.
- B.** To establish guidelines, instructions, uniform reporting formats, related administrative support, and assistance necessary to comply with grant equal opportunity requirements.
- C.** To provide a single, initial contact for grantor agencies and others seeking information about, or contact with, grantee bureaus or offices on EO matters.

##### **3.100.063 Responsibility.**

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

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- A.** Federal Grants Coordinator shall submit all grant applications to the Contract and Grants Compliance Division for determination of equal opportunity requirements. No grant application shall be submitted to the City Council unless the Contract and Grants Compliance Division has reviewed the applicable equal opportunity requirements and obligations.  
Following the award of any grant, the Federal Grants Coordinator shall provide the Contract and Grants Compliance Division with copies of the grant and applicable related documents.
- B.** Contract and Grants Compliance Division shall serve as the point of contact for all communications relating to grant equal opportunity compliance, and shall review all grants as follows:
- 1.** Pre-Application. Before any grant application is submitted to the grantor agency, the equal opportunity provisions shall be reviewed to determine compliance requirements. A report of such review shall be submitted to the Federal Grants Coordinator.
  - 2.** Post Award. Immediately after the award of any grant, the Contract and Grants Compliance Division shall advise the grantee bureau or office of applicable requirements and provide guidelines, instructions, forms, and assistance, as required to assist the bureau or office to implement compliance.
- C.** Grantee Bureaus or Offices. Shall be fully responsible for compliance with all equal opportunity requirements imposed by applicable grants. In the discharge of such responsibility, grantee bureaus or offices shall cooperate fully with the Contract and Grants Compliance Division including, but not limited to, accumulation of applicable data, preparation of suitable records, and submission of such records and forms as may be required.

**3.100.064 Compliance Monitoring.**

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

**3.100.065 Rules and Regulations.**

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

**3.100.080 Minority/Female Purchasing Program.**

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

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#### **3.100.081 Definitions.**

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

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

#### **3.100.082 Purpose.**

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

#### **3.100.083 Liaison Officer.**

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

#### **3.100.084 Minority/Female Business Enterprise List.**

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



**3.100.085     Advertising.**

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

**3.100.086     Minority/Female Purchasing Associations.**

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

**3.100.089     Rules and Regulations.**

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

**3.100.090     Metropolitan Human Relations Commission Review and Evaluation.**

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

**Chapter 3.101**

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

(Added by Ordinance No. 157768,  
effective Aug. 29, 1985.)

**Sections:**

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

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#### **3.101.010 Definitions.**

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) As used in this Chapter:

- A. “Low income”** means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.
- B. “Eligible property”** means land and improvements thereon:
  - 1.** Which are either single or multi-family residential units and or properties which are not residential units but which will become occupied residential units through rehabilitation improvements or new construction and are intended for the exclusive occupancy by low income during the tax year for which approval of the application has been granted;
  - 2.** Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of 3.101.030 B 1-2 by a charitable organization and non-profit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to Chapter 108 Oregon Laws 1993;
  - 3.** Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.
- C. “Governing body”** means the City of Portland, which for the purpose of this Chapter is the Bureau of Planning.

#### **3.101.020 Eligible Organizations.**

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

#### **3.101.030 Eligible Property.**

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) As used in this Chapter:

- A. “Eligible property”** as defined in 3.101.010 B 1-3 which meets all of the following criteria, pursuant to Chapter 108 Oregon Laws 1993, and other conditions of this Chapter shall be exempt from taxation:

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1. The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to Chapter 108 Oregon Laws 1993;
  2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to the State of Oregon;
  3. The property is occupied by low-income persons as defined in 3.101.010 A of this Chapter.
  4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
  5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.
- B.** For the purposes of this Chapter, pursuant to Chapter 108 Oregon Laws 1993, a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
  2. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

**3.101.040 Application Procedure.**

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.)

- A.** To qualify for the exemption the corporation shall file an application for exemption with the Bureau of Planning acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application shall be filed on or before March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. the application shall include the following information:
1. The applicant's name, address, and telephone number;

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2. The assessor's property account number for each site;
  3. The number of units and the exempted amount of each property being applied for under this Chapter;
  4. A description of the property for which the exemption is requested; And (e) through (h) and (2), pursuant to Chapter 108 Oregon Laws 1993 as follows:
  5. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
  6. A description of how the tax exemption will benefit project residents; and
  7. A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;
  8. A certification and declaration that income levels of low-income occupants are in accordance with 42 U.S.C. Section 1437 (a) (b) (2);
  9. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
  10. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this ordinance at the time the application is submitted.
- B.** The application shall include the following statements:
1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
  2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income, will qualify for exemption at the time of application approval or within 30 days of the March 1 application deadline;
  3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.
  4. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.

- C.** The applicant shall verify the information in the application, in accordance with 3.101.040 B 1 through 3 above, by oath or affirmation.
- D.** Applicants for an exemption under this Chapter shall pay an initial application fee of \$250. Applicants for annual renewal shall pay \$50. The Bureau of Planning shall pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Bureau of Planning or the County Assessor in processing the application. The Bureau of Planning shall collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred. If the applicant is denied, the City shall retain that portion of the application fee attributable to its own administrative costs and shall refund the balance to the applicant.

**3.101.050 Review of Application.**

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.)

- A.** Within 30 days after the March 1 deadline for the application and payment of the application fee, the Bureau of Planning shall approve or deny the application. The application shall be approved if the Bureau of Planning finds that the property is “eligible property” within the meaning of the paragraphs 1 through 3 of Subsection B of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter. An application not acted upon within 30 days shall be deemed approved in accordance with Oregon Chapter 108, Oregon Laws 1993.
- B.** If the application is approved, the Bureau of Planning shall send written notice of approval to the applicant at his or her last-known address within 10 days after approval.
- C.** If the application is denied, the Bureau of Planning shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial. The Bureau of Planning shall retain that portion of the application fee which is attributable to its own administrative costs and shall refund the balance to the applicant.
- D.** Upon denial by the Bureau of Planning, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the Council may be taken as provided by law.
- E.** The application shall be assigned an application and receipt number.

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#### **3.101.060 Annual Application Renewal.**

(Amended by Ordinance Nos. 167356 and 178286, effective April 7, 2004.)

- A.** Applicants for property tax exemption must apply each year no later than September 1 in order to be qualified for property tax exemption for the following tax year.
- B.** The annual application renewal fee shall be \$50.
- C.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, and before July 1, 2014.

#### **3.101.070 Assessment Exemption.**

(Amended by Ordinance Nos. 167356 and 178286, effective April 7, 2004.)

- A.** Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning January 1 of the year immediately following the calendar year in which exemption approval has been granted, when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.
- B.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, 2014.
- C.** The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

#### **3.101.080 Termination.**

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.)

- A.** If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the Bureau of Planning finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the Bureau of Planning shall give notice in writing to the owner, mailed to the owner's last-known address, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of the exemption and

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require the owner to appear before the Council to show cause at a specified time, not more than 20 days after mailing of the notice, why the exemption should not be terminated.

- B.** If the owner does not appear or if he or she appears and fails to show cause why the exemption should not be terminated, the exemption shall be terminated. A copy of the termination shall be filed with the County Assessor and a copy sent to the owner at the owner's last-known address, within 10 days after its adoption.
- C.** However, if the City Council finds that the non-compliance was due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the City Council may continue the exemption or some portion for the duration of the current application.
- D.** The decision of the Council may be appealed as provided by law.
- E.** If no appeal is taken as provided in Subsection D of this Section, or upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.207 to 311.213, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by the Council or by a court, in accordance with the findings of the Council or the court as the assessment year in which the exemption is to terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207 to 311.213. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

**3.101.090 Implementation.**

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) The Bureau of Planning shall establish procedures and prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the March 1 filing deadline imposed by Chapter 108 Oregon Laws 1993.

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**Chapter 3.102**

**PROPERTY TAX EXEMPTION FOR  
RESIDENTIAL REHABILITATION AND  
NEW CONSTRUCTION OF SINGLE-  
UNIT HOUSING IN HOMEBUYER  
OPPORTUNITY AREAS**

(Substituted by Ordinance No. 162854;  
amended by 176786, effective  
September 6, 2002.)

**Sections:**

- 3.102.010 Definitions.
- 3.102.020 Application for Limited Assessment.
- 3.102.030 Review of Application.
- 3.102.040 Certificate of Qualification.
- 3.102.050 Affordability Agreement.
- 3.102.060 Assessment.
- 3.102.070 Annual Statements.
- 3.102.080 Termination.
- 3.102.090 Designation of Homebuyer Opportunity Areas.
- 3.102.100 Sunset of the Exemption for Owner-Occupied Rehabilitation and New Single-Unit Residences in Distressed Areas.

**3.102.010 Definitions.**

(Amended by Ordinance Nos. 164769, 170667, 171887, 171977, 176786 and 179685, effective November 18, 2005.) As used in this Chapter:

- A. “Distressed area”** means those areas of the City designated by rule by the Bureau of Planning in consultation with the Portland Development Commission, and the Bureau of Housing and Community Development that meet the requirements set out in ORS 308.450 (1), ORS 458.005 (1), and Section 3.102.090 of this Chapter. For the purposes of administering Chapter 3.102, a "distressed area" shall hereafter in this Chapter be called a "homebuyer opportunity area" and be identified as such on any maps and application materials developed for this program.
- B. “Rehabilitation Improvements”** means modifications to existing structures which are made to achieve a condition of substantial compliance and which may include new construction as part of the overall project.



- C. “Substantial compliance”** means compliance with Title 29, “Housing Regulations.” It shall not mean that all heating, plumbing and electrical systems be replaced with systems meeting current standards for new construction.
- D. “Eligible property”** means land and the improvements thereon that meet all of the criteria in either of the following two categories:
- 1. Rehabilitated Residential Property:**
    - a.** It is either a single or multi-family residential unit or, if it is not a residential structure, it will be converted to residential units through rehabilitation improvements and a change of occupancy permit;
    - b.** The following expenditures have been made:
      - (1)** On property that is 25 years of age or more on January 1, 1986, sums were expended after September 13, 1975 and prior to January 1, 2008 for the purpose of making rehabilitation improvements and which sums in the aggregate equal or exceed five percent (5%) of the assessed value of the land and improvements as reflected in the last equalized assessment roll preceding the application date; or
      - (2)** On property, regardless of age, sums have been expended after January 1, 1990 for making rehabilitation improvements and which sums in the aggregate equal or exceed fifty percent (50%) of the cash value of the land and improvements as reflected in the last equalized assessment roll preceding the application date;
    - c.** The property provides not less than 50 percent of their accommodations for residential and not transient occupancy;
    - d.** The improvements fail to be in substantial compliance at the time the application is filed; and
    - e.** If owner occupied, the structure is located in a homebuyer opportunity area.
  - 2. Newly Constructed Single-Unit Housing:**
    - a.** The structure has one or more dwelling units and was newly constructed on or after January 1, 1990 and prior to July 1, 2015;

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- b.** The structure is located in a homebuyer opportunity area;
  - c.** Each dwelling unit within the structure is designed to be purchased by and lived in by one household;
  - d.** Each dwelling unit falls within the price limit as provided by Section 3.102.090 D.; and
  - e.** It is not a floating home, as defined in ORS 830.700, or a manufactured structure, as defined in ORS 801.333, other than a manufactured home described under ORS 197.307(5)(a) to (f).
- E.** **“Owner’s equity,”** as used in Subsection 3.102.060 D., means the greater of either:
  - 1.** Equity invested in the subject property including the owner’s original cash equity at the time of acquisition and development plus additional cash outlays to the project to cover capital improvements and fund operating deficits. Routine maintenance and repair expenses which are funded from operating reserves as well as depreciation shall not be counted towards owner’s cash investment; or
  - 2.** Current appraised value less current indebtedness of the property. The Portland Development Commission shall determine owner’s equity based on information provided by the applicant.
- F.** **“Reasonable return,”** as used in Subsection 3.102.060 D., means a ten percent return on equity.

#### **3.102.020 Application for Limited Assessment.**

(Amended by Ordinance Nos. 164769, 170667, 176786 and 179685, effective November 18, 2005.)

- A.** Any owner desiring to apply for an exemption under the terms of this Chapter shall submit an application to the Portland Development Commission no later than the December 31<sup>st</sup> preceding the tax year in which the exemption first applies.
- B.** Each applicant shall pay a non-refundable fee as provided below:
  - 1.** Single and two-family dwellings (occupancy classification R3), \$300;
  - 2.** Multi-unit dwellings (occupancy classification RI); \$300 plus \$5.00 for each dwelling unit in excess of two;

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3. Plus a sum equal to the estimated appraisal costs to be incurred by the Assessors Office to the Portland Development Commission concurrent with the submission of the application, the applicant also being liable for all additional costs incurred by the City or County due to the processing of the application for exemption.
- C. The application will include provisions so that the applicant can acknowledge:
1. That the applicant is aware of all requirements for limited assessment imposed by this Chapter;
  2. That the applicant's property qualifies or, upon completion of the rehabilitation improvements or new construction, will qualify for limited assessment;
  3. That the applicant agrees, if the structure is not newly constructed single-unit housing and is not intended to be owner-occupied, to negotiate through the Portland Development Commission rental rates to be charged for the rehabilitated rental units during the period of limited assessment;
  4. That the applicant certifies, if the structure is newly constructed single-unit housing, that the household purchasing the unit has an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development as adjusted upward for a household of more than four persons. For the purposes of this program, household income shall be the annual gross income of the borrower or the deedholder who will occupy the eligible property;
  5. That the unit, once sold, will remain owner-occupied as the principal residence of the household receiving the property tax exemption during the ten year period of the limited assessment. Hardship exception to the owner-occupancy requirement may be granted. Such hardship exceptions may include, but are not limited to, the following circumstances: active military duty outside of the area, temporary relocation to care for an ill or dying family member, or sudden relocation caused by an employer;
  6. That subsequent buyers of the structure during the ten year period of the limited assessment will have an annual gross household income not greater than one hundred percent of the area median income for a family of four for the Portland Metropolitan Area as adjusted upward for a household of more than four persons; and

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7. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the assessment provided by this Chapter.
- D. The applicant shall agree to permit the Portland Development Commission to have executed and recorded in the county real estate records a Subsequent Home-Buyer Notice stating that the property is subject to a limited tax assessment and that any subsequent purchaser is bound by the requirements of this Chapter.
- E. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter. The application shall be assigned an application number.
- F. If any of the application criteria noted in this Section are violated, the Portland Development Commission shall terminate the limited assessment according to the provisions of Section 3.102.080 Termination.
- G. An application for exemption that seeks a tax year beginning or before July 1, 2005, as the first year of the exemption may be approved or denied by the Portland Development Commission within 30 days following November 4, 2005. If an application is approved under this Section, the first tax year of the exemption shall be the tax year beginning July 1, 2005.

#### **3.102.030 Review of Application.**

(Amended by Ordinance Nos. 170667, 171887, 176786 and 179685, effective November 18, 2005.)

- A. Within 90 days after receipt of a completed application and payment of all appropriate fees, the Portland Development Commission shall approve application if it finds that the property is an eligible property according to the provisions of Section 3.102.010 D. and the application meets all the requirements of this Chapter. Written notice of approval shall be sent to the applicant at his or her last known address within 10 days of approval. In the case of a residential structure to be rehabilitated, the written notice shall verify the structure's noncompliance and specify what rehabilitation improvements must be completed in order that the property be in substantial compliance.
- B. For newly constructed single-unit housing or owner-occupied single unit housing to be rehabilitated, the Portland Development Commission shall determine whether the property location is within a homebuyer opportunity area at the time of application. The Portland Development Commission may approve an application for limited property tax exemption for an eligible structure constructed

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prior to July 1, 2015 or rehabilitated prior to July 1, 2008 within a homebuyer opportunity area. Construction or rehabilitation must begin while the area is designated as a homebuyer opportunity area in order to qualify.

1. The Portland Development Commission shall also determine that the new single-unit housing will have a market value, including the cost of the land, of no more than 120 percent of the median sales price of single family homes located within the city. Such price shall be determined by the Bureau of Planning as provided by Section 3.102.090 D.
  2. The issuance of building permits shall indicate compliance with the Code of the City of Portland and shall be sufficient to meet the public benefits and design standards as described in ORS 458.010 (4)(b)(c). All other required city reviews that are applicable shall not be waived as part of an application for property tax exemption.
  3. The approval shall be in the form of a resolution that shall contain the owner's name and address, a description of the property or the assessor's property account number and the specific conditions upon which the approval of the application is based. The resolution shall direct the County Assessor to exempt the structure from ad valorem taxes as provided in Section 3.102.060 C., pending approval of the certificate of qualification by the Portland Development Commission as provided in Section 3.102.050. A single resolution listing all approved properties and submitted annually for Council consideration before each upcoming tax year shall be sufficient to meet this requirement.
- C. If the application is denied, the Portland Development Commission shall state in writing the reasons for denial, and send it to the applicant within 10 days of denial. An applicant may appeal the denial to the City Council within 30 days after receipt of notice of denial.

**3.102.040 Affordability Agreement.**

(Amended by Ordinance No. 171977, effective February 4, 1998.)

- A. Before approval of an application for nonowner-occupied rehabilitated structures, an applicant shall execute an Affordability Agreement with the Portland Development Commission, designating the number of units, their bedroom size and rents to remain affordable during the term of the limited assessment. Designated units shall be occupied by and rented at rates affordable to tenants with household income of 60% of median family income or less. At least 20% of the units in a project containing five or more units, 100% of the units in case of a single family house, 50% of the units in a duplex, 30% of the units in a triplex, and 25% of the units in a fourplex shall be affordable. The applicable median

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incomes and monthly rental rates are determined annually by the Portland Development Commission based on data annually reported by the U.S. Department of Housing and Urban Development.

- B.** The Affordability Agreement shall require the applicant to report annually to the Portland Development Commission the property's occupancy information, rental rates, and related property information which is deemed necessary to monitor compliance during the period of limited property tax assessment. Annual reports are to be filed with the Portland Development Commission no later than 60 days following the end of the fiscal year used by the owner for the purpose of reporting federal income tax.
- C.** At the Portland Development Commission's option, the Affordability Agreement may be recorded or secured by a covenant against the property receiving limited property tax assessment. The benefit of this limited property tax assessment may be transferred to a new property owner for the remaining term of the limited assessment provided the new owner executes a new Affordability Agreement with the Portland Development Commission.
- D.** Should the applicant receive other City of Portland funds or benefits requiring a similar Affordability agreement, the more restrictive agreement shall be used to determine compliance with this ordinance.

#### **3.102.050 Certificate of Qualification.**

(Amended by Ordinance Nos. 164769, 170667, 171977, 176786 and 179685, effective November 18, 2005.)

- A.** Upon completion of the rehabilitation improvement or the new construction, the applicant shall file with the Portland Development Commission an application for a certificate of qualification and, in the case of a rehabilitated structure intended to be nonowner-occupied, a copy of the Affordability Agreement required by 3.102.040.
- B.** Within 30 days of receipt of the application, the Portland Development Commission shall determine whether the property qualifies for limited assessment under this Chapter. Approval shall be given if one of the following two alternatives is satisfied:
  - 1.** The residential rehabilitation improvements were completed within two (2) years from the date of application for limited assessment, the applicant has paid all the appropriate fees, and filed, if required, the appropriate Affordability Agreement; or

2. The newly constructed single-unit housing was completed within two (2) years from the date of application for limited assessment, construction began while the area was designated a homebuyer opportunity area, the applicant has paid all appropriate fees, and the new construction complies with the code of the City of Portland.
- C. A copy of the certificate of qualification shall be sent to the applicant, and filed by the Portland Development Commission with the Assessor within 20 days. In addition, copies of the application for limited assessment; the notice of approval; the Affordability Agreement (if appropriate); the Resolution of approval (if appropriate); and the application for a certificate of qualification shall also be filed with the Assessor and shall be numbered with the applicant's application number, and shall be delivered in a single transmittal.
- D. If it is determined that the rehabilitation or new construction was not completed within two (2) years of application date or the property is otherwise not qualified for the limited assessment provided for under the terms of this Chapter, the Portland Development Commission shall so state in writing, and send this determination to the applicant within 40 days of the receipt of the application for a certificate of qualification. An applicant may appeal the denial to the City Council within 30 days of the mailing of the notice required by this Subsection.

**3.102.060 Assessment.**

(Amended by Ordinance Nos. 164769, 170667, 176786, and 179685 effective November 18, 2005.)

- A. As provided by ORS 308.459, an eligible rehabilitated residential property shall be assessed at no more than its assessed value as it appears in the last equalized assessment roll next preceding the date on which the application for limited assessment is filed with the Portland Development Commission as provided for in 3.102.020. If the certificate of qualification is filed with the Assessor after December 31 but prior to April 1, the limited assessment shall apply with respect to the first assessment roll equalized after that date; or if the certificate of qualification is filed after April 1 but prior to January 1, the limited assessment shall apply as of the following January 1, and shall continue to apply thereafter for a total of 10 consecutive assessment rolls.
- B. As provided by ORS 308.456 (4), the limited assessment provided by this Chapter does not apply to increases in assessed valuation made by the assessor or by lawful order of a County Board of Equalization, the Department of Revenue or a court, to a class of property throughout the county or any specific area of the county to achieve the uniformity of assessment or appraisal required by ORS 308.232.

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- C.** As provided by ORS 458.020, eligible newly constructed single-unit housing shall be exempt from ad valorem taxation for no more than 10 successive tax years beginning July 1 of the first tax year following approval of the application under Section 3.102.020 of this Chapter. The exemption provided by this Chapter shall be in addition to any other exemption provided by laws for the property. However, the amount of assessed value exempted under this Chapter may not exceed the real market value of the structure determined as of the date that the property is inspected for purposes of making a determination under this Chapter.
- D.** If all residential units in a multiple-unit housing project are subject to a low income rental assistance contract with an agency of the state or federal government, an exemption provided under the terms of this Chapter may be extended beyond the 10 year limitation set in Subsection A above to December 31 of the assessment year during which the termination date of the contract falls. The Portland Development Commission staff shall review all applications for extension. Approval by the Portland Development Commission staff shall be based on findings that:
- 1.** The applicant has made reasonable efforts to obtain approval from the appropriate government agency for an increase in the allowable contract rent. Evidence of reasonable efforts shall include documentation showing contact with appropriate agencies and attempts to obtain written responses from the agency indicating their decision regarding modification of the rental contract.
  - 2.** The loss of the exemption will cause an increase in operating expenses to the extent that operating income for the property will be insufficient to cover operating expenses plus a reasonable return on the owner's equity in the projects. The evaluation of these criteria will be based upon projected average annual income and expense requirements over the extension period; and
  - 3.** The tax exemption is necessary in order to prevent displacement of low- and moderate-income tenants or of a low and moderate-income housing resource.
- E.** The Portland Development Commission staff, as part of the approval process under Section 3.102.060 D., may require an independent financial audit of the previous ten year tax abatement period as well as forecasts for the requested extension period. If the annual financial statements submitted by the applicant are found to be incomplete and inaccurate, the applicant will be responsible for audit fees. A denial of an extension requested under 3.102.060 D. may be appealed to the City Council. The appeal shall be filed within 30 days of the date of the mailing of the notice denying the extension.



- F.** In order to maintain an exemption granted under Section 3.102.060 D the applicant, at least every three years, shall make reasonable efforts as defined in Section 3.102.060 D.1. to obtain increases in the allowable contract rents and submit documentation of such evidence to the Portland Development Commission staff.
- G.** The Portland Development Commission staff shall review the applicant's compliance with the conditions set forth in Section 3.102.060 D. every five years. If the average annual rate of return to the period exceeds a reasonable rate of return as defined in Section 3.102.010 F., the exemption shall terminate. An applicant may appeal a termination to the City Council within 30 days of the date of the mailing of the notice to terminate.

**3.102.070 Annual Statements..**

(Amended by Ordinance No. 171977, effective February 4, 1998.)

- A.** Within 60 days following the end of the fiscal year as used by the owner for purpose of reporting federal income tax and during the period that the certificate is in effect, the owner of the rehabilitated property that is nonowner-occupied shall file with the Portland Development Commission the following:
  - 1.** A statement of occupancy and vacancy of the rehabilitated property during the prior 12 month period; and
  - 2.** A statement of all rental rates, increases thereto and operating costs, during the prior 12 month period; and
  - 3.** An attestation by the owner that the rehabilitated property has been held continuously for the production of rental income since the date of the certificate of qualification.
  - 4.** A Rental/Occupancy Report listing each unit and the rental rate charged and identifying each affordable unit type based on the number of bedrooms and/or floor area, the rent charged, the occupant's household size, the occupant's household annual income, and whether utilities are included as part of the rental charge.
  - 5.** Any other information deemed necessary in determining compliance with the Affordability provisions of this ordinance.
- B.** Within 30 days of receiving the owner's Rental/Occupancy Report, the Portland Development Commission shall advise the Assessor of whether to continue or terminate assessment limitation.

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- C.** Should the property be regulated by another agreement regarding affordability and/or operating performance as conditioned by other public funds, the more restrictive agreement shall be used to determine compliance with the ordinance.

#### **3.102.080 Termination.**

(Amended by Ordinance Nos. 170667, 171887, 171977, 171999, 176786 and 179685, effective November 18, 2005.)

- A.** If subsequent to the issuance of a certificate of qualification, it is determined by the Portland Development Commission that the new construction was not completed on or before July 1, 2015, or the rehabilitation improvements were not completed on or before January 1, 2008, or that any other provision of this Chapter is not being complied with, the Portland Development Commission shall give notice in writing to the owner, mailed to the owner's last known address, of the proposed termination of the limited assessment. The written notice shall state the reasons for the proposed termination and shall provide a statement of the owner's right to appear before the Portland Development Commission to show cause, if any, why the exemption should not be terminated. The notice shall provide instructions describing how the owner may request a show-cause hearing before the Portland Development Commission. Upon request by the owner, the Portland Development Commission shall schedule a hearing for a date not less than 20 days from the date of the request.
- B.** If the owner chooses not to appear, or if they appear and fail to show cause why the limited assessment should not be terminated, the City shall adopt an ordinance or resolution stating its findings and terminating the limited assessment. The Portland Development Commission shall file a copy of the ordinance or resolution with the County Assessor and shall send a copy to the owner at the owner's last known address within 10 days of the Council's action.
- C.** If, after application has been approved, the City or County Assessor discovers that the single-unit housing or a portion of the single-unit housing is changed to a use that is other than single-unit housing:

  - 1.** The limited assessment granted the single-unit housing or portion under ORS 458.005 and 458.015 to 458.065 shall terminate immediately, without right of notice or appeal;
  - 2.** The property or portion shall be assessed and taxed as other property similarly situated is assessed and taxed; and

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- 3.** Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the tax year next following the discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the amount of tax due on the property and the amount of the tax that would have been due on the property had it not been exempt under ORS 458.005 and 458.015 to 458.065 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS 458.005 and 458.015 to 458.065.
- a.** If, at the time of discovery, the property is no longer exempt, additional taxes shall be imposed as provided in this section, but the number of years that would otherwise be used to compute the additional taxes shall be reduced by one year for each year that has elapsed since the year the property was last granted exemption.
  - b.** The assessment and tax rolls shall show potential additional tax liability for each property granted a limited assessment under ORS 458.005 and 458.015 to 458.065.
  - c.** Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.
- D.** If the City finds that the new construction was not completed on or before July 1, 2015 or the rehabilitation improvements were not completed by July 1, 2008, due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with, due diligence, the City may extend the deadline for completion for a period not to exceed an additional 12 consecutive months.
- E.** The decision of the Council may be appealed as provided by ORS 34.010 to 34.100.
- F.** As provided by Subsection (4) of ORS 308.477, if no appeal is taken as provided in Subsection D. of this Section, or upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.207 to 311.213, to provide for the assessment and taxation of any value not included in the valuation of the new construction or there habilitation improvements during the period of limited assessment prior to termination by the Council or by a court, in accordance with the findings of the Council or the court as to the assessment year in which the limited assessment is to terminate. The Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207 to 311.213. Where there

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has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning January 1 of the assessment year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the month next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made.

#### **3.102.090 Designation of Homebuyer Opportunity Areas.**

(Amended by Ordinance Nos. 170667, 176786 and 179685, effective November 18, 2005.)

- A.** The Bureau of Planning shall be the agency responsible for designating homebuyer opportunity areas. The Portland Development Commission and the Bureau of Housing and Community Development shall be consulted in the designation process. The designation of such areas shall occur in the form of a public hearing conducted before the City Planning Commission through a legislative process appealable to City Council. If there is no appeal within 30 days of the decision by the Planning Commission, the decision shall be final. The Bureau of Planning shall make available maps indicating current homebuyer opportunity areas. The designation of the first homebuyer opportunity areas shall be conducted as nearly as possible in conjunction with the adoption of this ordinance implementing tax exemption in such designated areas. From the date of the first designation, a review of the areas for possible amendment of the boundaries of the homebuyer opportunity areas shall occur at least every three years.
- B.** The criteria for designating homebuyer opportunity areas shall include a consideration of the following factors:

  - 1.** The area is primarily a residential area of the city which is detrimental to the safety, health and welfare of the community by reason of deterioration, inadequate or improper facilities; the existence of unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multi-family residential units; or any combination of these or similar factors; and,
  - 2.** The incentive of limited property tax exemption in a homebuyer opportunity area will help to carry out adopted policies, or area-wide or district plans of the city related to housing or neighborhood revitalization.

- C.** At no time shall the cumulative land area within the boundaries of homebuyer opportunity areas exceed 20 percent of the total land area of the city.
- D.** The Bureau of Planning shall also establish the price limit of newly constructed single-unit housing eligible for the limited property tax exemption as provided by this Chapter. The price limit shall not exceed 120 percent of the median sales price of single-family homes located within the city. The median sales price shall be determined, with assistance by the County Assessor, using the sales data collected under ORS 309.200 for the period ending the prior November 30 relative to single-family homes. In addition, the Bureau of Planning may use data made available by the real estate and construction or other appropriate industry. The median sales price shall be established by resolution prior to January 1 of each year during the effective time of this program.

**3.102.100 Sunset of the Exemption for Owner-Occupied Rehabilitation and New Single-Unit Residences in Distressed Areas.**

(Repealed by Ordinance No. 170667, effective Oct. 23, 1996.)

**Chapter 3.103**

**PROPERTY TAX EXEMPTION FOR  
NEW TRANSIT SUPPORTIVE  
RESIDENTIAL OR MIXED USE  
DEVELOPMENT**

(New Section added by  
Ordinance No. 170667,  
effective Oct. 23, 1996)

**Sections:**

- |           |                              |
|-----------|------------------------------|
| 3.103.005 | Purpose.                     |
| 3.103.010 | Definitions.                 |
| 3.103.020 | Eligible Projects and Sites. |
| 3.103.025 | Pre-application Procedure.   |
| 3.103.030 | Application Procedure.       |
| 3.103.040 | Public Benefits.             |
| 3.103.045 | Approval Criteria.           |
| 3.103.050 | Review of Application.       |
| 3.103.060 | Exemption.                   |
| 3.103.070 | Termination.                 |

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- 3.103.080 Extension of Deadline.
- 3.103.090 Implementation.

#### **3.103.005 Purpose.**

The purposes of this property tax exemption are to encourage the development of high density housing and mixed use projects affordable to a broad range of the general public on vacant or underutilized sites within walking distance of light rail or fixed route transit service, and to enhance the effectiveness of the light rail or fixed route transit system.

#### **3.103.010 Definitions.**

As used in this Chapter:

- A. “Full funding agreement”** means an agreement executed by the Federal Transit Administration or other U.S. governmental agency which contains the terms and conditions applicable to the approval of a light rail project and the grant of federal funds for that project, which includes construction of planned stations and other light rail facilities.
- B. “Light rail station area”** means an area defined, for the purposes of this Chapter, to be within a one-quarter mile radius of an existing or planned light rail station. A planned light rail station shall be defined as one that has achieved a full funding agreement.
- C. “Multiple-unit housing”** means newly constructed structures, stories or other additions to existing structures, and structures converted in whole or in part from other uses to dwelling units that meet the following criteria:
  - 1.** The structures must have eight or more dwelling units.
  - 2.** The structures must not be designed or used as transient accommodation, including but not limited to hotels and motels.
  - 3.** The structures must contain design elements benefiting the general public as specified in Section 3.103.040.
  - 4.** The structures must:
    - a.** Enhance the effectiveness of the light rail or fixed route transit system by providing pedestrian connection to a light rail line or mass transportation system; and

- b. Contain housing units with rental rates or purchase prices which are accessible to a broad income range of the general public; and/or
  - c. Provide alternative public benefits and design features which further the purposes of this Chapter as demonstrated by compliance with the provisions of Section 3.103.040.
- D. **“Pedestrian connection”** means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian connection may also include rights-of-way or easements for future pedestrian improvements.
- E. **“Transit oriented area”** means an area defined in a local transportation, community, neighborhood or other local or regional plan to be within one-quarter mile of a fixed route transit service including bus lines.

### **3.103.020 Eligible Projects and Sites.**

(Amended by Ordinance Nos. 174326, 177921, 178286 and 179844, effective December 21, 2005.)

- A.** The property tax exemption permitted by this Chapter is intended to benefit projects that emphasize:
- 1.** The development of vacant or underutilized sites rather than sites where sound or rehabilitable multiple-unit housing exists;
  - 2.** The development of multiple-unit housing, with or without parking, in structures that may include ground-level commercial space;
  - 3.** The development of multiple-unit housing, with or without parking, on sites with existing single-story commercial structures;
  - 4.** The development of multiple-unit housing, with or without parking, on existing surface parking lots; and
  - 5.** The development of units at rental rates or purchase prices which are accessible to a broad income range of the general public.

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- B.** Eligible projects shall be constructed or converted after the date of adoption of this program, and completed on or before January 1, 2012.
- C.** For the purposes of this Chapter, eligible sites must be located within the following areas:
  - 1.** Light rail station areas within a one-quarter mile radius of an existing light rail station or a light rail station under construction on or before January 1, 1999, except that the site must be located outside the boundaries of the Central City Plan District as shown on Map 510-1 of Chapter 33.510 of the Portland Zoning Code. The distance from an eligible light rail station shall be measured from the center line of the right-of-way on which the station is located or from the center point of the intersection of one or more rights-of-way, as appropriate. Maps showing these areas are found at the end of this Chapter as Maps 3.103-1 through 3.103-5. If a portion of the project site falls within the one-quarter mile distance, the entire site shall qualify as a property eligible to apply for this exemption; and
  - 2.** Transit oriented areas within the Gateway Plan District as included on Map 526-1 of Chapter 526 of Title 33, Planning and Zoning, and shown at the end of this Chapter as Maps 3.103-5 (1 of 2 and 2 of 2); and
  - 3.** Transit oriented areas within the Lents Town Center as delineated on Map 11 of the adopted Outer Southeast Community Plan and shown at the end of this Chapter as Maps 3.103-6 (1 of 4 through 4 of 4).
  - 4.** Transit oriented areas within the Hollywood Plan District as delineated in Chapter 33, Map 536-1 and in the *Hollywood and Sandy Plan*, Map 536-1, and shown at the end of this Chapter as Map 3.103-2.
  - 5.** Transit oriented areas within a portion of the Northwest Plan District as shown at the end of this Chapter on Map 3.103-7.
- D.** In addition to the eligible areas noted above, the following criteria apply to individual projects:
  - 1.** Projects located on sites zoned R5, R7, R10, R20, or RF Single Dwelling Zones, as defined by Title 33, Planning and Zoning, are not eligible for the property tax exemption permitted by this Chapter.
  - 2.** Multiple-unit projects which do not include ground floor commercial space must contain at least 35 housing units per net acre of site area to be eligible for the property tax exemption permitted by this Chapter.



3. Mixed use projects containing ground floor commercial space must incorporate at least two times the amount of residential floor area to non-residential floor area and contain at least 20 housing units per net acre of site area.
  4. For the purposes of this Chapter, a rowhouse or townhouse development containing for sale or rental units is eligible so long as all other eligibility criteria of this Chapter are met.
- E.** All eligible projects shall demonstrate that property tax exemption is necessary to achieve economic feasibility for the residential use, taking into account the additional costs incurred by the design features, public benefits, or minimum densities required in return for the incentives allowed by this Chapter.
- F.** The City shall periodically review the areas eligible for the exemption granted to transit supportive development in response to transportation and/or community planning and policy initiatives which indicate the need to encourage desired development in other light rail station areas or transit oriented areas as defined in this Chapter. The basis for considering the inclusion of new light rail station areas shall be the establishment of a full funding agreement.

**3.103.025 Pre-application Procedure.**

- A.** A pre-application meeting will be required with the Portland Development Commission staff prior to submitting a complete application. On forms provided by staff, the prospective applicant shall include the following:
1. A schematic drawing, showing the site plan, including major features and dimensions of the proposed development;
  2. A statement describing the location of the proposed development; the number, size, and type of individual dwelling units; a preliminary pro forma showing expected rents or purchase prices of the dwelling units; the dimensions of the multiple-unit structure(s); the approximate amount of floor area dedicated to the types of uses envisioned; public and private access; parking and circulation plans; a description of the public benefits proposed; and any additional information that would demonstrate the eligibility of the project for the property tax exemption, including its physical and functional connection to the nearest transit service. However, certain items of information may be waived for projects under design or if applicants request guidance in order to submit material sufficient for a complete application.

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- B.** Prior to the meeting, the staff shall review the information supplied and contact, for purposes of facilitating the application process, those bureaus, bodies, or other governmental agencies which may be affected by, or have an interest in, the proposed development.
- C.** The applicant shall meet with staff and discuss the proposed development. Thereafter, the Development Commission staff shall provide the applicant with a summary of the meeting, including recommendations designed to assist the applicant in the preparation of the exemption application. Staff guidance shall be provided indicating the minimum requirements for meeting the provisions of Section 3.103.040 of this Chapter.

#### **3.103.030 Application Procedure.**

- A.** A person seeking an exemption under the terms of this Chapter shall apply to the Portland Development Commission not later than September 1 of the calendar year immediately prior to the first assessment year for which the exemption is requested. The application for the exemption shall be on forms prescribed by the Commission staff and include the following information:
  - 1.** The applicant's name, address, and telephone number;
  - 2.** A legal description of the property and property account number;
  - 3.** A detailed description of the project, including the number, size, and type of dwelling units; dimensions of the multiple-unit structure(s), parcel size, proposed lot coverage of building, and amount of open space; type of construction; expected rents or purchase prices of the dwelling units; public and private access; parking and circulation plan; number of residential and commercial off-street parking spaces; the source of water and proposed method of sewage disposal; other utilities requirements; landscaping; proposed amount of floor area dedicated to residential and nonresidential uses; a description of the public benefit(s) prescribed in 3.103.040 included in the project; and economic feasibility studies or market analysis, when appropriate. In addition, the application shall contain a detailed construction and operating cost analysis to demonstrate the applicant's economic need for the tax exemption. Evidence of cost comparisons may be required when appropriate;
  - 4.** A description of the existing use of the property, including if appropriate a justification for the elimination of existing sound and rehabilitable housing;

5. A site plan and supporting maps, drawn to a minimum scale of one inch equal to 16 feet, or a scale suitable for reproduction on 8-1/2" by 11" paper, showing the development plan of the entire project including streets, driveways, sidewalks, pedestrian ways, off street parking, loading areas, location, design, and dimension of structures, use of land and structure(s), major landscaping features, existing and proposed utility systems, including sanitary and storm sewers, water, electric, gas and telephone lines; and
  6. Such other information required by state or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter, including a demonstration of the project's physical and functional connection to the nearest transit service.
- B.** Concurrent with the submission of the application, an application fee as established by the Portland Development Commission shall be required.

**3.103.040 Public Benefits.**

- A.** Purpose. The purpose of this Section is to achieve the type of higher density, transit oriented development desired by the adoption of this Chapter in addition to furthering other public policy goals of the City and the County. Therefore, a number of options are presented to the applicant in order to achieve one or more public benefits.
- B.** Except for the provisions of Section 3.103.040 D below, all rental projects containing more than 15 units applying for the exemption under the terms of this Chapter must include within the project and for the term of the exemption at least 20 percent of the units for rent at rates which are affordable to households earning 60 percent or less of the area median income.
1. For the units affordable to households earning 60 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 60 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 60 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.

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2. Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate which does not exceed 30 percent of the monthly gross income for a family earning 60 percent or less of the area median income.
- C. All projects containing housing units available for individual purchase shall receive the property tax exemption only for those for-sale units which are available at an initial purchase price which does not exceed 95 percent of the median purchase price for a condominium unit in Multnomah County as established by the U.S. Department of Housing and Urban Development for the purpose of determining FHA loan qualification. The unit must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
1. In order to qualify for this exemption, such units must be owner-occupied during the term of the exemption. Should any unit become available for sale during the term of the exemption, it must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
- D. As an alternative to the provisions of Section 3.103.040 B above, the project may instead provide one or more of the following public benefits, except that projects containing 15 or fewer units are exempt from the provisions of Section 3.103.040 B, above, and need include only one of the following public benefits:
1. At least 10 percent of the rental units must be affordable to households earning 30 percent or less of the area median income according to the equivalent formulas for determining affordable rent and household size as described in Sections 3.103.040 B. 1 and 2 above; or
  2. At least 20 percent of the rental units must be dedicated during the term of the exemption by covenant to households which include persons with special needs, such as the mentally or physically disabled or other categories of persons as defined by the Federal Fair Housing Amendments Act of 1988; or

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3. At least 20 percent of the rental units must include three or more bedrooms; or
  4. The project must provide child care on-site or support child care through a service provider with a facility located within 1200 feet of a light rail station or within 400 feet of a transit stop at 25 percent of the annual value of the property tax exemption for each year of the term of the exemption, such in-lieu support being dedicated to project residents or other households earning 60 percent or less of the area median income; or
  5. The project must provide a residential unit per acre density equivalent to at least 80 percent of the applicable maximum density as allowed by the base zone as established by Title 33, Portland Zoning Code, except that this alternative shall not be available to projects on sites with R1 zoning. For sites with RH, IR, CN, CO, CM, CS, or CG zoning, this requires at least 68 units per net acre. For sites with RX, CX, EX, or other zoning, this requires at least 139 units per net acre.
- E.** In addition to the applicable provisions of Sections 3.103.040 A through D above, the project must include at least one of the following:
1. Ground floor service or commercial use which is permitted and serves project residents, neighboring residents, and transit riders; or
  2. Office space or meeting room for community organizations; or
  3. Publicly accessible open space such as a landscaped plaza; or
  4. Family oriented recreational facilities for the children of project residents; or
  5. Transit amenities and transit or pedestrian design elements such as benches, bus shelters, directional signs, or an off-site pedestrian connection from the project to the nearest transit service.
- F.** Staff from the Portland Development Commission shall confer, at a minimum, with the staffs of the Planning Bureau and the Office of Transportation for advice and confirmation regarding compliance with the relevant public benefits, plan policies, and transit oriented design features applicable to the project. Other bureaus or agencies indicating interest shall also be invited to comment. Written comments received from staff shall be entered into the record of the adopting report and recommendation presented before the City Council.

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- G.** The City Council shall specify the public benefits and transit oriented design features which are to be included in the proposed project. If the applicant fails to agree to include the public benefits as specified by the Council, the application shall be denied.

#### **3.103.045 Approval Criteria.**

An application may be recommended for approval if the Portland Development Commission staff establishes conditions which ensure that:

- A.** The project contains one or more of the public benefits described in Section 3.103.040;
- B.** The project containing these public benefits, affordable units, and/or transit oriented design features would not otherwise be financially feasible without the benefit provided by the property tax exemption;
- C.** The construction project will, at the time of completion, conform with the applicable provisions of Titles 17, 24, 32, 33, 34; and
- D.** The applicant has complied with Sections 3.103.010, 3.103.020, 3.103.030, and 3.103.040.

#### **3.103.050 Review of Application.**

- A.** Within 80 days of receipt of a complete application, the staff of the Portland Development Commission shall recommend to the Portland City Council that the application be denied or approved subject to conditions. Portland Development Commission staff may require modifications to the project design in order to further the public goals of this Chapter.
- B.** If the recommendation is for approval, the report and recommendation shall contain a resolution stating the terms and conditions of approval, which shall be made available to the applicant, the City Council, and any interested agencies or individuals at least 14 days prior to consideration of the recommendation at a hearing conducted before the City Council.
- C.** The City Council shall review the application and deny or approve it subject to conditions. Final action upon the application shall be in the form of a resolution that shall include: the owner's name and address; a description of the multiple-unit housing; the legal description of the property and the Assessor's property account number; and all conditions imposed and upon which approval of the application is based. An application not acted upon within 180 days from the date of application shall be deemed approved.

- D.** If the application is denied, a notice of denial shall be sent to the applicant within 10 days following the denial. The notice shall state the reasons for denial.
- E.** If the application is approved, the Portland Development Commission staff shall file with the Assessor a copy of the resolution approving the application.

**3.103.060 Exemption.**

- A.** Except as provided for under subsection B., multiple-unit housing for which an exemption has been approved under the terms of this Chapter shall be exempt from ad valorem taxation for up to 10 successive years beginning July 1 of the year immediately following the calendar year in which construction is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption. The exemption shall not include the land upon which the project is located, nor any improvement not part of the multiple-unit housing except for those improvements deemed a public benefit as specified in 3.103.040. The exemption provided in this section shall be in addition to any other exemption provided by law.
- B.** In the case of a structure converted in whole or in part from other uses to multiple family, only the increase in value attributed to the conversion shall be eligible for the exemption.
- C.** In either case, the value of the exemption shall not exceed 100 percent of its real market value.

**3.103.070 Termination.**

(Amended by Ordinance Nos. 178286 and 179844, effective December 21, 2005.) If, after an application has been approved under this Chapter, the City finds that the work was not completed on or before January 1, 2012; that any provision of this Chapter has not been complied with; or that any agreement by the owner or requirement imposed is not being satisfied; the Portland Development Commission staff shall send a notice of proposed termination of the exemption to the owner's last known address.

- A.** The notice shall state the reasons for the proposed termination, and shall require the owner to appear before the City Council at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.
- B.** If the owner fails to show cause why the exemption should not be terminated, the City Council shall adopt a resolution terminating the exemption. A copy of the resolution shall be filed with the County Assessor and a copy sent to the owner at his last known address within 10 days after its adoption.

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- C.** If the owner does not seek review of the termination of an exemption pursuant to ORS 34.010 to 34.100, upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.207 to 311.213, to provide for the assessment and taxation of any property for which exemption was terminated by the City or by a court, in accordance with the finding of the City or the court as to the assessment year in which the exemption is first to be terminated. The County Assessor shall make such valuation of the property as shall be necessary to permit such correction of the rolls. The owner may appeal any such valuation in the same manner as provided for appeals under ORS 311.207 to 311.213. Where there has been a failure to comply with ORS 307.670, the property shall become taxable beginning July 1 of the calendar year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th of the month next following the month of correction. If not paid within such period, the additional taxes shall be delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made.

#### **3.103.080 Extension of Deadline.**

(Amended by Ordinance Nos. 178286 and 179844, effective December 21, 2005.) Notwithstanding the provision of 3.103.070, if the City finds that construction of the multiple-unit housing was not completed by January 1, 2012, due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the City may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

#### **3.103.090 Implementation.**

The Portland Development Commission shall establish procedures and prepare forms for implementation, administration, and monitoring for compliance with the provisions of this Chapter.



**Chapter 3.104**

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

(Substituted by Ordinance No. 162854,  
effective Mar. 22, 1990.)

**Sections:**

- 3.104.010 Eligible Property.
- 3.104.020 Pre-application Conference.
- 3.104.030 Application Procedure.
- 3.104.040 Public Benefits.
- 3.104.045 Approval Criteria.
- 3.104.050 Review of Application.
- 3.104.055 Rate of Return Analysis
- 3.104.060 Exemption.
- 3.104.070 Termination.
- 3.104.080 Extension of Deadline.
- 3.104.085 Program Review.
- 3.104.090 Implementation.

**3.104.010 Eligible Property.**

(Amended by Ordinance Nos. 170667, 178286 and 179844, effective December 21, 2005.) To be eligible for the property tax exemption provided for by this Chapter a structure must meet all of the following criteria:

- A.** Be a multiple-unit structure having 10 or more dwelling units, and that include design elements benefiting the public as described in this Chapter and approved by City Council, including new construction and structures converted in whole or part from other uses, but not designed, used or intended to be used as transient accommodations, hotels or motels.
- B.** Be constructed after July 1, 1975, and completed on or before January 1, 2012; and
- C.** Located within either of the following described areas:
  - 1.** The Central City Plan District boundary as shown on Map A. Portland City Code Chapter 33.702; or

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2. Within the boundaries of any urban renewal or redevelopment area formed pursuant to ORS Chapter 457.
- D. Demonstrate that property tax abatement is required to achieve economic feasibility for the residential use intended.

#### **3.104.020 Pre-application Conference.**

- A. An applicant shall request a pre-application conference with the Bureau of Planning, and at least 14 days prior to the date scheduled for the conference the applicant shall submit, on forms provided by the Bureau, the following:
  1. A schematic drawing, showing the site plan, including major features and dimensions of the proposed development;
  2. A statement describing the location of the proposed development; the number, size and type of individual dwelling units; the dimensions of the multiple-unit structure(s), public and private access; parking and circulation plans; the source of water and proposed method of sewage disposal; landscaping; proposed residential and nonresidential uses; and a description of the public benefit prescribed in 3.104.040.
- B. Prior to the conference, the Bureau shall review the information supplied and contact, for purposes of facilitating the application process, those bureaus, bodies, or other governmental agencies which may be affected by, or have an interest, in the proposed development.

The applicant shall meet with staff and discuss the proposed development. Thereafter, the Bureau shall provide the applicant with a summary of the meeting, including recommendations designed to assist the applicant in the preparation of the exemption application.

#### **3.104.030 Application Procedure.**

(Amended by Ordinance Nos. 170667, 171977 and 179487, effective August 10, 2005.)

- A. A person seeking an exemption under the terms of this Chapter, shall apply to the Bureau of Planning not later than September 1 of the calendar year immediately prior to the first assessment year for which the exemption is requested. The application for the exemption shall be on forms prescribed by the Bureau and include the following information:
  1. The applicant's name, address and telephone number;
  2. A legal description of the property and property account number;

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3. A detailed description of the project including the number, size and type, of dwelling units; dimensions of the multiple-unit structure(s), parcel size, proposed lot coverage of buildings, and amount of open space; type of construction; public and private access; parking and circulation plans; the source of water and proposed method of sewage disposal; other utilities requirements; landscaping; proposed residential and nonresidential uses; a description of the public benefit(s) prescribed in 3.104.040 included in the project. The applicant shall provide cost comparisons and market studies if requested.  
In addition, the application shall contain a detailed construction and development cost analysis, sources and uses of funds analysis, operating income and expense analysis, and projected ten-year operating cash flow analyses for two scenarios: (1) modeling the project's operations with the tax abatement and (2) modeling the project's operations without the tax abatement. Each of these projected ten-year operating cash flow analyses shall include a calculation of the internal rate of return for the project. Internal rate of return is the annual discount rate, expressed as a percent, on a series of annual cash flows at which the net present value of an initial investment is equal to zero. The foregoing economic analyses shall be used to demonstrate the applicant's economic need for the tax exemption. In determining this economic need the Portland Development Commission shall verify the applicant's projected internal rate of return for the project based on invested cash, equity, economic conditions, and other related factors as prescribed in Section 3.104.050 B.
  4. A description of the existing use of the property, including if appropriate a justification for the elimination of existing sound and rehabilitable housing;
  5. A site plan and supporting maps, drawn to a minimum scale of one inch equal to 16 feet, showing the development plan of the entire project including streets, driveways, sidewalks, pedestrian ways, off street parking, loading areas, location, design, and dimension of structures, use of land and structure(s), major landscaping features, existing and proposed utility systems, including sanitary and storm sewers, water, electric, gas and telephone lines; and
  6. Such other information required by state or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter.
- B.** Concurrent with the submission of the application, an application fee as determined by the Bureau of Planning and the Portland Development Commission shall be required. In addition to the application fee, the applicant may be required

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to pay such other reasonable costs, including appraisal costs, incurred by the Assessor in processing the application. The Bureau of Planning shall collect any additional cost and pay the Assessor for the additional costs.

#### **3.104.040 Public Benefits.**

(Amended by Ordinance Nos. 178740 and 179487, effective August 10, 2005.)

- A.** Purpose. The purpose of this Section is to achieve the type of higher density, transit oriented development in the Central City and urban renewal areas desired by the adoption of this Chapter in addition to furthering other public policy goals of the City and the County. Therefore, a number of options are presented to the applicant in order to achieve one or more public benefits.
- B.** All rental projects containing more than 15 units applying for the exemption under the terms of this Chapter must include within the project and for a term of up to 15 years, but in no event less than the term of the exemption, at least 15 percent of the units for rent at rates which are affordable to and restricted to households earning 80 percent or less of the area median income. These affordable units shall be subject to an Extended Use Agreement (EUA) requiring that they be rented in accordance with these rent and income restrictions for a period that is 5 years longer than the tax abatement period (for example, a 10-year tax abatement period would result in a 15-year EUA). The EUA will be recorded against the property and will appear as a lien on the property's title. Compliance with the EUA shall be certified by the owner to the Portland Development Commission on a yearly basis. The EUA will be administered as described in Section 3.104.055.
  - 1.** For the units affordable to households earning 80 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 80 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 80 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.
  - 2.** Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four

persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate, which does not exceed 30 percent of the monthly gross income for a family earning 80 percent or less of the area median income.

- C.** All projects containing housing units available for individual purchase shall receive the property tax exemption only for those for-sale units which are available at an initial purchase price which does not exceed 95 percent of the Federal Housing Administration mortgage maximum for a single unit in the Portland Metropolitan area. The unit must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
- 1.** In order to qualify for this exemption, such units must be owner-occupied during the term of the exemption. Should any unit become available for sale during the term of the exemption, it must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
- D.** In addition to the applicable provisions of Sections 3.104.040 B. and C. above, the project must include at least one of the following:
- 1.** Open spaces available to the general public;
- 2.** Day care facilities;
- 3.** Permanent dedications for public use;
- 4.** LEED Silver certification from the US Green Building Council;
- 5.** 20 percent of the rental units have 3 or more bedrooms;
- 6.** A total of 25 percent of the rental units are affordable to households at 80 percent MFI; or
- 7.** Other public benefits approved by the Planning Commission and the City Council. The City Council shall specify the public benefit which is to be included in the proposed project. If the applicant fails to agree to include the public benefit as specified by the Council, the application shall be denied.

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#### **3.104.045 Approval Criteria.**

An application may be approved if the reviewing body finds:

- A.** The construction includes one or more design elements specified in Section 3.104.040;
- B.** The construction project will at the time of completion, conform with the provision', of Titles 24, 32, 33, 34, and the Comprehensive Plan; and
- C.** The applicant has complied with 3.104.010, 3.104.020, 3.104.030, and 3.104.040.

#### **3.104.050 Review of Application.**

(Amended by Ordinance Nos. 178740 and 179487, effective August 10, 2005.)

- A.** The Bureau of Planning shall send the Portland Development Commission a copy of the application within 10 days of its submission to the Bureau.
- B.** The Portland Development Commission shall thereupon review the application for economic feasibility and economic need and make a recommendation within 60 days thereafter recommend to the Planning Commission that the application be approved, denied, or approved subject to conditions. If the anticipated internal rate of return for the project for the period of the exemption exceeds ten percent, the Portland Development Commission shall recommend that the application be denied.
- C.** Within 60 days of the recommendation of the Portland Development Commission, the Planning Commission shall review the application to determine whether the proposed development is consistent with the City's Comprehensive Plan. A recommendation shall thereafter be forwarded to the City Council that the application be approved subject to those conditions necessary to achieve the purposes of this Chapter. The Planning Commission shall specify in its recommendation to the Council the scope and nature of public benefit recommended for the proposed project.
- D.** The City Council shall review the application within 180 days of the date of application and approve, deny, or approve subject to conditions. Copies of the application shall be supplied the City Council at least 14 days prior to the Council's review. Final action upon the application shall be in the form of an ordinance or resolution that shall include: the owner's name and address; a description of the multiple-unit housing; the legal description of the property and the Assessor's property account number; and all conditions imposed and upon which approval of the application is based.

- E.** If the application is denied, a notice of denial shall be sent to the applicant within 10 days following the denial. The notice shall state the reasons for denial.
- F.** If the application is approved, the Bureau of Planning shall on or before the ensuing April 1 file with the Assessor a copy of the ordinance or resolution approving the application.
- G.** If the application is approved, the recipient(s) of the tax exemption must agree to a condition of approval to provide financial information to the Portland Development Commission by July 1 in years 5 and 9 of the tax exemption and two years after the tax exemption has expired. The purpose of this requirement is to provide information to the Planning Commission and City Council for their review of the program described in 3.104.085. The Bureau of Planning will notify tax exemption recipients and the Portland Development Commission 60 days in advance of the reporting requirement. Recipients will submit the required information on the Portland Development Commission's Electronic Operating Statement (EOS) or similar form that might replace the EOS. Portland Development Commission staff will review the statement and prepare a report within 60 days that will then be forwarded to the Bureau of Planning. Bureau of Planning staff will periodically convey these reports to the Planning Commission for use in their review described in 3.104.085.

**3.104.055 Rate of Return Analysis.**

(Added by Ordinance No. 179487, effective August 10, 2005.)

- A.** The owner shall provide financial data on an annual basis to the Portland Development Commission for each tax year that the exemption is in effect. The financial data shall be provided to the Portland Development Commission no later than 120 days from the close of the owner's fiscal year. The financial data shall include, but is not limited to, full project-based financial statements, Internal Revenue Service tax information, a ten-year operating cash flow statement showing actual cash flow for all prior years and the current year and shall include a to-date calculation of the internal rate of return for the project, and any other information deemed necessary by the Portland Development Commission to calculate or otherwise evaluate the owner's internal rate of return for the project.
- B.** For each year of the exemption, the Portland Development Commission shall prepare an annual analysis of the owner's financial data within 90 days of receipt of all required financial data from the owner. The analysis shall include a to-date calculation of the internal rate of return for the project. The Portland Development Commission shall calculate the internal rate of return by the same method utilized in its initial recommendation for the tax abatement.

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- C.** The Portland Development Commission shall advise the owner annually in writing as to whether the financial analysis demonstrates that the projected internal rate of return for the project will exceed ten percent for the entire exemption period and could result in an Accrued Payment Liability ("APL") as calculated pursuant to Section 3.104.055 D.
- D.** The EUA will be terminated at the end of the tax abatement period, if the internal rate of return for the project is less than or equal to 10 percent. If the 10-year internal rate of return for the project is greater than 10 percent, then:
- 1.** the EUA shall be maintained on a portion or all of the units covered by the EUA as calculated in Section 3.104.055; or
  - 2.** the property owner shall pay an APL that shall be paid as calculated pursuant to this Section.

If as a result of the analysis prepared after the final year of the exemption, the Portland Development Commission has calculated that the internal rate of return during the term of the exemption has exceeded ten percent, the Portland Development Commission shall notify the Bureau of Planning. The Bureau of Planning shall send a notice to the last known address of the owner stating that the owner, at its option, shall either pay the APL to the City in order to have the EUA terminated or, alternatively, be subject to the EUA for the remainder of the EUA as calculated in this Section.

The amount of the APL shall be equal to (1) the net present value, using a 10 percent annual discount rate of the difference between the project's actual annual cash flows over the abatement period and the proforma projected cash flows for the project that would provide a 10 percent internal rate of return for the abatement period or (2) equal to the maximum amount of property taxes that would have been assessed if no exemption had been granted, whichever is less.

If the internal rate of return for the project is calculated to be greater than 10 percent and the project owner elects not to pay the APL, then the EUA will be maintained on the number of units required to reduce net present value, using a 10 percent annual discount rate, of the project's projected market-rate (unrestricted) annual cash flows, during the 5-year EUA period after the end of the tax abatement period, by an amount equal to the APL.

#### **3.104.060 Exemption.**

(Amended by Ordinance Nos. 170667 and 179487, effective August 10, 2005.)

- A.** Except as provided for under Subsection 3.104.060 B., multiple-unit housing for which an exemption has been approved under the terms of this Chapter shall be exempt from ad valorem taxation for up to 10 successive years beginning July 1 of the year immediately following the calendar year in which construction is



completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption shall not include the land upon which the project is located, nor any improvement(s) not part of the multiple-unit housing except those improvements deemed a public benefit as specified in 3.104.040. The exemption provided in this section shall be in addition to any other exemption provided by law.

- B.** In the case of a structure converted in whole or in part from other uses to multiple family, only the increase in value attributed to the conversion shall be subject to the exemption

**3.104.070 Termination.**

(Amended by Ordinance Nos. 170667, 178286, 179487 and 179844, effective December 21, 2005.) If, after an application has been approved under this Chapter, the City finds that the work was not completed on or before January 1, 2012; that any provision of this Chapter has not been complied with; including a determination by the Portland Development Commission as provided in Section 3.104.055 that the internal rate of return for the project exceeds ten percent for the exemption period; or that any agreement by the owner or requirement imposed by Council is not being satisfied, the Bureau of Planning may send a notice of proposed termination of the exemption to the owner's last known address.

- A.** The notice shall state the reasons for the proposed termination, and shall require the owner to appear before the City Council at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.
- B.** If the owner fails to show cause why the exemption should not be terminated, the City Council shall adopt an ordinance or resolution terminating the exemption. A copy of the ordinance or resolution shall be filed with the County Assessor and a copy sent to the owner at his last known address, within 10 days after its adoption.
- C.** If the owner does not seek review of the termination of an exemption pursuant to ORS 34.010 to 34.100, upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.205 to 311.235, to provide for the assessment and taxation of any property for which exemption was terminated or modified by the City or by a court, in accordance with the finding of the City or the court as to the assessment year in which the exemption is first to be terminated. The County Assessor shall make such valuation of the property as shall be necessary to permit such correction of the rolls. The owner may appeal any such valuation in the same manner as provided for appeals under ORS 311.207 to 311.213. Where there has been a failure to comply with ORS 307.670,

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the property shall become taxable beginning July 1 of the calendar year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th of the month next following the month of correction. If not paid within such period, the additional taxes shall be delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made.

#### **3.104.080 Extension of Deadline.**

(Amended by Ordinance Nos. 170667, 178286 and 179844, effective December 21, 2005.) Notwithstanding the provision of 3.104.070, if the City finds that construction of the multiple-unit housing was not completed by January 1, 2012, due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the City may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

#### **3.104.085 Program Review.**

(Added by Ordinance No. 178740, effective October 8, 2004.) The Planning Commission will review the program requirements every five years and make a recommendation to City Council on possible changes to the program. This review will take into consideration the information gathered from tax exemption recipients as required by 3.104.050 G. and any other information the Commission considers relevant.

#### **3.104.090 Implementation.**

The Bureau of Planning and the Portland Development Commission shall establish procedures and prepare forms for implementation and administration of this Chapter.

## **Chapter 3.105**

### **BULL RUN ADVISORY COMMITTEE**

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

**Chapter 3.106**

**EXPOSITION-RECREATION  
COMMISSION**

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

**Sections:**

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

**3.106.010 Commission Action.**

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

**3.106.020 Filing Copies of Resolutions with City Auditor.**

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

**3.106.030 Council Review.**

Except as provided in Section 3.106.040, resolutions of the Commission shall not become effective, if, within 10 days after the filing by the Exposition - Recreation Commission of a copy of a resolution with the City Auditor, a member of the City Council files a request with the Auditor for City Council review of the Commission action. Upon receipt of a request for City Council review of Commission action, the City Auditor shall forthwith notify the General Manager of the Exposition - Recreation Commission of the request for review and shall deliver to him a copy of the request for review. The Auditor shall place the resolution on the Council agenda for Council review at the next regular Council meeting. In placing the resolution on the Council calendar, the Auditor shall act consistently with the regular filing deadline for Council calendar items established by this Code; provided, the Council may review any Exposition - Recreation Commission

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resolution as a four-fifths item, or under suspension of Council rules. At the time of requesting Council review of Exposition - Recreation Commission action, the Council member shall state the reason such review is necessary and what action the Council should take on the matters.

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

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

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

#### **3.106.050 Council Initiation of Exposition - Recreation Commission Action.**

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

#### **3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.**

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

**3.106.070 Special Services Personnel as Special Police.**

(Added by Ordinance No. 151083; amended by Ordinance No. 176585, effective July 5, 2002.) Persons appointed as special services personnel shall be special police officers of the City and shall so serve. As special police officers, the special services personnel and the supervisor, shall have authority to issue citations for violations of parking or nonmoving traffic violations occurring on the Memorial Coliseum Complex premises and the Civic Stadium premises, and particularly they shall have authority to issue citations as provided for in Section 16.06.060, and shall have authority to sign citations forms as provided for in Section 16.06.010. In addition to authority to issue citations for parking or nonmoving traffic violations, special services personnel and their supervisors shall have authority to issue citations for violations of 14A.50.030, 14A.50.040 and 14A.50.050 occurring on the Memorial Coliseum Complex premises and the Civic Stadium premises. To the extent of the power and authority granted in this Section, such personnel and their supervisors shall exercise full police power and authority.

**Chapter 3.107**

**WATER QUALITY ADVISORY  
COMMITTEE**

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

**Sections:**

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

**3.107.010 Created - Appointment.**

(Amended by Ordinance No. 168939, effective June 14, 1995.) There hereby is created the Water Quality Advisory Committee. The Committee shall consist of nine members, appointed by the Commissioner In Charge of the Bureau of Water Works and confirmed by the Council. Appointments shall be for terms of 3 years except that 4 of the initial appointments shall be for terms of 2 years. When a vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill a new 3-year term. The Commissioner In Charge of the Bureau of Water Works may remove a member from

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the Committee at any time, subject to approval by the Council. The Commissioner In Charge of the Bureau of Water Works shall appoint members to the Committee with expertise or association in areas such as water quality, water treatment, public health policy, the environmental community, civic and business organizations, major industrial or commercial users, neighborhood associations and the public at large of which at least 3 members shall have relevant technical expertise. Committee members may serve a maximum of two 3-year terms, with the 4 appointees serving the initial terms of 2 years to serve a total maximum of 5 years. Within the maximum service limit of 6 years the Council may extend, for a period of less than 3 years, the terms of committee members who were appointed to serve or who have served the balance of a retiring committee member's term. All members shall serve without compensation from the City.

#### **3.107.020 Duties.**

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

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

#### **3.107.030 Meetings.**

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

#### **3.107.040 Chairperson.**

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

**3.107.050 Rules - Quorum.**

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

**3.107.060 Staff.**

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

**Chapter 3.110**

**BUREAU OF HYDROELECTRIC  
POWER**

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

**Sections:**

- 3.110.010 Creation and Function.
- 3.110.020 Jurisdiction.

**3.110.010 Creation and Function.**

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

**3.110.020 Jurisdiction.**

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

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### **Chapter 3.111**

#### **OFFICE OF SUSTAINABLE DEVELOPMENT**

(Added by Ordinance 157992,  
effective Feb. 18, 1986.)

##### **Sections:**

- 3.111.010 Creation.
- 3.111.020 Purpose and Function.
- 3.111.030 Solar Access Permit Policy.
- 3.111.040 Solar Access Permit Purpose.
- 3.111.050 Definitions.
- 3.111.060 Affected Zones.
- 3.111.070 Application for a Solar Access Permit.
- 3.111.080 Standards of Approval.
- 3.111.090 Procedure.
- 3.111.100 Issuance and Recordation.
- 3.111.110 Obligation Created by a Solar Access Permit: Assignment of Costs.
- 3.111.120 Enforcement.
- 3.111.130 Termination of a Solar Access Permit.
- 3.111.140 Reapplication for a Solar Access Permit.

##### **3.111.010 Creation.**

(Amended by Ordinance No. 174830, effective September 22, 2000.) There hereby is created an Office of Sustainable Development.

##### **3.111.020 Purpose and Function.**

(Amended by Ordinance Nos. 165281 and 174830, effective September 22, 2000.) The Office of Sustainable Development is created to assure proper City support for the City's energy policy, the Sustainable Portland Commission, and solid waste and recycling programs, and shall:

- A. Direct and evaluate energy policy and global warming action plan implementation;
- B. Administer and monitor direct City government energy efficiency activities;
- C. Review City policies and programs for consistency with the policy;
- D. Make recommendations to the Council on the policies and programs;



- E.** Create solar access permit forms and administer the solar access permit process as provided for in Sections 3.111.030 to 3.111.140;
- F.** Provide support for the activities of the Sustainable Portland Commission.
- G.** Accomplish other functions as required by the Commissioner In Charge.
- H.** Administer and monitor programs in support of sustainable development principles; and
- I.** Administer the City's solid waste and recycling programs.

**3.111.030 Solar Access Permit Policy.**

The City Council finds that the use of renewable resources, such as solar energy, is in the public interest and advances the general welfare, and that solar energy cannot be properly used if shade from vegetation on abutting lots is not controlled.

**3.111.040 Solar Access Permit Purpose.**

The purpose of the following Sections is to enable property owners with solar energy systems to preserve solar access to their systems by restricting the shade cast by certain types of vegetation on neighboring properties. The mechanism used to protect solar access shall be known as a solar access permit.

**3.111.050 Definitions.**

(Amended by Ordinance No. 174830, effective September 22, 2000.)

- A. Commission.** The Sustainable Portland Commission as authorized in Chapter 3.112.
- B. Director.** The Director of the Office of Sustainable Development or his or her designate.
- C. Exempt vegetation.** The following vegetation shall be exempt from any solar access permit height restrictions.
  - 1.** The mature breadth and height of vegetation listed on a solar access permit as existing on the date the application for the solar access permit is filed with the City.
  - 2.** All trees on the City's approved list of solar friendly trees.

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- D. Owner.** The deedholder of real property or the contract purchaser of real property of record as shown in the last available complete assessment roll in the office of the County Assessor; a person with a written power of attorney; a person with other specific written and notarized authorization to sign and file a solar access permit application. Owner shall include a deedholder or contract purchaser whose name does not appear in the last available complete assessment roll but who presents a deed or contract of sale showing date, book and page of recording to the Energy Office.
- E. Solar access permit.** A document that describes the maximum permitted height of nonexempt vegetation on properties to which the permit applies to protect solar access on the property of the permit applicant, to the extent authorized by the City. A solar access permit shall include, but is not limited to, the legal description of the properties benefited and restricted by the permit, a copy of the sunchart, solar access permit height limitations, and information listed in Section 3.111.070 B 5, 6 and 7.
- F. Solar access permit height limitations.** A series of contour lines rising in 5 foot increments at an angle to the south not less than 24 degrees from the horizon and extending at an angle not greater than 54 degrees east and west of true south, beginning at the bottom edge of a solar energy system for which a solar access permit is requested. For each affected property the height limitation at the northern lot line shall be no less than the height of shade from buildings allowed at the northern lot line by the solar setback for buildings required in Title 33.
- G. Solar energy system.** A device or combination of devices or elements that rely on direct sunlight as an energy source, including any substance or device that collects sunlight for the following uses: heating or cooling of a structure or building; heating or pumping of water; or, generating electricity. Examples of a solar energy system include the south wall and a solar hot water system. A solar energy system may be used for purposes in addition to collecting solar energy including but not limited to serving as a structural member or part of a roof of a building or structure and serving as a window or wall.
- H. Solar friendly trees.** Trees identified as not significantly blocking solar radiation in the winter months. The City maintains a list of solar friendly trees, according to provisions specified in Sections 3.26.090 and 3.89.030.
- I. Solar heating hours.** The hours and dates during which solar access is protected under a solar access permit, not to exceed those hours and dates when the sun is lower than 24 degrees altitude or greater than 54 degrees east or west of true south.

- J. South wall.** Any wall of a dwelling oriented no more than 45 degrees from due south.
- K. Sunchart.** A photograph or photographs, taken in accordance with guidelines issued by the director, which plot the position of the sun during solar heating hours. The sunchart shall contain at a minimum the southern skyline as seen through a grid which plots solar altitude for a 45-degree northern latitude in 10-degree increments and solar azimuth measured from true south in 15-degree increments. If the solar energy system is less than 20 feet wide, a minimum of one sunchart shall be taken from the center of the bottom edge of the system. If the solar energy system is 20 feet or wider, a minimum of two suncharts shall be taken, one from each end of the bottom edge of the system. A sunchart is the primary document for determining when a nonexempt tree has violated the terms of a solar access permit.
- L. True south.** Twenty-one degrees east of magnetic south.

**3.111.060 Affected Zones.**

An owner or property in a FF, R20, R10, R7, R5, R2.5, C4 or C5 zone may apply for, and be subject to, a solar access permit, except that a solar access permit may not be obtained for any property in these zones that is affected by or exempt from the solar envelope requirements contained in Title 33 and 34 of this Code.

**3.111.070 Applications for a Solar Access Permit.**

- A. Applicant.** An owner may submit an application for a solar access permit to protect solar access to a new or existing solar energy system located on the owner's real property.
- B. Contents of application.** An application for a solar access permit shall contain the following information:
  - 1.** A legal description of the lot on which the solar energy system is or will be situated.
  - 2.** Evidence that a solar energy system is installed or a written commitment to install the proposed energy system within 1 year of the effective date of the permit.
  - 3.** A scaled drawing of the solar energy system showing the energy system's dimensions.
  - 4.** A sunchart.

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- 5.** A plan of the applicant's property, drawn to scale, accurately showing the location of the following:
    - a.** Existing vegetation; and
    - b.** The solar energy system's height above grade, distance from property lines and orientation from true south.
  - 6.** The solar heating hours for which protection is sought.
  - 7.** A list of the lots, all or a portion of which, are within 150 feet as measured within 54 degrees east or west of true south of the solar energy system, including unbuildable areas, and the following information for each such lot:
    - a.** The solar factor determined in accordance with Section 33.530.050 D 2.;
    - b.** The legal description;
    - c.** The owner of record and his or her address; and,
    - d.** For each lot with a solar factor of 17 or greater, or in the case of a lot located in an R2.5 zone with a solar factor of 44 or greater, all existing vegetation.
  - 8.** For each affected lot, a description of the requested solar access permit height limitations.
  - 9.** A statement that the applicant tried and failed to reach a written and recorded agreement that would protect solar access similar to that which would be protected by a solar access permit with the property owners who would be affected by a solar access permit.
  - 10.** A statement that all weatherization measures shown by a certified energy audit as specified in Title 33 to have a simple payback in less time than the solar energy system, have been completed on the structure.
- C.** Fee. The fee to cover the costs of administration for the solar access permit will be established by the Energy Commission.
- D.** Filing; incomplete application.

1. An applicant shall file a written application for a solar access permit with the Energy Office on forms provided for this purpose. The applicant shall complete all portions of the forms. The Energy Office may require the applicant to submit drawings, topographic maps, photographs or other material essential for an understanding of the proposed permit.
2. An application shall not be deemed complete until the applicant has submitted all information required by the application forms and has paid the application fee.

**3.111.080 Standards of Approval.**

An application for a solar access permit shall be approved if the applicant satisfies each of the following:

- A. Application complete and accurate. The application is complete and the information contained in the application is accurate.
- B. Neighbor agreement. The applicant has tried and failed to reach written and recorded agreements with the property owners who would be affected by a solar access permit. Such agreements would protect quantity and quality for solar access similar to that protected by solar access permit and at a cost no greater than the City's application fee.
- C. On-site vegetation. No vegetation on the applicant's property is shading the solar energy system during the solar heating hours for which protection is requested except vegetation which is listed on the City's approved solar friendly tree list.
- D. Cost-effective weatherization. All weatherization measures shown by certified energy audit as specified in Title 33 to have a simple payback in less time than the solar energy system shall have been completed on the structure.

**3.111.090 Procedure.**

- A. Preliminary review.
  1. The director shall review an application for a solar access permit. If the director determines the application is complete, accurate and satisfies the standards contained in Section 3.111.080, the director shall follow the procedure described in Subsections B - D.

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2. If the director determines the application is not complete and accurate, the director shall notify the applicant in writing of the deficiencies and inaccuracies. On notice from the director that an application form is incomplete, the applicant shall provide the missing information and correct the inaccuracies before the application is processed further. If the applicant fails to submit the missing information or correct the inaccuracies within 30 days of the director's request and offers no good reason for doing so, the director shall deny the application.

#### **B. Notice.**

1. The director shall inform the City Auditor of the application and of the director's preliminary determination that the application satisfies the standards set forth in 3.111.090. The City Auditor shall compile a list of names and addresses of property owners within the affected area. The affected area is all real property identified in Section 3.111.070 B 7.
2. The City Auditor shall send notice of the permit application to the property owners in the affected area. The notice shall include:
  - a. Information required by Section 3.111.070 B 4. - 10.;
  - b. A description of the rights and responsibilities of owners of property subject to a solar access permit;
  - c. A statement that the director finds the application to be complete, accurate and in compliance with the standards set forth in Section 3.111.090, and that the director intends to approve the permit unless an affected party requests a hearing within 21 days of the date the notice was mailed;
  - d. A form to submit to the director to request a hearing; and
  - e. A telephone number to call for further information regarding the application.

#### **C. Request for hearing.**

1. Within 21 days of the date the notice was mailed, an affected party may request a hearing before the Energy Commission. An affected party is a person entitled to notice under Section 3.111.090 B 1, or his or her representative, who challenges the accuracy of the information contained in the application or contends the application fails to satisfy one or more of the standards contained in Section 3.111.080. A request for a hearing

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must be made in writing and must be filed with the Director within the 21-day period prescribed by this action. A request for a hearing must identify clearly the inaccuracies or deficiencies in the application. Failure to comply with all of these requirements will result in final review and approval of the application without a hearing.

2. If the director receives a timely request for a hearing, the director shall first request the applicant, the person(s) requesting a hearing and a representative of the Energy Office to attend a conference to informally resolve any objections to the application. The conference shall be held within 10 days of the date of receipt of a request for a hearing. The director shall send written notice of the conference to the applicant and the person requesting a hearing.
3. If the person(s) requesting a hearing still has objections to the application at the conclusion of the conference, a hearing shall be scheduled in accordance with Section 3.111.090 D. The hearing shall be held no later than 21 days after the date of the conference.
4. If the conference resolves any objections to the application or if no timely request for a hearing is received, the director shall approve the application. Such approval shall be granted in writing within 10 days of the date of the conference or within 10 days after the last date to request a hearing. The City Auditor shall mail a copy of the director's decision to all property owners in the affected area.

#### **D. Notice and hearing.**

1. The City Auditor shall send notice of the date, time and place of the hearing to all property owners within the affected area at least 14 days prior to the scheduled hearing date.
2. The Commission shall conduct a hearing according to the procedures established under Code Section 33.112.020 (7).
3. The Energy Commission shall decide whether or not the information contained in the application is complete and whether or not the application complies with the standards set forth in Section 3.111.080.
4. The Energy Commission shall issue a written decision approving or denying the permit application within 10 days after the date of the hearing. The decision shall explain the basis for approving or denying the permit application.

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### **ADMINISTRATION**

5. The City Auditor shall mail a copy of the Energy Commission's decision to all property owners in the affected area.

#### **3.111.100 Issuance and Recordation.**

- A. On the approval of an application, the director shall issue a solar access permit protecting the solar access described in the application.
- B. On receiving such a permit, the City shall, at the expense of the applicant:
  1. Record the solar access permit with the deeds to the applicant's lot and each neighboring lot identified in the application; and
  2. Record a copy of the approved application with the County recorder.
- C. The form of the solar access permit shall be as prescribed by the director and shall contain the information identified in Section 3.111.070 B 1-8.

#### **3.111.110 Obligation Created by a Solar Access Permit: Assignment of Costs.**

An owner of property restricted by solar access permit shall not permit nonexempt vegetation on his or her property to shade a solar energy system during protected solar heating hours. Each property owner affected by a solar access permit shall pay all costs for keeping the nonexempt vegetation trimmed and in compliance with the solar access permit.

#### **3.111.120 Enforcement.**

(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A. A solar access permittee may request the Bureau of Development Services to enforce the provisions of the solar access permit by providing the following information to the Bureau:
  1. A copy of the solar access permit;
  2. A current sunchart documenting nonexempt vegetation is shading the solar energy system during protected solar heating hours;
  3. The legal description of the lot on which the alleged nonexempt vegetation is situated, the address of the property owner, and a scaled plot plan showing the nonexempt vegetation on the lot;
  4. Evidence that the solar energy system still exists and is operating; and



5. A current sunchart and any other evidence necessary to show that nonexempt vegetation on the permittee's property is not shading the energy system during protected solar heating hours.
- B. Procedure. The Bureau of Development Services may enforce a valid solar access permit by instituting an action in accordance with Section 3.30.015 of this Code.
- C. Notwithstanding Subsections A. and B., the permittee may institute a private action in his or her own name to enforce the provision of a valid recorded solar access permit.

**3.111.130 Termination of a Solar Access Permit.**

- A. Basis for termination. The director shall terminate a solar access permit with respect to all or part of the neighboring lots restricted by the permit if a petition for termination is submitted by the permittee or the permittee's successor in interest, or the solar energy system is not installed within 12 months of the date of issuance of the permit.
- B. Notice. The director shall send the permittee a notice of termination. The notice shall contain:
  1. A brief description of the permit and the lots affected by the permit;
  2. A legal description of the lot(s) for which the permit is to be terminated; and
  3. If the termination is due to the permittee's failure to install a solar energy system within 12 months of the date of issuance of the permit, a statement that the permittee has a right to demonstrate to the director that the system has been substantially completed or installed.
- C. Recordation.
  1. Except as provided in Subsection 2. of this Section, within 30 days after the director mails the notice of termination, the director shall record a copy of the notice with the County clerk who shall record the termination of the solar access permit with the deeds to the permittee's lot and each neighboring lot identified in the permit.

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2. If the permittee demonstrates that the solar energy system has been substantially completed or installed, or will be substantially completed or installed within 30 days of the date of the notice of termination, the director shall not terminate the solar access permit.

### **3.111.140 Reapplication for a Solar Access Permit.**

- A. Except as provided in Subsection 2. of this Section, a permittee whose solar access permit has been terminated or an applicant whose application for a solar access permit has been denied may reapply for a solar access permit.
- B. A permittee whose permit has been terminated because the solar energy system protected by the permit has not been installed within 1 year of the effective date of the permit, may not reapply more than twice for a new permit prior to installation of the solar energy system.

## **Chapter 3.112**

### **SUSTAINABLE DEVELOPMENT COMMISSION**

(New Chapter substituted by  
Ordinance No. 167239,  
effective Dec. 29, 1993.)

#### **Sections:**

- 3.112.010 Sustainable Development Commission; Mission.
- 3.112.020 Powers and Duties.
- 3.112.030 Membership.
- 3.112.040 Officers.

### **3.112.010 Sustainable Development Commission; Mission.**

(Amended by Ordinance Nos. 168886 and 176207, effective February 15, 2002.) A sustainable community is one in which economic, ecological, and social well-being are integrated to ensure all live well, within nature's means. The mission of the Sustainable Development Commission is to develop and advocate for programs, policies, and actions by government, citizens, and businesses leading to sustainable communities in the Portland metropolitan area, including those that:

- A.** Support a diverse and vibrant economy;
- B.** Promote an equitable distribution of resources;
- C.** Protect and restore the integrity of the natural systems that support life, including air, water, and land;
- D.** Preserve the diversity of plant and animal life; and
- E.** Reduce human impacts on local and worldwide ecosystems.

**3.112.020 Powers and Duties.**

(Amended by Ordinance Nos. 168886, 176207 and 179680 effective October 19, 2005.)  
The Commission is not authorized to modify, limit or alter any permit or regulatory process of any City or County office or bureau. Subject to that limitation, in order to carry out its mission, the Commission is authorized to:

- A.** Work closely with the Jurisdiction on respective Sustainable Government Initiatives including review and recommendations on Sustainability Plans;
- B.** Advise the Jurisdictions on the creation, maintenance and marketing of a “Sustainable Community Report Card” to inform residents and businesses about how we are doing as a community related to a specific set of sustainability indicators;
- C.** Help enhance sustainable economic development through public forums, media outreach and public speaking opportunities;
- D.** Advise and make recommendations to the Portland City Council and the Multnomah County Board of Commissioners on policies and programs that create sustainable communities;
- E.** Articulate and promote long-range goals and objectives for developing and achieving sustainable communities;
- F.** Promote sustainable communities among citizens, businesses, governmental agencies and community-based organizations;
- G.** Develop opportunities for all citizens to learn about values, principles, and practices that will bring about sustainable communities;
- H.** Assist City and County personnel in the coordination of policies and actions creating sustainable communities.

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- I.** Conduct public meetings as necessary;
- J.** Meet at least six times a year and keep minutes of its proceedings;
- K.** Provide an annual report to the governing bodies on the Commission's activities, achievements and plans for the coming year; and
- L.** Adopt rules or bylaws as necessary for its operation and undertake any other activities necessary to the accomplishment of its mission within the terms of this Section.

#### **3.112.030 Membership.**

(Amended by Ordinance Nos. 168886, 176207 and 179680 effective October 19, 2005.) The Commission shall consist of eleven members as provided in the Intergovernmental Agreement entered into by the City of Portland and Multnomah County. Following recommendation by the Commissioner-in-Charge of the Office of Sustainable Development, six of the commission members shall be appointed by the Mayor, subject to confirmation by the City Council. Five shall be appointed by Multnomah County. All appointments to the Commission shall be for terms of two years. Members shall serve without compensation. However, reasonable expenses for carrying out the work of the Commission may be reimbursed by the City. Absence from four consecutive Commission meetings shall constitute cause for removal.

#### **3.112.040 Officers.**

(Amended by Ordinance Nos. 176207 and 179680, effective October 19, 2005.) Two co-chairs shall be appointed by the Jurisdictions. One co-chair shall be a City appointee, and one shall be a County appointee. All Commission officers shall serve for two years. No officer may be elected for more than two consecutive terms.

**Chapter 3.114**

**OFFICE OF CABLE  
COMMUNICATIONS  
AND FRANCHISE MANAGEMENT**

(Added by Ordinance No. 149053; amended by  
Ordinance Nos. 151338 and 160424,  
effective Feb. 22, 1988.)

**Sections:**

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

**3.114.010      Creation.**

There is hereby established an Office of Cable Communications and Franchise Management. The Office shall be administered by a Director and shall have such other employees as the Council may provide.

**3.114.020      Functions.**

- A.**      The Office shall be responsible for supervising and coordinating all franchising processes engaged in by the City, for monitoring the performance of all franchisees for franchise compliance and for performing all other necessary work relating to franchises in the City.
- B.**      The Office shall be responsible for promoting the orderly development of City-owned cable communication systems, for providing staff support needed by the Portland Cable Communications Regulatory Commission and for performing all other necessary work related to cable communications in the City.
- C.**      The Office shall be responsible for overseeing franchise and utility audits and revenues in coordination with the City Auditor's Office, the Office of Fiscal Administration and other City agencies and bureaus.

**3.114.030      Jurisdiction.**

- A.**      The Office shall have jurisdiction over all franchisees. The Office shall have jurisdiction over all public or private utilities or other entities seeking similar rights to use City rights-of-way.

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- B.** The Office shall have jurisdiction over all cable communications matters affecting the City of Portland.

### **3.114.040 Policy.**

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

## **Chapter 3.115**

### **CABLE COMMUNICATIONS REGULATORY COMMISSION**

(Added by Ordinance No. 151338,  
effective April 1, 1981.)

#### **Sections:**

3.115.010	Definitions.
3.115.020	Commissions Created.
3.115.030	General Power and Duties.
3.115.040	Monitoring.
3.115.050	Reviewing Reports.
3.115.060	Interconnection.
3.115.070	Complaints.
3.115.080	Evaluations.
3.115.090	Rate Regulation.
3.115.095	Rate Regulation Criteria.
3.115.100	System Development.
3.115.110	Council Action.
3.115.120	Appeal.
3.115.130	Franchises.
3.115.140	Portland Cable Access.
3.115.150	Annual Report.
3.115.160	Annexations.
3.115.170	Cable Television Consumer Protection.
3.115.175	Customer Service and Television Responsiveness.
3.115.180	Service and Repair Calls.
3.115.185	Disconnection.
3.115.190	Credits Upon Outage.

- 3.115.195      Itemized Billing.
- 3.115.200      Information to Subscribers.
- 3.115.205      Nondiscrimination.

**3.115.010      Definitions.**

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

- A.      “Commission”** means the Portland Cable Communications Regulatory Commission.
- B.      “Franchise”** means a cable communications system franchise.
- C.      “Grantee”** means the grantee of a cable communications system franchise within the City of Portland.
- D.      “System”** means a franchised cable communications system.
- E.      (Amended by Ordinance No. 152558, effective Nov. 25, 1981.) “Corporation”** means Portland Cable Access.

**3.115.020      Commission Created.**

There hereby is created the Portland Cable Communications Regulatory Commission. The Commission shall consist of seven members, including a Chairman, appointed by the Commissioner In Charge of the Office of Cable Communications and confirmed by the Council. Appointments shall be for terms of 4 years except that 3 of the initial appointments shall be for terms of 2 years. The Chairman’s initial appointment shall be to one of the 4-year terms. When an interim vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill the balance of the unexpired term. The Commissioner In Charge of the Office of Cable Communications may remove a member from the Commission at any time, subject to approval by the Council. All members shall be residents of the City. The Commissioner In Charge shall appoint members to the Commission so as to provide for an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments shall take into consideration the desirability of representation, without limitation, of racial and ethnic minorities, women, different geographic areas, and different socioeconomic groups. All members shall serve without compensation from the City or from the grantee of any franchise. No member may have an ownership interest in the grantee of a franchise.

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#### **3.115.030 General Powers and Duties.**

- A.** All powers granted to the Commission by this Chapter shall be subject to the provisions of grantees' franchises. In the event of any conflict between this Chapter and a grantee's franchise, the provisions of the franchise shall prevail.
- B.** Except as expressly provided otherwise in this Chapter, and subject to appeal as set out in this Chapter, the Commission shall exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law or under grantees' franchises. The Commission shall act in an advisory capacity to the City Council through the Commissioner In Charge of the Office of Cable Communications on all other matters pertaining to cable communications franchises or proposed franchises. The Commission shall adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under this Chapter, provided that such regulations shall not become effective until approved by the Council.

#### **3.115.040 Monitoring.**

The Commission shall monitor the performance of all grantees to determine whether the grantees are complying with the provisions of their franchises. In carrying out its monitoring duties, and subject to appeal as set out in this Chapter, the Commission shall cause to be made such reasonable inspections, tests, and demonstrations of grantees, systems as the Commission deems required in order to protect the public service, health or welfare. The Commission shall make recommendations to the Council regarding actions it deems appropriate for franchise violations it discovers.

#### **3.115.050 Reviewing Reports.**

The Commission shall review and as appropriate audit all reports filed by grantees with the City. Subject to appeal as set out in this Chapter, the Commission may require any grantee or grantees to prepare and file additional reports as necessary or desirable to carry out its duties under this Chapter. After consultation with affected grantees, the Commission may adopt regulations establishing the form of reports to be filed with the City; the place at which filings are to be made; and criteria and procedures for the protection of material contained in reports that is not open for public disclosure. The regulations shall be subject to the provisions of City Charter Section 10-107 and shall not become effective until approved by the Council.

#### **3.115.060 Interconnection.**

The Commission, as necessary or desirable, shall coordinate the interconnection of the systems of grantees with each other, with systems of the City and with systems outside the City but within the Metropolitan Service District, provided, however, that the



Commission may not require any grantee to interconnect to a non-contiguous system without Council approval. The Commission may cooperate with other governmental units in the supervision of the interconnection systems.

**3.115.070      Complaints.**

The Commission may receive and investigate any unresolved complaint about a grantee's service filed with the Commission or referred to the Commission by the Commissioner In Charge of the Office of Cable Communications. After consultation with affected grantees, the Commission may adopt regulations establishing methods and procedures to ensure that complainants have recourse to a satisfactory hearing and method for settling complaints. The regulations shall not become effective until approved by the Council.

**3.115.080      Evaluations.**

The Commission shall evaluate, pursuant to such criteria and standards as the Commission previously shall have adopted, each grantee's system at least every 3 years and, based on the evaluation, issue a report to the Council through the Commissioner In Charge of the Office of Cable Communications containing any recommendations for action by the City.

**3.115.090      Rate Regulation.**

(Amended by Ordinance Nos. 155256 and 156712, effective Oct. 25, 1984.)

- A.** All grantee rates and charges shall be subject to regulation by the City in a manner to be determined from time to time by the City Council by ordinance. The Council may establish whatever rate regulation method it deems reasonable, including without limitation a utility approach that allows automatic increases within a predefined range, an approach that regulates service quality but not rates, or any combination thereof. The rate regulation method may include without limitation rules governing allocation of depreciation; calculation, crediting, and treatment of tax benefits; allowing funds borrowed to supplement cash flow necessitated by nonutilization of any tax benefits or a buyout of partnership equities; and disallowing consideration of interest expense in excess of interest rates actually incurred and paid by the grantee. Increases in rates for entertainment and access services may be made no more often than annually by a grantee by filing the revised schedule of rates with the City Auditor and by providing notice thereof to its subscribers not later than 15 days prior to such filing. The notice to subscribers shall be in writing and shall state the amount of each increase proposed in the schedule of rates. The Commission, within 30 days of such filing, shall hold a public hearing on whether to require by resolution review of the proposed increases prior to their going into effect. Each rate increase shall be in effect on the 31st day after such filing unless the Commission or the City Council by resolution shall require prior review of such rate increase, in which case such rate increase shall not be effective unless the Commission after public hearing and within 60 days of passage of the resolution shall approve

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the rate increase as filed or as modified by the Commission. Any decision of the Commission on a rate increase filing or any failure of the Commission to act on a rate increase filing within 60 days of passage of a resolution requiring prior review may be appealed by the grantee to the City Council. The approval of any rate increase by the Commission shall not be effective until 10 days after such approval, and if after Commission approval but prior to the effective date thereof, two members of the Council so request in writing to the City Auditor, the proposed increase shall be referred to the Council for review. The Council must either approve by ordinance, modify by ordinance, or disapprove the rate increase within 45 days after a review request is filed with the City Auditor or after an appeal is filed by the grantee. Any failure by the Council to act on a rate increase within the 45-day period shall constitute disapproval of the rate increase.

- B.** The requirement of written notice to subscribers set out in Subsection (1) shall not apply to any grantee with less than 250 subscribers.
- C.** In the event federal law and regulations have preempted local government regulation of rates charged for specific cable television services or classes of services, then the filing and written notification requirements of Subsection (1) shall be applicable to rate increases for those services for purposes of informing subscribers and the public of the increases, but the other provisions of Subsection (1) shall not be applicable thereto. The notification to subscribers about preempted rates shall be sufficient if given any time before the rate increases become effective.
- D.** If so instructed by the City Council the Commission shall prepare and recommend regulations governing rates of grantees. The recommendation shall include regulations to prevent grantee's use of entertainment system revenues to subsidize institutional system construction and operation. On approval by the City Council of regulations governing rates of grantees, the Commission shall exercise the powers and perform the duties assigned to it by the regulations.

#### **3.115.095 Rate Regulation Criteria.**

(Added by Ordinance No. 155624, effective Feb. 23, 1984.) In the event of a rate increase review pursuant to Section 3.115.090 by the Commission or the City Council, the Commission and City Council shall base their decisions to approve, disapprove or modify the proposed rate increase on the following criteria:

- A.** Whether the proposed rate will provide the grantee a reasonable rate of return;
- B.** Whether the grantee is in substantial compliance with its franchise and other legal obligations to the City; and
- C.** Whether the grantee substantially meets the following service requirements:

1. Provides efficient service.
2. Receives subscriber complaints on a 24-hour basis or on such reduced basis as is economically reasonable taking into consideration the size of the grantee;
3. Makes repairs promptly; and
4. Interrupts service only for good cause and for the shortest time possible.

**3.115.100 System Development.**

The Commission shall use its regulatory powers and make recommendations to the City Council in order to promote and guide the development of systems in the City in a manner that will be in the public interest, with particular emphasis on nonentertainment cable communications services for home and institutions and on new and innovative services, but subject to the limitation that entertainment system revenues shall not be used to subsidize institutional system construction and operation.

**3.115.110 Council Action.**

Prior to any proposed City Council action regarding any system, systems, grantee or grantees, the Commission shall consider and make its recommendation on the action, whether at the proposal of the City Council, a grantee or any other person, or on the Commission's own motion. The Commission shall make a recommendation to the City Council on the proposed action within 60 days after receipt of the proposal. The City Council shall not take any such action until it has received the Commission's recommendation. Notwithstanding any other provision of this Section, the Council may waive prior Commission consideration and recommendation on any proposed City Council action and may proceed to consider and take such action.

**3.115.120 Appeal.**

Any grantee may appeal to the City Council any action of the Commission regarding the grantee by filing a written notice of appeal in the office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. The Commissioner In Charge of the Office of Cable Communications or any two other Commissioners may cause any action of the Commission to be brought before the City Council on appeal by filing a written notice of appeal in the office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. Any person directly affected by an action of the Commission may appeal to the City Council, provided the person has appeared before the Commission in person or in writing regarding the action, by filing a written notice of appeal in the office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. The notice of appeal shall state the action taken by the Commission, the reasons why the action was improper, and

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the relief requested. The scope of the appeal shall be limited to consideration of the action, reasons, and relief set out in the notice of appeal. The appealed action shall be stayed pending a decision of the City Council.

#### **3.115.130 Franchises.**

The Commission may make recommendations to the Council through the Commissioner In Charge of the Office of Cable Communications regarding the renewal, termination, and forfeiture of franchises; the exercise of buyout authority; and the transfer of system ownership and control.

#### **3.115.140 Portland Cable Access.**

(Amended by Ordinance Nos. 152558; and 162523, effective Nov. 16, 1989.)

- A.** Each City Council member, shall appoint two directors of the corporation. In appointing directors, the Council member shall give consideration to representation on the board of directors of the fields of arts, education, public access, government, and community information; and of racial and ethnic minorities, non-English speaking people, women, and low-income people. In addition, the Commission shall have the authority to appoint from its membership one non-voting Director, and the operators of the two cable communications systems in the City of Portland passing the greatest number of homes shall each have the authority to designate one non-voting Director. The Commission shall monitor, report annually, and make recommendations to the Council on the activities of the corporation, including review of the budget and financial status of the corporation and recommendations regarding the granting of funds by the City to the corporation. The Commission's recommendations regarding the granting of funds by the City to the corporation shall include a recommendation that at least 40 percent of the franchise fees received by the City be granted to the corporation together with description of the work to be performed by the corporation in consideration for the grant and the time period that the grant should cover. It is the Council's intention to appropriate at least 40 percent of the franchise fees for grants to the corporation and the balance for funding the Office of Cable Communications.
- B.** The corporation may exercise regulatory control, and management powers over the channels to be controlled by the corporation under the Cablesystems Pacific franchise to the full extent authorized by the franchise, provided, however, that the corporation shall not transmit or permit to be transmitted over any channel over which it has programming control any material that is obscene or indecent. For purposes of this Subsection, material shall be deemed obscene or indecent if:

  - 1.** It depicts or describes in a patently offensive manner sadomasochistic abuse or sexual conduct;

2. The average person applying contemporary state standards would find the material, taken as whole, appeals to the prurient interest in sex; and
3. Taken as a whole, it lacks serious literary, artistic, political, or scientific value. Also for purposes of this Subsection, the terms “sodomasochistic abuse” and “sexual conduct” shall have the meanings assigned to them by ORS 167.060, 1971 Oregon Laws Chapter 743, Section 255.

**3.115.150 Annual Report.**

The Commission shall prepare an annual report at the conclusion of each calendar year for inclusion in the budget request of the Office of Cable Communications. The report shall cover activities of the Commission and corporation during the past calendar year; planned activities of the Commission and corporation during the upcoming calendar year; the receipt and use of franchise fees; the general performance of grantees; the development and use of systems within the City; anticipated new services on the systems within the City; and recommendations of the Commission or the corporation; and such other matters as the Commission may deem appropriate.

**3.115.160 Annexations.**

(Added by Ordinance No. 153956, effective Nov. 4, 1982)

- A. In the event the City annexes territory for which another public body having jurisdiction to issue a franchise has issued a franchise, then the grantee shall have the same rights and obligations under the franchise after annexation that it had before annexation, except that:
  1. After annexation the City shall have all rights under the franchise of the issuing public body as to system construction and operation within the annexed area, including without limitation all rights to regulate, to collect and use franchise fees, and to insurance and other protection; and
  2. After annexation the grantee’s obligations under the franchise as to system construction and operation within the annexed area shall be to the City rather than to the issuing public body.
- B. Nothing in this Section shall be deemed to modify the rights or obligations of the City or grantees under other franchises.

**3.115.175 Cable Television Consumer Protection.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.) The following policies and standards apply to all cable television companies (grantees) which are or may hereafter be subject to the jurisdiction of the City of Portland under their respective franchise agreements, under Chapter 3.114 and 3.115 of the City Code, or under other applicable laws, rules, regulations or agreements.

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### **3.115.175 Customer Service and Telephone Responsiveness.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** Grantee offices must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours on Saturdays.
- B.** As used herein, “adequately staffed” means toll-free telephone lines are open and customer service representatives are available to respond in at least the following ways:
  - 1.** To accept payments;
  - 2.** To exchange or accept returned converters or other company equipment;
  - 3.** To respond to inquiries; and
  - 4.** To schedule and conduct service or repair calls.
- C.** Toll-free telephone lines, either staffed or with answering capability; providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays.
- D.** Each grantee shall maintain, on average as verifiable by statistical data;
  - 1.** Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers; and
  - 2.** As least ninety percent responsiveness during normal call volume, defined as fewer than one customer call in ten will encounter a busy signal or a delay in reaching a customer service representative exceeding one minute in length.

### **3.115.180 Service and Repair Calls.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** Requests from subscribers for repair and maintenance service must be acknowledged by a grantee within 24 hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within 24 hours under normal operating procedures. All other repairs should be completed within 72 hours in normal circumstances. No charge may be made to

subscribers for this service, except in cases beyond the reasonable control of the grantee, such as documentable cases of repeated subscriber negligence or abuse of grantee equipment.

- B.** As a normal operating procedure, upon subscriber request each grantee shall provide either a specific appointment time or else a pre-designated block of time (not to four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon or after 5:00 P.M. (repair only).
- C.** As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request each grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

**3.115.185 Disconnection.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** A grantee may disconnect a subscriber for cause if:
  - 1.** At least 30 days have elapsed after the due date for payment of the bill of the affected subscriber; and
  - 2.** The grantee has provided at least 10 days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- B.** Regardless of subsection A hereof, a grantee may disconnect a subscriber for cause at any time if the grantee in good faith determines that the subscriber has tampered with or abused company equipment, or is or may be engaged unlawfully in theft of cable services.
- C.** A grantee shall promptly disconnect any subscriber who so requests from the grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by any grantee. No charge may be imposed by any grantee for such voluntary disconnection, or for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to grantee, the grantee shall within ten working days return to such subscriber the amount of the deposit, if any, collected by grantee from such subscriber, less any undisputed amounts owed to grantee for cable services or charges prior to the date of disconnection.

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#### **3.115.190 Credits Upon Outage.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.) Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request a grantee shall provide a pro-rated 24-hour credit to the subscriber's account for any period of four hours or more during which that subscriber experienced an outage or substantial impairment of cable service.

#### **3.115.195 Itemized Billing.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.) Each grantee bill to subscribers must itemize each category of service, equipment, or other applicable fees, and state clearly the charge therefor.

#### **3.115.200 Information to Subscribers.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** Upon installing initial service to or reconnecting each customer, and upon request thereafter each grantee must advise the customer, in writing, of:
  - 1.** The equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;
  - 2.** The amount and criteria for any deposit required by grantee, if applicable, and the manner in which the deposit will be refunded;
  - 3.** The grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;
  - 4.** The toll-free telephone number and address of the grantee's office to which complaints and inquiries may be reported;
  - 5.** The company's practices and procedures for protecting against invasions of subscriber privacy; and
  - 6.** The notice and referral information to the City of Portland, as set forth in subsection B hereof.
- B.** Each grantee shall semi-annually send written notice to all subscribers that any complaints or inquiries not satisfactorily handled by the company may be referred to the City of Portland Office of Cable Communications and Franchise Management and the Cable Regulatory Commission. Such notification may be included with a billing statement, and shall contain either the printed text specified in subparagraph 1 hereof or an alternative text approved by the Commission.



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1. The text of the printed notice shall be as follows, unless otherwise authorized by the Commission:

**PLEASE READ THIS**

The City of Portland through the citizen Cable Regulatory Commission (CRC), and the Office of Cable Communications and Franchise Management (City Cable Office), is responsible for monitoring the customer service, system performance, and franchise compliance of your cable company. Toward this end, the City and your cable company work continuously to monitor and improve cable TV customer service in your community.

However, at times you may encounter problems with your cable service that you have been unable to resolve with your cable company. The City Cable Office and the CRC are available to help you with unresolved problems. If this is the case, please call the City Cable Office at 823-5385 weekdays (an answering machine takes messages after business hours), or write to the CRC c/o the City Cable Office, 1120 SW Fifth Avenue, #1021, Portland, OR 97204.

However, please contact your cable company **FIRST**, before calling the City Cable Office about your problem.

Cable Regulatory Commission meetings are generally held the second Tuesday of each month. Please call or write the City Cable Office for more information.

This announcement has been brought to you as a public service of the City of Portland and your cable company.

**PLEASE SAVE FOR FUTURE REFERENCE**

2. Such notice, in large boldface type, shall also be posted in a conspicuous place in grantee offices located within the City where customer service transactions are conducted within the meaning of Section 3.115.175 hereof.
- C. Each grantee shall provide to its subscribers and the City written notice at least 10 days in advance of any deletions in programming services, increases in any rates, costs, or charges to subscribers, or any channel repositioning within the control of grantee.

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- D.** All grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all grantee-prepared promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a grantee shall take appropriate steps to ensure that grantee customer service representatives clearly and accurately disclose price terms to potential customers in advance of taking the order.

#### **3.115.205 Nondiscrimination.**

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** No grantee shall unlawfully discriminate against any person in the provision of cable television services on the basis of race, color, religion, national origin, sex, sexual preference, age disability, income, or the area in which such person lives.
- B.** Each grantee shall use best efforts to assure maximum practical availability of grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited.
- C.** For hearing impaired customers, each grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, each grantee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number of such equipment, that will allow hearing impaired customers to contact the company.
- D.** Upon request by a subscriber or potential subscriber, each grantee shall make a reasonable effort to provide information required under Section 3.115.195, or otherwise provided in the normal course of business, in both English and the primary language of the requestor.

**Chapter 3.116**

**WATERWAYS ADVISORY COMMITTEE**

(Added by Ordinance No. 150413,  
effective Sept. 17, 1980.)

**Sections:**

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

**3.116.010      Created - Organization.**

There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Planning to be known as the Waterways Advisory Committee, consisting of not less than 7 nor more than 11 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members of the Committee, the members to serve for a term of 2 years at the pleasure of the Commissioner In Charge. The president of the Planning Commission or his or her representative shall be a member of the Committee.

**3.116.020      Procedures and Rules.**

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

**3.116.030      Duties.**

Members of the Waterways Advisory Committee shall:

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

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- D.** Review the status of plans for publicly constructed segments of the Greenway path and suggest priorities for those segments.
- E.** Make recommendations to the Planning Commission and City Council for the development of City procedure to facilitate applicants' needs for a speedy and certain regulatory process and City policies consistent with such a goal.
- F.** Make recommendations to the Planning Commission and City Council on City policies governing use and development of the City's waterways.

#### **Chapter 3.120**

#### **METROPOLITAN ARTS COMMISSION**

(Added by Ordinance No. 157240;  
repealed by Ordinance No. 168592,  
effective Mar. 8, 1995.)

#### **Chapter 3.122**

#### **ECONOMIC IMPROVEMENT DISTRICTS**

(New Chapter substituted by  
Ordinance No. 164665,  
effective Sept. 18, 1991.)

#### **Sections:**

- 3.122.010 Purpose.
- 3.122.020 Definitions.
- 3.122.030 Council Control.
- 3.122.040 Statutory Provisions Applicable.
- 3.122.050 Preliminary Institution of Economic Improvement District
- 3.122.060 Final Plan and Ordinance Preparation.
- 3.122.070 Consideration of Final Plan and Ordinance.
- 3.122.080 Notice to Owners.

- 3.122.090 Exemption Process.
- 3.122.100 Hearing and Resolution Establishing District.
- 3.122.110 Preparation and Notice of Assessments.
- 3.122.120 Hearing on Assessments.
- 3.122.130 Amendments to Ordinance.
- 3.122.140 Limitation on Assessments.
- 3.122.150 Limitation on Boundaries.
- 3.122.160 Continuation of Assessments.
- 3.122.170 Expenditure of Moneys.
- 3.122.180 Cost of Administration.
- 3.122.190 Limitation on Expenditures.
- 3.122.200 Administration
- 3.122.210 Early Termination.
- 3.122.220 Surplus.
- 3.122.230 Entry and Collection of Assessments.

**3.122.010 Purpose.**

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

**3.122.020 Definitions.**

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

- A. **“Advisory Committee”** means a committee of persons representative of the owners and tenants of property within an Economic Improvement District and may consist of an existing association of property owners or tenants or both.
- B. **“Commissioner In Charge”** means the commissioner in charge of the lead bureau.
- C. **“Economic Improvement”** means:
  - 1. The planning or management of development or improvement activities.

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2. Landscaping, maintenance and provision of security for public areas.
3. The promotion of commercial activity or public events.
4. The conduct of activities in support of business recruitment and development.
5. The provision of improvements in parking systems or parking enforcement.
6. Any other economic improvement activity that specially benefits property. “Economic improvement” does not include any services to be provided on private property.

**D. “Preliminary Economic Improvement Plan”** means a plan prepared by the property owners or tenants within the proposed District or their designees setting out:

1. A description of economic improvements proposed to be carried out;
2. The number of years, to a maximum of three, in which assessments are proposed to be levied;
3. A preliminary estimate of annual cost of the proposed economic improvements;
4. The proposed boundaries designated by map or perimeter description of an Economic Improvement District within which subject properties would be assessed to finance the cost of the economic improvements;
5. The proposed formula for assessing the cost of the economic improvements against subject properties;
6. A preliminary estimate of the cost of City administration of the proposed Economic Improvement District;
7. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
  - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,

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**b.** If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and

**8.** A statement of why the proposed economic improvements are not likely to be satisfactorily and equitably accomplished except through establishment of an Economic Improvement District.

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

**1.** A description of economic improvements to be carried out;

**2.** The number of years, to a maximum of three, in which assessments will be levied;

**3.** The annual cost of the proposed economic improvements;

**4.** The boundaries designated by map or perimeter description of the Economic Improvement District within which subject properties will be assessed to finance the costs of the Economic Improvement District;

**5.** The formula for assessing the cost of the economic improvements against subject properties;

**6.** A statement whether the assessment will be a voluntary assessment or mandatory assessment, and

**a.** If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,

**b.** If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and

**7.** The cost of City administration of the Economic Improvement District.

**F. “Lead bureau”** means the City office, bureau or commission determined by the Mayor to have the principal interest in a proposed Economic Improvement District.

**G. “Lot”** means a lot, block, or parcel or land.

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- H. “Owner”** means the owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment roll in the Office of the County Assessor.
- I. “Subject Properties”** means the real property within an Economic Improvement District except for Exempt Property.
- J. “Exempt Property”** means:
- 1.** Residential real property and any portion of a structure used for residential purposes. In the event a structure is used for both residential and non-residential purposes, the land on which the structure is located shall not be Exempt Property. For purposes of this subsection, “residential real property” and “residential purposes” shall not include hotels and hotel uses, as defined in Section 33.12.420 of this Code, and motels and motel uses, as defined in Section 33.12.560 of this Code, but shall include hotel and hotel uses if, for the entire hotel or entire hotel use:
    - a.** The average rent per unit is less than \$2 per day, or
    - b.** A majority of the units regularly are occupied by the same tenants for more than 30 consecutive days, or
    - c.** A majority of the units regularly are occupied by occupants who pay for lodging on a monthly basis.
  - 2.** Property owned or being purchased by religious organizations including:
    - a.** All houses of public worship; and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this Section shall not be exempt property.
    - b.** Parking lots used for parking or any other use as long as that parking or other use is permitted without charge.
    - c.** Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.



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

**3.122.030 Council Control.**

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

**3.122.040 Statutory Provisions Applicable.**

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

**3.122.050 Preliminary Institution of Economic Improvement District.**

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

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

#### **3.122.060 Final Plan and Ordinance Preparation.**

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

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

**3.122.070 Consideration of Final Plan and Ordinance.**

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

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#### **3.122.080 Notice to Owners.**

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

**3.122.090 Exemption Process.**

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

**3.122.100 Hearing and Resolution Establishing District.**

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

**3.122.110 Preparation and Notice of Assessments.**

- A.** Following Council adoption of a resolution establishing an Economic Improvement District based on the final Economic Improvement Plan, the Auditor shall prepare the proposed assessment for each lot in the District that is a

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subject property and shall file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment shall be based on the cost of the economic improvements and the cost of City administration of the Economic Improvement District.

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

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7. The assessment is due and payable immediately, and whether it may be paid in installments. The amount of interest if any and the fact there will be billing charges. The unpaid balance will become a lien on the property and failure to pay could result in foreclosure.
8. A voluntary assessment is an incurred charge and is a charge outside the property tax limitation imposed by the Oregon Constitution, Art. XI, §11b.
9. Property included in the District and assessed cannot be withdrawn from the District and the assessment will continue through the life of the District.
10. The name and phone number of a City staff person who can answer questions.

**3.122.120 Hearing on Assessments.**

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

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#### **3.122.130 Amendments to Ordinance.**

- A.** At the hearing under Section 3.122.100, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070. The procedures required by Sections 3.122.080 and 3.122.100 shall be repeated if the amendment:
  - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment;
  - 2.** Increases the likely assessment upon one or more properties; or
  - 3.** Enlarges the Economic Improvement District;
- B.** At the hearing under Section 3.122.120, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070 as subsequently amended. If the amendment increases the likely assessment upon one or more properties, then the procedures required by Sections 3.122.110 and 3.122.120 shall be repeated. The procedures required by Section 3.122.080 through 3.122.120 shall be repeated if the amendment:
  - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment; or
  - 2.** Enlarges the Economic Improvement District.

#### **3.122.140 Assessments.**

- A.** The Council shall not levy assessments in an Economic Improvement District in any year that exceed one percent of the true cash value of all the real property located within the District.
- B.** Any new owner of benefitted property or any owner of benefitted property who excluded the property from assessment by submitting written objections may subsequently agree to the assessment of the property. The Council shall apply the assessment formula to the property and apportion the costs to the property for the remaining time in which the assessment is levied.
- C.** The assessed property may not be relieved from liability for that assessment for any reason including change of ownership.

#### **3.122.150 Limitation on Boundaries.**

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



**3.122.160 Continuation of Assessments.**

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

**3.122.170 Expenditure of Moneys.**

Money derived from assessments levied under this Chapter and from interest earned on that money shall be spent only for the economic improvements and for the cost of City administration of the Economic Improvement District described in the final Economic Improvement Plan. Subject to the requirements of any labor agreements to which the City is a party and to any applicable requirements of state law, the Council in its discretion may authorize an agreement or agreements with the advisory committee appointed under Section 3.122.050 D for the committee to provide all or part of the economic improvements described in the final economic improvement plan.

**3.122.180 Cost of Administration.**

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

**3.122.190 Limitation on Expenditures.**

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

**3.122.200 Administration.**

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

- A.** A description of the work to be done;
- B.** A description of the method of compensation for the work;

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

#### **3.122.210 Early Termination.**

The City Council may terminate the activities of an Economic Improvement District in whole or in part prior to the normally scheduled termination date for the District by an ordinance. However, all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments for the District, following payment of all obligations and costs of administration incurred on behalf of the District, shall be returned to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District. In the event of early termination of only a part of the activities of an Economic Improvement District, the City Council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future District assessments against subject properties, with any funds remaining being returned to the owners as otherwise provided herein.

#### **3.122.220 Surplus.**

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

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

**3.122.230 Entry and Collection of Assessments.**

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

**3.122.240 Economic Improvement Fund.**

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

**Chapter 3.123  
PORTLAND UTILITY REVIEW BOARD**

(Replaced by Ordinance No. 177275,  
effective March 21, 2003.)

**Sections:**

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

**3.123.010 Created - Purpose.**

A Portland Utility Review Board is hereby created. The Board's purpose is to advise the City Council, on behalf of and for the benefit of the citizens of Portland, on water, sewer, stormwater and solid waste financial plans and rates. The Board will advise Council on the establishment of fair and equitable rates, consistent with customer needs, legal mandates, existing public policies, operational requirements, and the long-term financial stability and viability of the utilities.

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#### **3.123.020 Scope**

The Board shall perform the following functions:

- A.** Participation in the financial planning process. The Bureau of Water Works, the Office of Sustainable Development and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and re-do the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process.
- B.** Participation in the rate design process. The Board will make recommendations to the Council on the equitable distribution of rate adjustments among customer classes, as determined in the rate design process. The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, stormwater and solid waste rates. The Board will also participate in the periodic review and analysis of alternative rate designs proposed by Council. The Board shall report on other city activities or proposed policies with significant impacts to water, sewer and solid waste rates.
- C.** Relationship to other citizen advisory groups. The Council and the bureaus may form other groups, as necessary, to advise on utility matters. The Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.
- D.** Relationship to other interested parties. The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations shall be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

#### **3.123.030 Membership.**

The Board shall have nine (9) permanent members. The Mayor shall appoint the Chair of the Board. Five members shall constitute a quorum of the Board.

**3.123.040      Appointments - Composition.**

- A.**      General Criteria. All members must reside in or work predominantly in the City of Portland and have an interest in sewer, water and solid waste issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, conservation or environmental concerns. In making appointments, the Mayor and City Council will attempt to have a range of professional and academic expertise, and volunteer experience, represented on the Board in disciplines such as accounting, civil engineering, conservation, environmental sciences, health sciences, public administration, urban planning, or utility economics. In making Board appointments, the Mayor and Council shall strive to have a Board which reflects the diversity of the Portland community, especially regarding customer classes, income levels, cultural and ethnic identity, geographic location, age and gender.
- B.**      Restrictions. No individual with any direct financial interest in a city utility or solid waste franchises, whether by ownership, employment, contract or otherwise, shall be appointed to or serve on the Board.
- C.**      Board Appointments. Board members shall be appointed by the Mayor and confirmed by the Council. Any Council member may submit recommendations to the Mayor on potential appointments to the board. Nominations shall reflect four general categories:

  - 1.**      Residential Geographic Representation. The Mayor will seek nominations from neighborhood associations, district coalitions and residential customers (renters and land owners) in various City neighborhoods. Three seats shall be filled from residential geographic nominations. The Mayor will appoint members representing residential customers from each of three geographic areas within the City comprised of:

    - a.**      West Portland - the area west of the Willamette River,
    - b.**      Northeast/Southeast Portland - the area east of the Willamette River and west of Interstate 205, and
    - c.**      East Portland - the area east of Interstate 205.
  - 2.**      Public Interest Advocacy. The Mayor will seek nominations from organizations working to support low and moderate income issues, environmental concerns, senior, fixed income and special needs populations. Two seats shall be filled from public interest advocacy nominations. The council will strive to create diversity in making nominations for these two seats.

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3. Large Commercial/Industrial Businesses: The Mayor will seek nominations from businesses which have a current industrial discharge permit, discharge at least 10,000 gallons per day of waste-water to the sewer system, or use 10,000 cubic feet of water per month. One seat shall be filled from commercial/industrial business nominations.
  4. Local Businesses: The Mayor will seek nominations from businesses headquartered in the City that predominantly serve Portland-area residents. Retail, service or neighborhood businesses, and those not otherwise meeting the Large Commercial/Industrial category criteria, are eligible for inclusion in this category. One seat shall be filled from local business nominations.
  5. At-Large: To provide flexibility in meeting the Board's goal of membership diversity, the Mayor will appoint one member from applications received "at-large." Any individual or any group interested in participating on the Board may submit nominations in this category. Two seats shall be filled from At-Large nominations.
- D.** Council Liaisons. Each member of the City Council may appoint one member of their staff to serve as a representative of their office to the Board. These representatives shall serve as communications contacts and shall not have voting privileges.

#### **3.123.050 Recruitment Process.**

- A.** Board positions and vacancies will be announced to local media publications and broadcasts, including local neighborhood newspapers, cable stations and radio, with a goal of widespread outreach. Nomination requests will also be sent to the city's Neighborhood Associations and District Coalition Boards, to consumer advocacy and environmental interest groups, and to Business District associations. The City's standard Boards and Commissions application form shall be used, with all nominations to be submitted to the Mayor's office.
- B.** The City's staff to the Board shall develop and keep current a list of publications to meet the requirements described in Subsection A. of this Section.
- C.** City Council members shall also seek nominations for the Board through publications or communications generated in their offices.

**3.123.060      Terms.**

- A.** Board members will serve, without compensation, for a term of two years. The terms of each member shall run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.
- B.** No member may serve on the Board for more than six consecutive years. The Board shall develop a brief process and/or form for recommendations to the Mayor in regard to members desiring reappointment.
- C.** If any member of the Board is absent more than three regularly scheduled meetings of the Board during any twelve-month period, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned from the Board. The member's position shall thereafter be vacant and subject to appointment by the Mayor.
- D.** The Mayor may remove any member of the Board at his or her discretion for due cause, including but not limited to malfeasance or neglect of duties.

**3.123.070      Standing Committees.**

- A.** The Board may at any time establish standing committees of at least three individuals to address specific issues related to the Board's purpose.
- B.** The Board Chair, one other member of the Board, as approved by a majority vote of all Board members, and any Council liaisons to the Board will serve as the Board Executive Committee. The Executive Committee will facilitate on-going communication between the Board, the City Council, the Board staff, and the bureaus.
- C.** The Board may designate more specific roles and responsibilities for the Executive Committee and any standing committee in the Board by-laws.

**3.123.080      Staffing.**

The Office of Management and Finance will provide staffing for the Board, with logistical and topic-related support from the Bureau of Water Works, the Bureau of Environmental Services, the Office of Sustainable Development and other bureaus or agencies as needed.

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#### **3.123.090 Meeting Schedule.**

The Board shall meet once monthly on a regular date established in the Board by-laws. Additional meetings may be scheduled during annual budget and rate review periods as determined by the Board Chair. The Board's Executive Committee and other standing committees will meet on an as-needed basis.

#### **3.123.100 By-Laws.**

The Board shall adopt by-laws to govern its procedures within the purposes of this chapter that shall not conflict with any portion of this ordinance and which are subject to the approval of the Commissioner in Charge of the Board. These by-laws shall include specifications concerning selection and tenure of standing committee chairs, division of responsibilities, attendance policies, meeting schedules, as well as communications between the Board and City agencies, the media and the general public, and any other appropriate matters.

#### **3.123.110 Annual Report and Work session.**

- A.** By September 30 of each year, the Board shall prepare and submit to the Council an annual report summarizing the work performed by the Board during the previous fiscal year (July 1 through June 30). The annual report shall include, but need not be limited to, a summary of issues reviewed and analyzed; a list of briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.
- B.** Upon the completion of each Annual Report described in Subsection 3.123.110 A. of this section, the Board shall participate in a work session with the City Council. The purpose of this work session is to present the Annual Report and to create a work plan for the upcoming year.



**Chapter 3.124**

**PORTLAND OFFICE OF  
EMERGENCY MANAGEMENT**

(New Chapter added by Ordinance  
No. 178616, effective July 21, 2004.)

**Sections:**

- 3.124.010 Definitions.
- 3.124.020 Portland Office of Emergency Management.
- 3.124.030 Purpose.
- 3.124.040 Organization.
- 3.124.050 Director's Powers and Duties.
- 3.124.060 Staff and Delegation.

**3.124.010 Definitions.**

- A. “Director” shall mean the director of the Portland Office of Emergency Management.
- B. “Disaster” means an occurrence of or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, technological or human caused event including fire, flood, earthquake, windstorm, wave action, oil spill or other contamination, radioactive incident, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile or paramilitary action, or structure failure of a dam, building or infrastructure, or other public calamity requiring emergency action.
- C. “Disaster Policy Council” is the City’s policymaking body which oversees the emergency preparedness activities of the various city bureaus, ensuring unity of purpose. This includes preparation and approval of plans, training of city employees for emergency and disaster-related functions, and related emergency preparedness activities.
- D. “Emergency” means any human caused, technological or natural event or circumstance causing or threatening: loss of life, injury to persons or property, human suffering or financial loss including but not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of petroleum products or other hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, unmanageable crisis, influx of migrants, civil disturbance, riot, sabotage and war.

### **TITLE 3**

### **ADMINISTRATION**

- E.** “Emergency Management Committee” shall be a committee made up of designated bureau emergency coordinators established to develop and implement plans, programs and training exercises to promote integrated disaster response efforts.

#### **3.124.020 Portland Office of Emergency Management.**

There is established by the City Council the Portland Office of Emergency Management as a part of the Mayor’s portfolio and charged with the implementation of Title 15, the Emergency Code.

#### **3.124.030 Purpose.**

The purpose of this office is to coordinate the City’s ability to address, and its long range planning for having to address, emergency situations. These efforts may be accomplished by direction from this office alone or in conjunction with plans and efforts from other City offices and bureaus, state and federal agencies and any other sources of assistance and planning.

#### **3.124.040 Organization.**

The Portland Office of Emergency Management (POEM) shall be directly responsible to the Mayor and, thereafter, to the City Council. Professional task forces, as deemed necessary by the Mayor, the Council or the POEM, as well as citizen committees, appointed by City bureau emergency management authorities and regional emergency management professionals may provide subject matter expertise in an advisory capacity to the POEM. Other City Bureaus shall provide the POEM with necessary information and assistance in the time of emergency and include, but are not limited to, the Bureau of Fire and Rescue, Police Bureau, Bureau of Water Works, Office of Transportation, Bureau of Maintenance, Bureau of Parks and Recreation, and the Bureau of Emergency Communications.

#### **3.124.050 Director's Powers and Duties.**

The Director of the Portland Office of Emergency Management shall:

- A.** Be responsible for managing the Office of Emergency Management;
- B.** Serve as the principle strategic advisor to the Mayor and Council on emergency management matters regarding the City’s preparedness and the plans for mitigation, response and recovery to and from natural and human caused emergencies;
- C.** Lead and direct the activities of the City’s Emergency Management Committee;
- D.** Oversee and participate in the coordination, development and maintenance of the City’s overall Comprehensive Emergency Management Plan;

- E.** Be responsible for integrating emergency response related activities and programs both within the City and with outside organizations and agencies;
- F.** Review and propose amendments as necessary to all existing City emergency preparedness and management plans and, as appropriate, provide Council with the documentation necessary for its review and approval of the same.

**3.124.060 Staff and Delegation.**

- A.** The Director may appoint an Assistant Director who is accountable to the Director and other personnel necessary to carry out the provisions of this chapter, when in keeping with the adopted budget for the Portland Office of Emergency Management.
- B.** The Director may delegate to his or her staff members any of the Director's duties when the Director is not available or able to perform those duties.
- C.** The Assistant Director shall succeed to all duties and responsibilities of the Director, including those specified by ordinance, when the Assistant Director is serving as the acting Director.

**Chapter 3.125**

**DISASTER POLICY COUNCIL**

(New Chapter added by Ordinance  
No. 178616, effective July 21, 2004.)

**Sections:**

- 3.125.010 Disaster Policy Council.
- 3.125.020 Powers and Duties.
- 3.125.030 Membership.
- 3.125.040 Staff Support to Disaster Policy Council.

**3.125.010 Disaster Policy Council.**

There is hereby created a Disaster Policy Council charged with providing policy oversight of integrated citywide emergency preparedness activities and initiatives.

### **TITLE 3**

### **ADMINISTRATION**

#### **3.125.020 Powers and Duties.**

It shall be the duty of the Disaster Policy Council, and it is empowered, to review and recommend for adoption by the City Council, all emergency, disaster and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Policy Council shall also be empowered to register volunteer disaster workers. The Disaster Policy Council shall meet biannually or upon call of the Mayor, or in his/her absence from the City or inability to call such a meeting, upon call of the vice chair.

#### **3.125.030 Membership.**

The Disaster Policy Council shall consist of the following members:

- A.** The Mayor, who shall be Chair;
- B.** Commissioner serving as President of the City Council, who shall be Vice Chair;
- C.** City Attorney;
- D.** Chief of Portland Police Bureau;
- E.** Chief of Portland Fire & Rescue;
- F.** Director, Portland Office of Emergency Management;
- G.** Director, Bureau of Emergency Communications;
- H.** Director, Portland Office of Transportation;
- I.** Director, Bureau of Maintenance;
- J.** Chief Administrative Officer;
- K.** Director of Human Resources;
- L.** Director, Bureau of Technology Services;
- M.** Director, Bureau of Development Services;
- N.** Director, Bureau of Environmental Services;
- O.** Director of Facilities Services;
- P.** Director, Bureau of Parks & Recreation; and

**Q.** Director, Bureau of Water Works.

**3.125.040 Staff Support to Disaster Policy Council.**

The Portland Office of Emergency Management shall provide staff support to the Disaster Policy Council including meeting schedules, agendas and minutes.

**Chapter 3.126**

**EMERGENCY MANAGEMENT COMMITTEE**

(New Chapter added by Ordinance  
No. 178616, effective July 21, 2004.)

**Sections:**

- 3.126.010 Powers and Duties of the Emergency Management Committee.
- 3.126.020 Emergency Management Committee Chair.
- 3.126.030 Membership.
- 3.126.040 Staff Support to Emergency Management Committee.

**3.126.010 Powers and Duties of the Emergency Management Committee.**

There is hereby created an Emergency Management Committee made up of designated bureau emergency coordinators charged with developing and, after approval by the Disaster Policy Council and City Council, as appropriate, implementing plans, programs and training exercises to promote integrated disaster response efforts. The Emergency Management Committee will provide operational direction for implementation of the programs and policies established by the Disaster Policy Council.

**3.126.020 Emergency Management Committee Chair.**

The Emergency Management Committee shall be chaired by the Director, Portland Office of Emergency Management, or in his/her absence by the Assistant Director, POEM. The Emergency Management Committee shall meet quarterly or upon call of the Chair, or in his/her absence from the City, upon call of the Assistant Director, POEM.

**3.126.030 Membership.**

The Emergency Management Committee shall consist of designated bureau emergency coordinators. Emergency coordinators shall be designated by bureau directors and shall be senior managers who are knowledgeable about their respective bureau mission and

### **TITLE 3**

### **ADMINISTRATION**

operations. Bureau directors shall be responsible for notifying the Portland Office of Emergency Management if there is a change in their designated bureau emergency coordinator.

#### **3.126.040 Staff Support to Emergency Management Committee.**

The Portland Office of Emergency Management shall provide staff support to the Emergency Management Committee.

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POLICE ARREST DOCKET AND MUNICIPAL COURT TRANSCRIPT  
City of Portland, Oregon  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
Bureau of Police

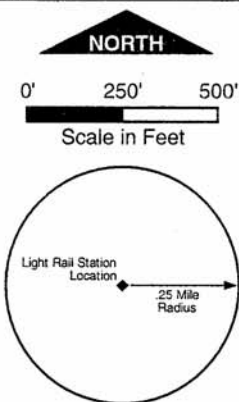
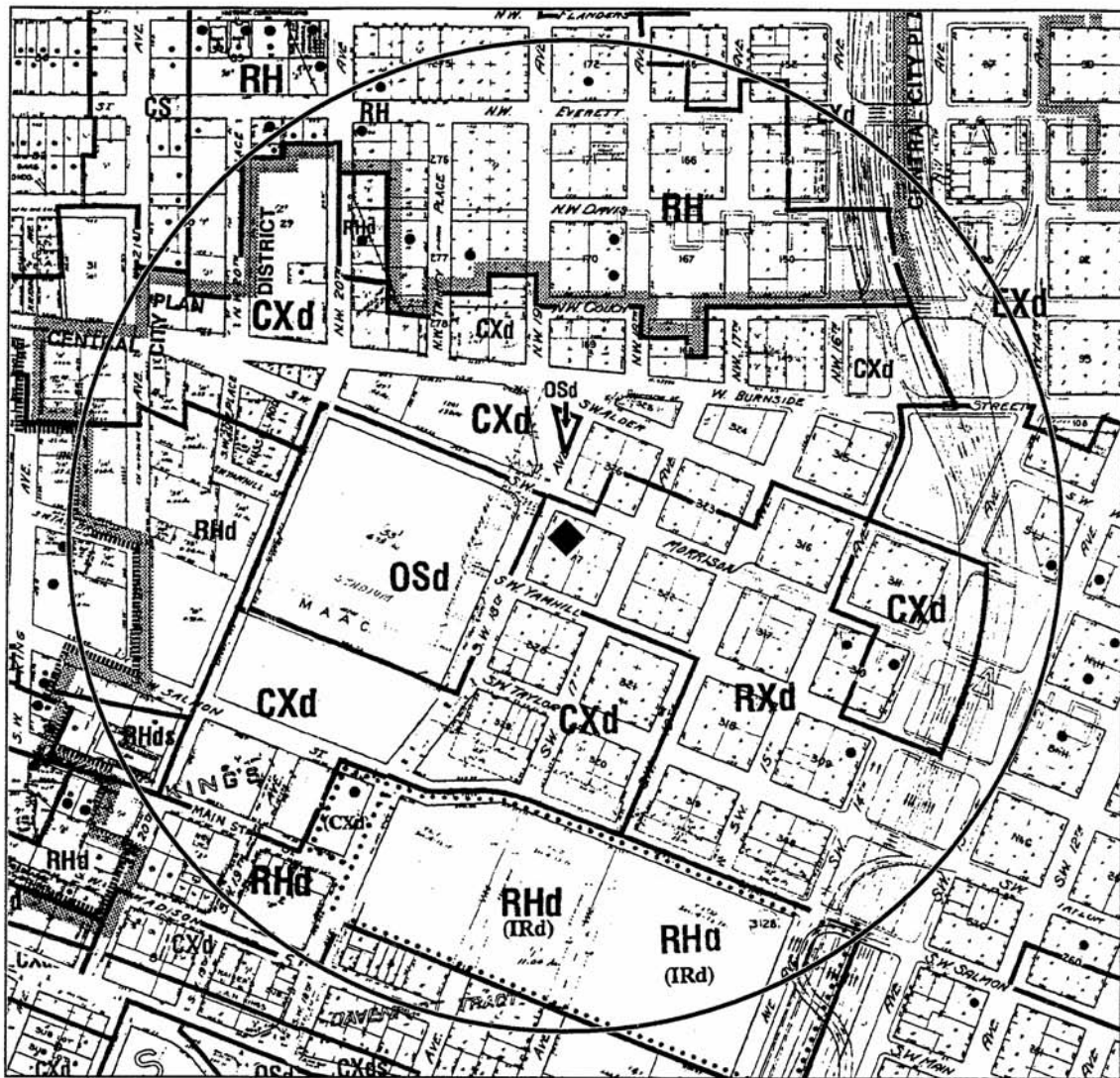
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<u>Nativity</u>	<u>Occupation</u>	<u>Bail</u>	<u>Plea</u>	<u>Fine</u>	<u>Days</u>	<u>Remarks</u>

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FIGURE 1 - (Section 3.20.130)

**TITLE 3  
ADMINISTRATION**



GTS/Graphics 10-9-96

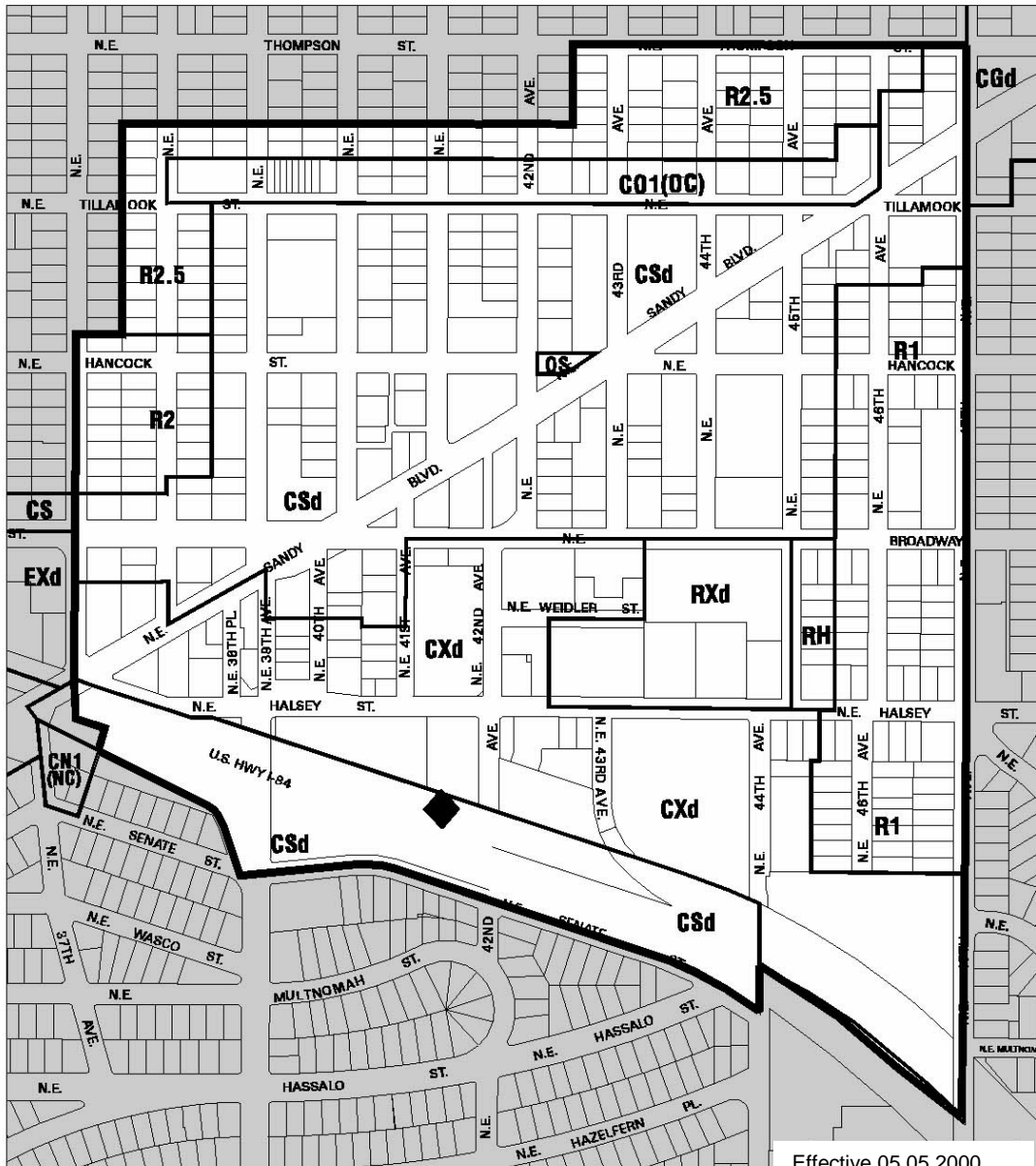
**Map 3.103-1**

**Property Tax Exemption for New  
Transit Supportive Residential  
or Mixed Use Development**

**Goose Hollow Light Rail Station Area**

Bureau of Planning • City of Portland, Oregon





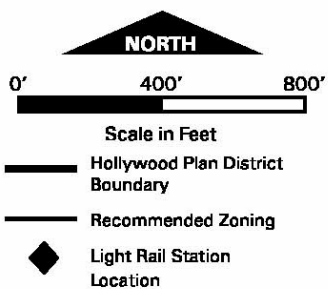
Effective 05.05.2000

**Map 3.103-2**

**Property Tax Exemption for New  
Transit Supportive Residential  
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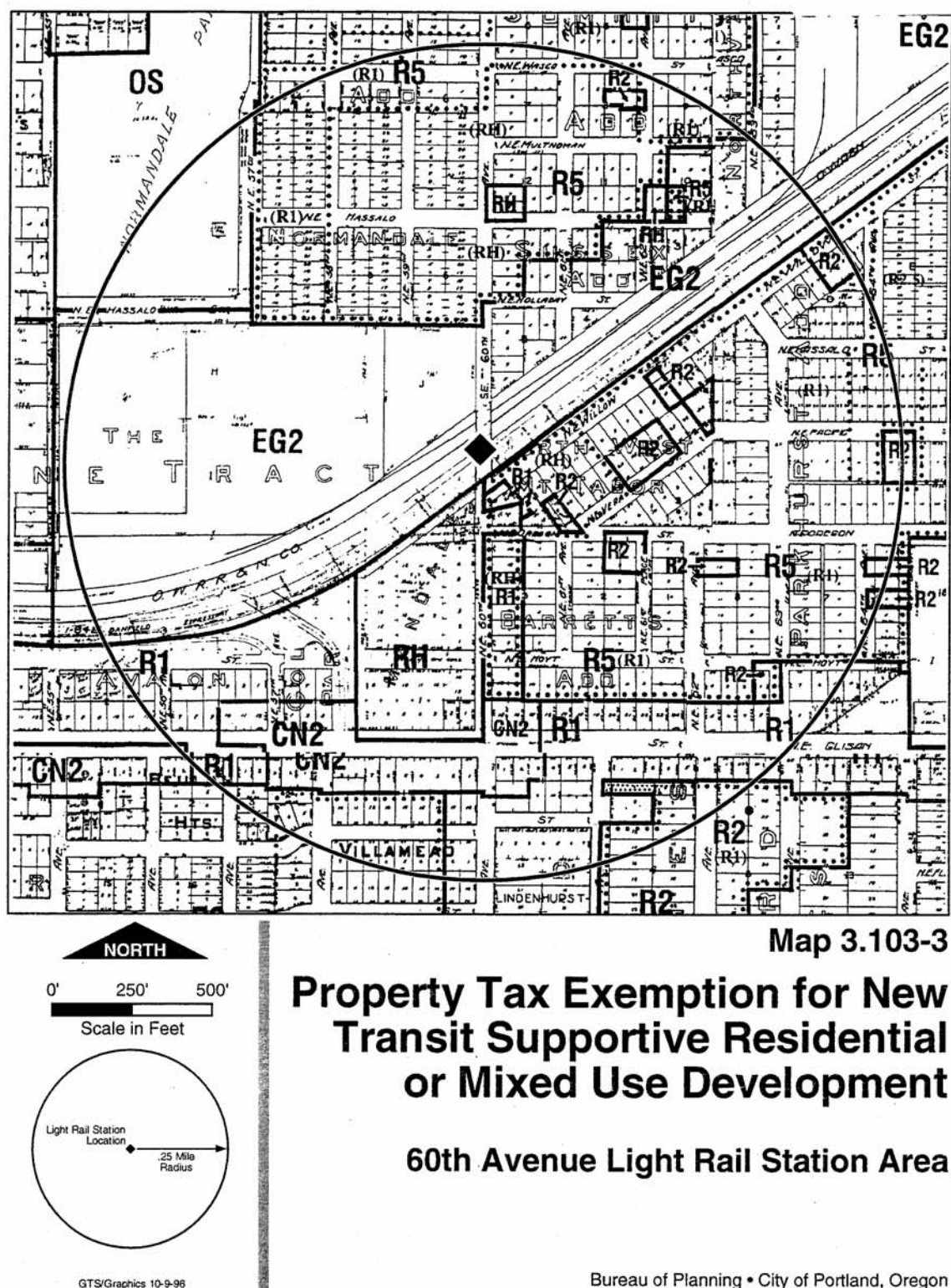
**Hollywood/42nd Avenue Light Rail Station Area**

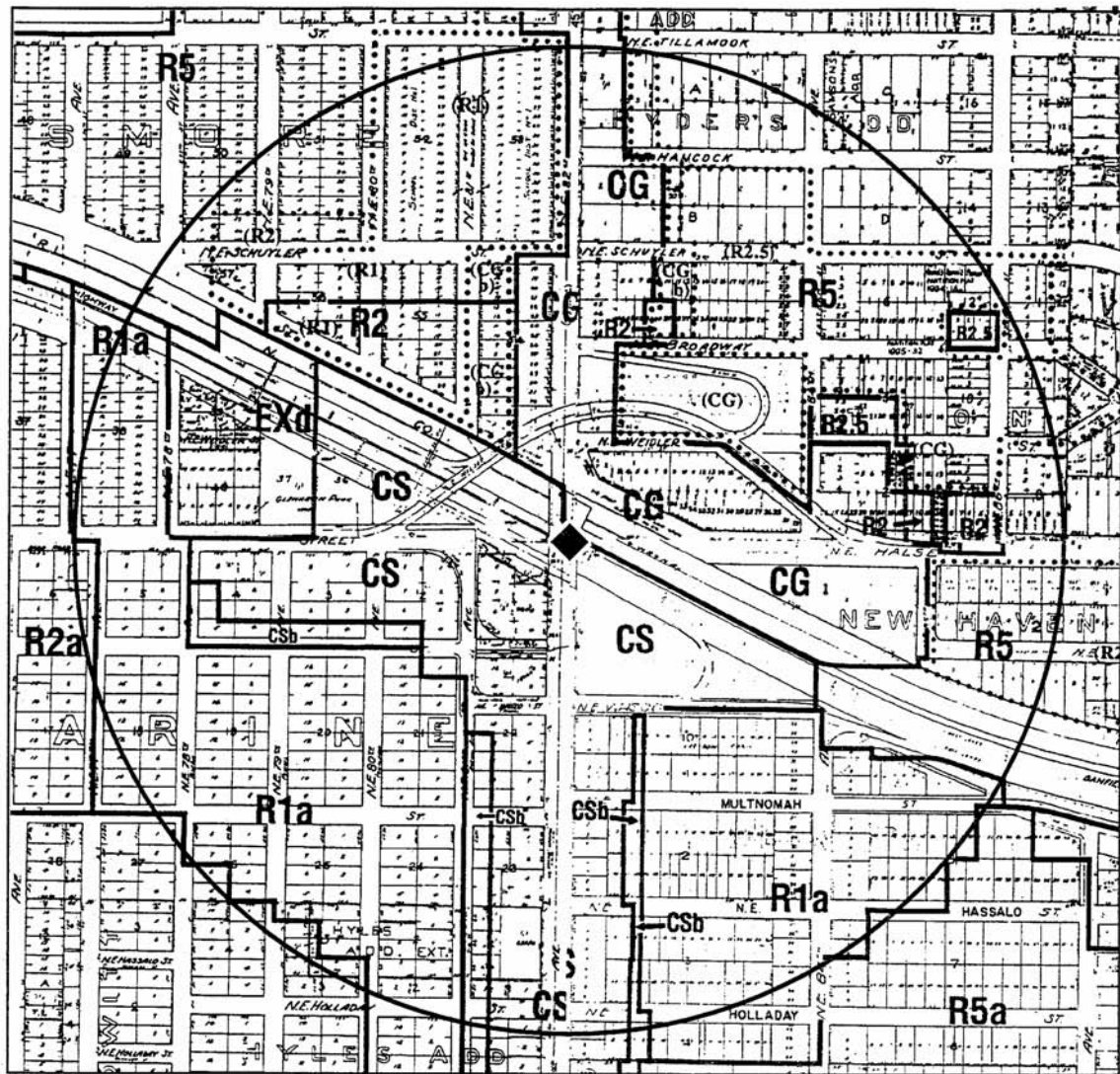
Bureau of Planning • City of Portland, Oregon



## TITLE 3

## ADMINISTRATION

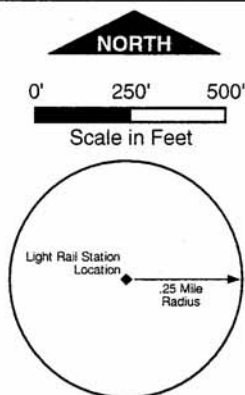




Map 3.103-4

# Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

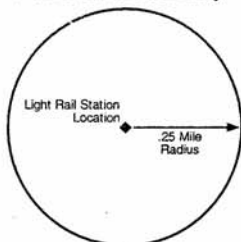
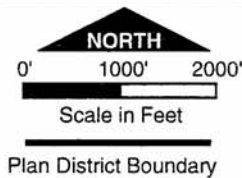
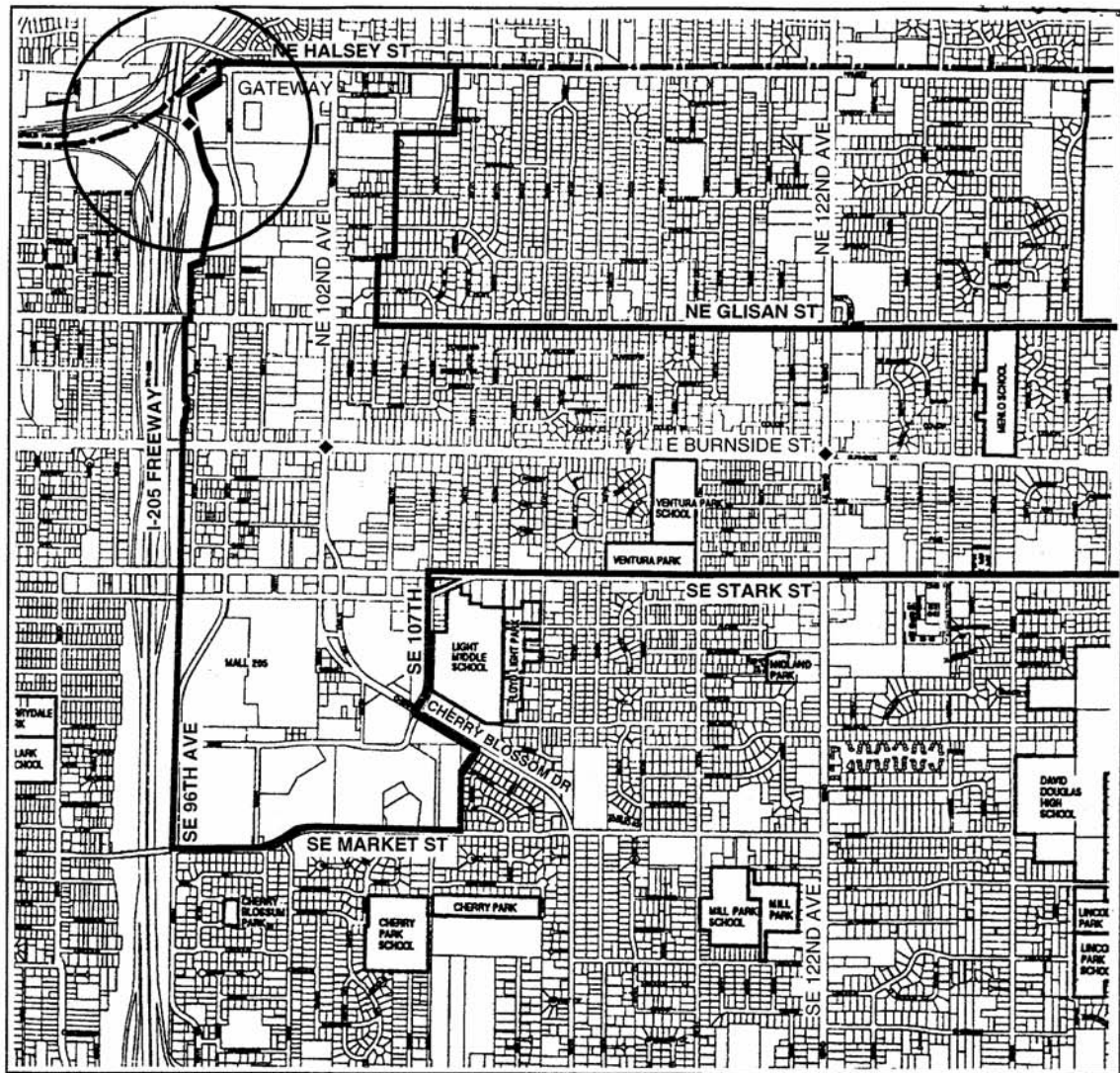
82nd Avenue Light Rail Station Area



GTS/Graphics 10-9-96

Bureau of Planning • City of Portland, Oregon

**TITLE 3  
ADMINISTRATION**



GTS/Graphics 10-15-96

**Map 3.103-5**

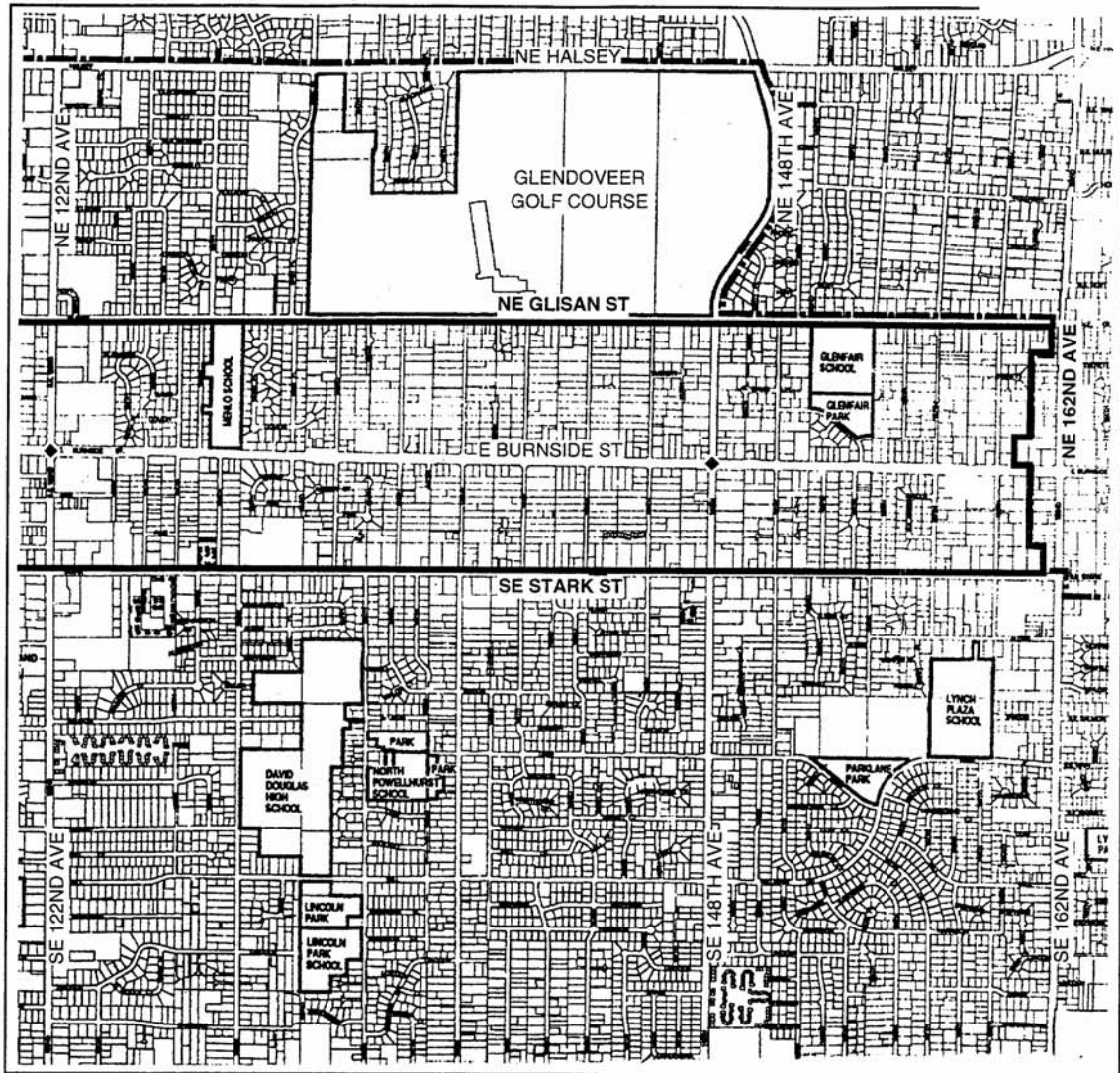
**Property Tax Exemption for New  
Transit Supportive Residential  
or Mixed Use Development**

**Gateway Plan District Light Rail  
Station Areas and Transit Oriented Areas**

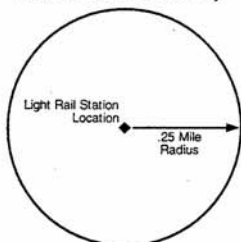
**Map 1 of 2**

Bureau of Planning • City of Portland, Oregon





Plan District Boundary



GTS/Graphics 10-15-96

Map 3.103-5

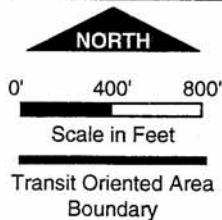
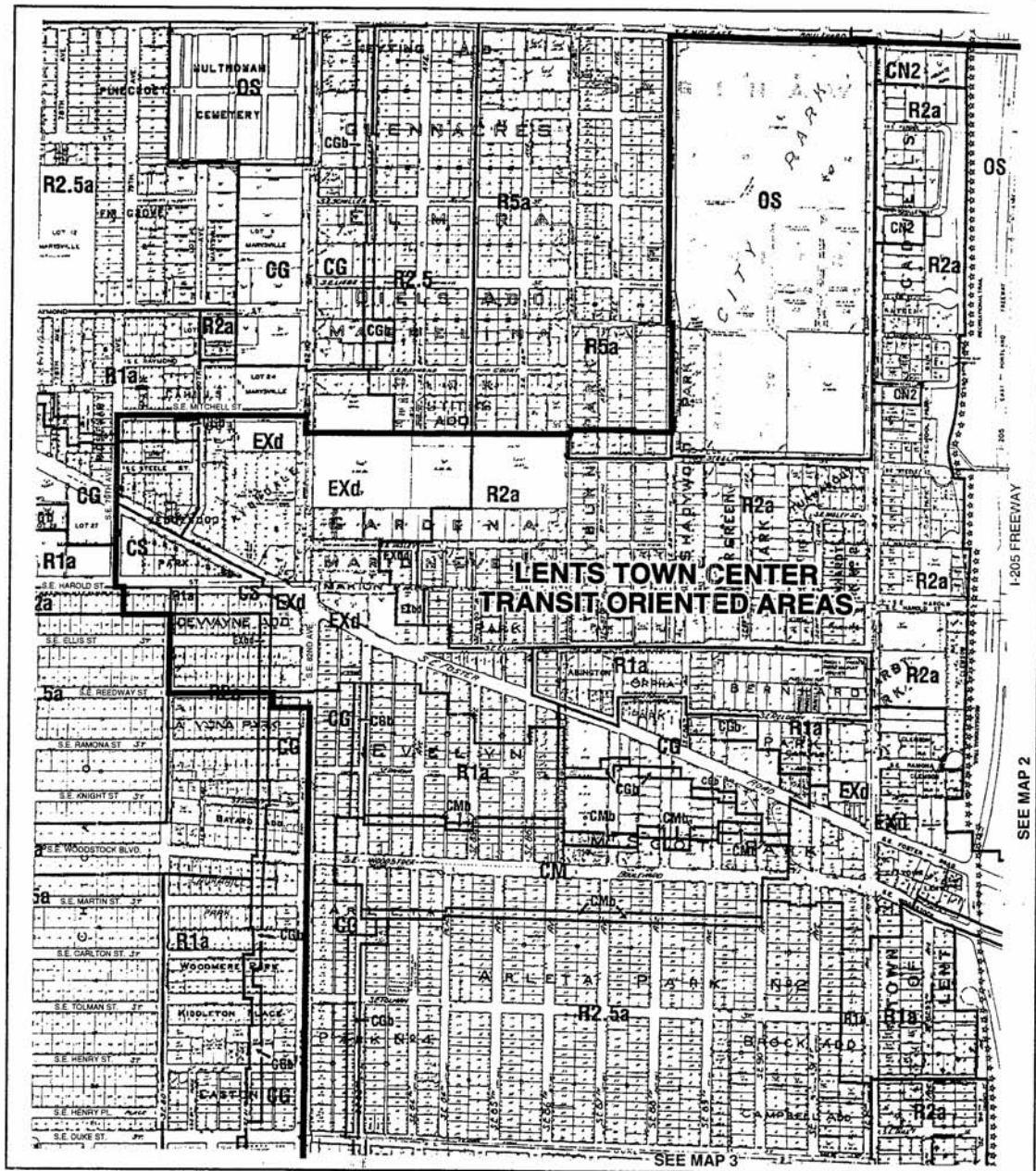
## Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Gateway Plan District Light Rail  
Station Areas and Transit Oriented Areas

Map 2 of 2

Bureau of Planning • City of Portland, Oregon

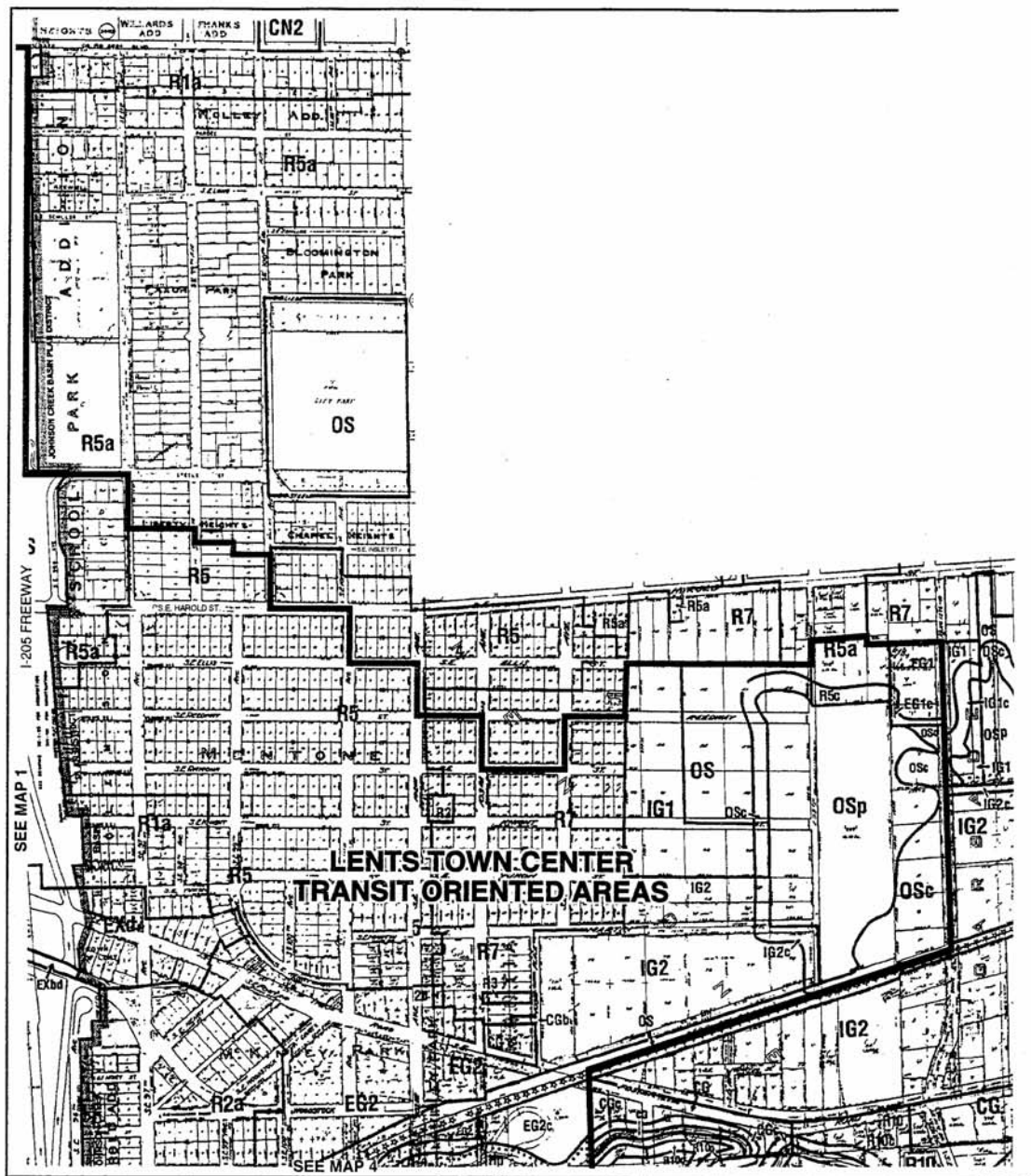
**TITLE 3  
ADMINISTRATION**



GTS/Graphics 10-15-96

**Map 3.103-6  
Lents Town Center  
Transit Oriented Areas  
Map 1 of 4**

Bureau of Planning • City of Portland, Oregon

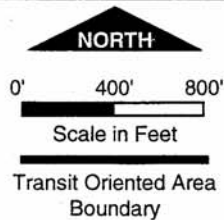
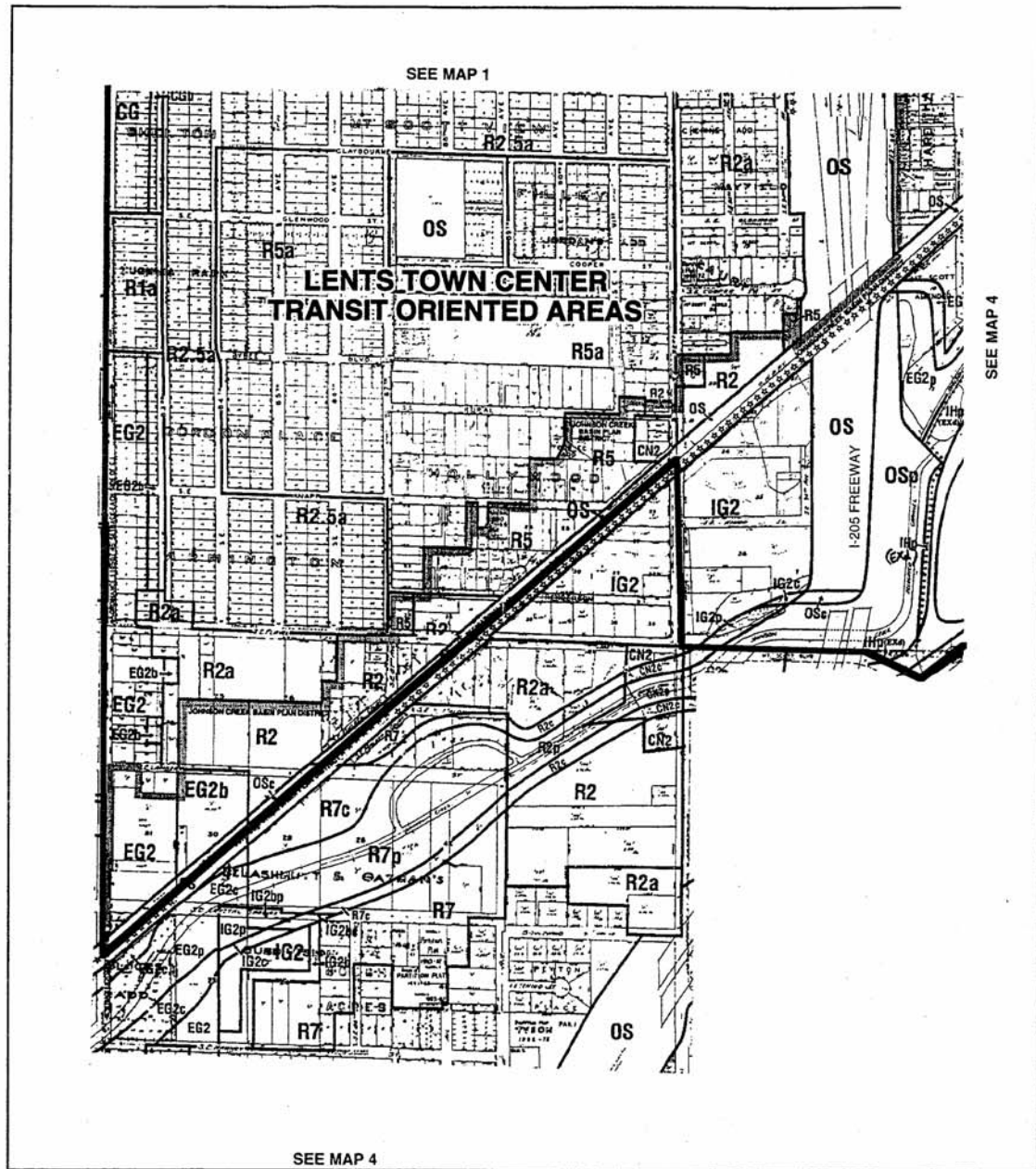


GTS/Graphics 10-15-96

Map 3.103-6  
**Lents Town Center  
Transit Oriented Areas**  
Map 2 of 4

Bureau of Planning • City of Portland, Oregon

**TITLE 3  
ADMINISTRATION**

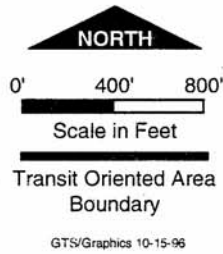
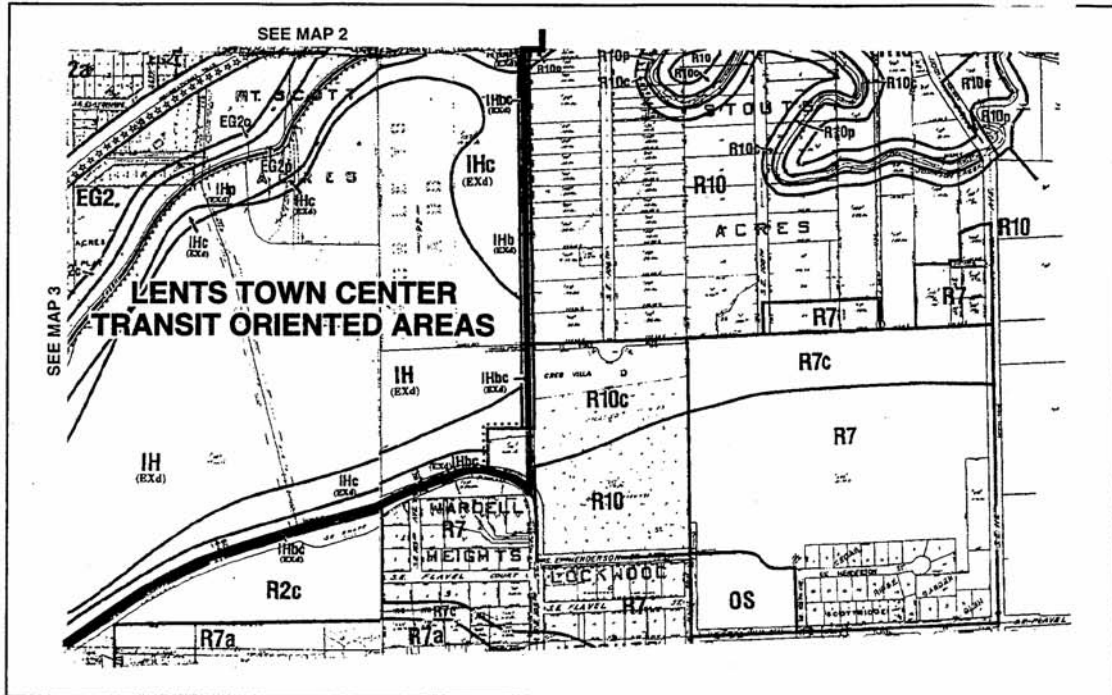


GTS/Graphics 10-15-96

**Map 3.103-6  
Lents Town Center  
Transit Oriented Areas  
Map 3 of 4**

Bureau of Planning • City of Portland, Oregon



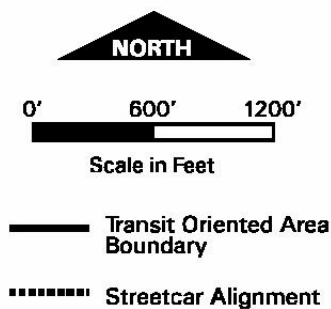
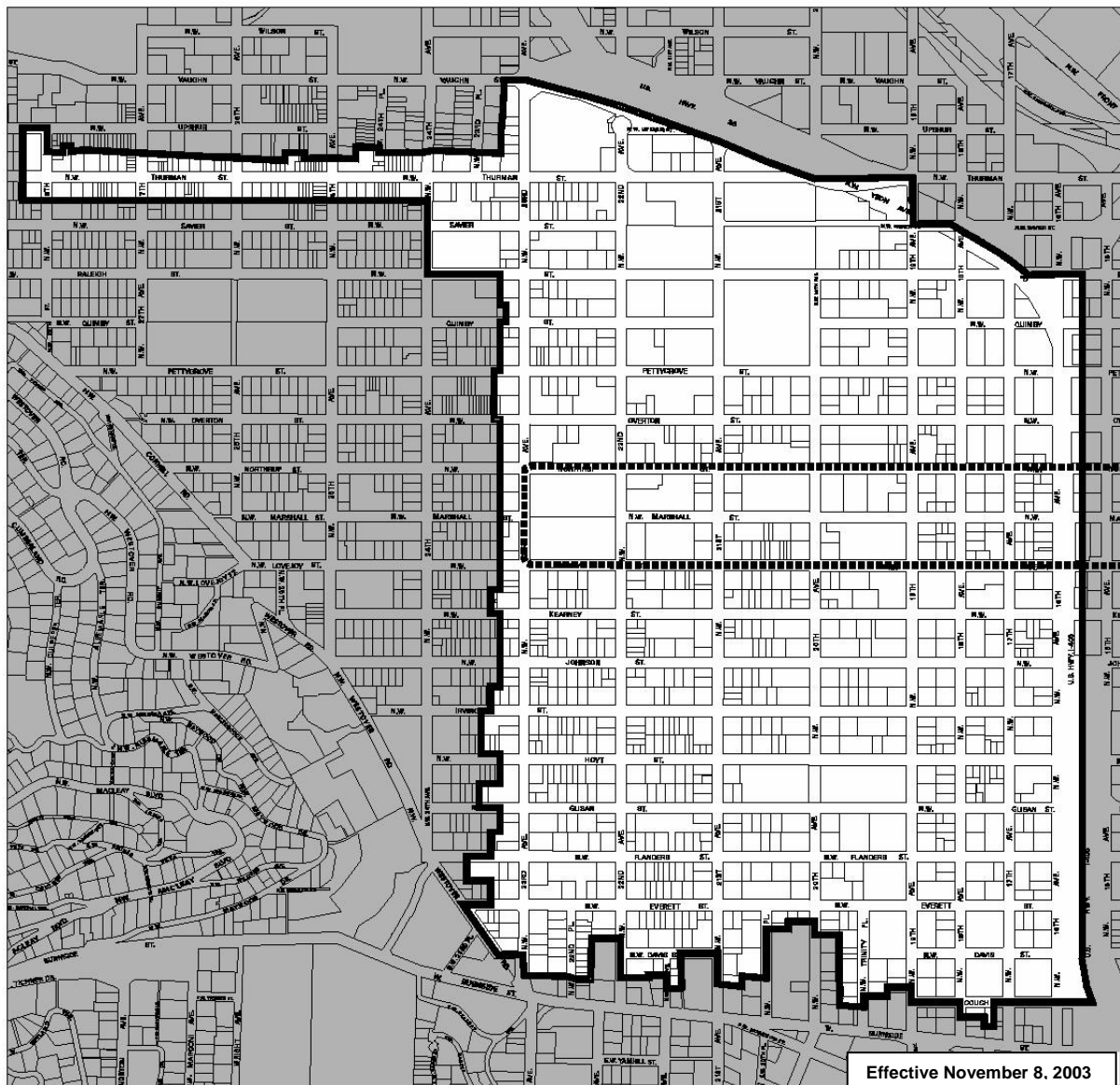


Map 3.103-6  
**Lents Town Center  
Transit Oriented Areas**

Map 4 of 4

Bureau of Planning • City of Portland, Oregon

# TITLE 3 ADMINISTRATION



## Map 3.103-7 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

### Northwest Plan District

Bureau of Planning • City of Portland, Oregon

**Chapter 7.24**

**TOWING AND PAY  
AND PARK FACILITIES**

(New Chapter Added by Ordinance  
No. 176585, effective July 5, 2002.)

**Sections:**

- 7.24.010 Towing of Vehicles from Private Property
- 7.24.011 Administrative Authority.
- 7.24.012 Definitions.
- 7.24.013 Private Property Impound (PPI) Tower Registration
- 7.24.014 Towing Regulations.
- 7.24.015 Towing and Storage Rates.
- 7.24.016 Conditions.
- 7.24.017 Prohibitions.
- 7.24.018 Remedies.
- 7.24.019 Appeals.
- 7.24.020 Pay and Park and Non-Pay Private Parking Facilities.
- 7.24.030 Locking Parked Cars

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

(Replaced by Ordinance No. 178109, effective December 17, 2003.)

- A. Short Title.** Sections 7.24.010 through 7.24.019 shall 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 shall be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property. The Director shall have authority to adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code.
- D. Savings Clause.** If any provision of the PPI Code is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of the PPI Code.

## **TITLE 7**

### **BUSINESS LICENSES**

#### **7.24.011 Administrative Authority.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.)

- A.** The Director is authorized and directed to enforce all provisions of the PPI (Private Property Impound) Code. The Director shall have the power to investigate any and all complaints regarding alleged violations of the PPI Code. The Director may delegate any or all authority granted under this Section to the Towing Coordinator or any Revenue Bureau officer, employee or agent.
- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
  - 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.
  - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
  - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue Bureau and the Office of the City Auditor in compliance with Section 1.07.030. Copies of all current rules shall be available to the public upon request.
  - 4.** Notwithstanding 7.24.011 C. 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.
- D.** Rates. The Director is authorized to establish a schedule of maximum rates permissible for all PPI tows from properties located within the city limits of Portland. The jurisdiction of this code section may be expanded by

intergovernmental agreement with other agencies.

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

**7.24.012     Definitions.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) For the purposes of the PPI (Private Property Impound) Code, and administrative rules adopted by the Director pursuant to the PPI Code, certain terms, phrases, words, abbreviations and their derivations shall be 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 shall have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, shall have the meanings commonly accepted in the community.

- A.**     **"Director"** means the Director of the Revenue Bureau.
- B.**     **"Dispatching facilities"** means the PPI tower's facilities used for communication with Tow Desk and maintaining radio contact with tow vehicles.
- C.**     **"Oversized tow vehicle"** means a tow truck equipped to perform towing of automobiles or other vehicles, and which has a maximum gross vehicle weight rating (GVWR) of over 10,000 pounds. Vehicles with maximum GVWR of at least 19,000 pounds are designated as "Class B." Vehicles with maximum GVWR of at least 44,000 pounds are designated as "Class C."
- D.**     **"Owners agent"** means a person bearing documentation from the registered owner officially authorizing them to possess or operate the vehicle.
- E.**     **"PPI Police tow"** means any PPI tow that, upon notification to the local police agency, is found to have been reported stolen, or for any other reason becomes a police tow as defined in the Contract for Vehicle Towing and Storage of the City of Portland, or requires a police release.
- F.**     **"PPI tower"** means any towing firm duly registered and permitted to perform Private Property Impound tows within the City of Portland.
- G.**     **"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:

## **TITLE 7**

### **BUSINESS LICENSES**

1. Property used for governmental purposes by any agency or special district;  
or
  2. Property used primarily for residences, including houses and apartment houses where there is designated parking for 10 or fewer vehicles.
  3. Pay and park facilities and non-pay private parking facilities duly registered under Section 7.24.020.
- H. "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.
- I. "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.
- J. "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.
- K. "Storage facility"** means a secure area, meeting all requirements of Administrative Rule LIC 9.01, used by PPI tower for storing towed vehicles.
- L. "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.
- M. "Tow Desk"** means the private tow dispatching company contracted with the City of Portland for municipal tow dispatching and data management or any government agency serving this function.
- N. "Towing"** means to draw or pull along a vehicle by means of a tow truck or car carrier.
- O. "Towing Coordinator"** means the person designated by the Director to provide direct enforcement and administration of all provisions of this Section and applicable administrative rules.
- P. "Towing firm" or "Tower"** means any entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

**TITLE 7**  
**BUSINESS LICENSES**

- Q. "Tow vehicle"** means a tow truck equipped as specified in Administrative Rule LIC 9.01 to perform towing of automobiles, motorcycles, or other motor vehicles, and which has a minimum Gross Vehicle Weight Rating (GVWR) of 10,000 lbs.
- R. "Vehicle owner"** means the person registered with the Department of Motor Vehicles as the owner of the vehicle.

**7.24.013 Private Property Impound (PPI) Tower Registration.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.)

- A.** Initial registration. No PPI (Private Property Impound) tower shall tow or store vehicles towed from private parking facilities unless the PPI tower has registered with the Director and complied with all provisions of the PPI Code.
- B.** Applications. The PPI tower shall submit to the Director an application form containing all information specified in Administrative Rule LIC 9.01.
- C.** Reporting Changes. Changes in information contained in the PPI tower's application, including office and/or storage locations, insurance provider, employees or additional trucks shall be filed with the Director prior to implementation of such changes.
- D.** Inspection. The PPI tower's towing equipment, dispatching and storage facilities shall be inspected prior to issuance of a new PPI permit.
- 1.** If an applicant is currently in good standing as a Tow Contractor under the City of Portland Contract for Vehicle Towing and Storage, 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.
- E.** Registration/expiration dates. PPI permits shall be valid for no more than one (1) year, and all such permits shall expire yearly on December 31<sup>st</sup>.
- F.** Renewal. Renewal notices shall 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 shall be provided. Re-inspections shall not be required for renewal. Any permit not renewed within 30 days after the expiration date shall be invalid and a new application must be submitted and approved before PPI towing resumes.
- G.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Section shall not be assignable or otherwise transferable.

## **TITLE 7**

### **BUSINESS LICENSES**

- H.** Indemnification and Insurance. PPI towers subject to the PPI Code agree to hold harmless, defend and indemnify the City of Portland, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI permit.
- 1.** PPI tower shall maintain such public liability and property damage insurance as will protect the PPI tower from all claims for damage to property or personal injury, including death, which may arise from operations pursuant to the PPI Code. Such insurance shall include a single limit liability policy with coverage of not less than \$1,000,000.00 (\$1 million). PPI tower shall also maintain fire and theft insurance (garage keepers insurance) to protect stored vehicles in a minimum amount of \$100,000.00 and maintain cargo insurance in the minimum amount of \$50,000.00.
  - 2.** PPI tower shall maintain insurance in the limits provided by this section to cover liability for transportation required by Section 7.24.016 G. In no case shall the policy deductible for garage keepers and cargo insurance exceed \$2,500 per event.
  - 3.** The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the permit. The insurance shall be without prejudice to coverage otherwise existing.
  - 4.** The insurance shall name as additional insureds the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insureds on the policy.
  - 5.** The insurance shall provide that the insurance shall not terminate or be canceled without thirty days written notice first being given to the Towing Coordinator.
  - 6.** The adequacy of the insurance shall be subject to the approval of the City Attorney.
  - 7.** Failure to maintain liability insurance shall be cause for immediate



revocation of the registration by the Director.

**7.24.014      Towing Regulations.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) It shall be unlawful to tow a vehicle from a private parking facility:

- A.**     Except upon express written authorization issued to the PPI (Private Property Impound) tower by the private parking facility owner, or person in lawful possession of the property, in compliance with ORS 98.812 and 98.830; or
- B.**     Unless the private parking facility complies with Administrative Rule LIC 9.02 regarding signage requirements; or
- C.**     Unless the vehicle shall be towed directly to the PPI tower's storage facility; or
- D.**     If that vehicle is occupied by a person or persons.

**7.24.015      Towing and Storage Rates.**

(Added by Ordinance No. 178109, effective December 17, 2003.) The Director shall issue a schedule of approved maximum fees for PPI (Private Property Impound) towing and storage at the beginning of each permit period. Such schedule shall 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 shall consider such requests and hold a public hearing for the purpose of determining fair and reasonable prices prior to making any changes in the PPI rate schedule.

**7.24.016      Conditions.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) PPI (Private Property Impound) towers registered under this Section shall:

- 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 owner/owner's agent a clearly legible receipt complete with all required information and with all fees and considerations itemized; and

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- E.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing the current list of approved PPI rates; and
- F.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing a statement of the rights of the vehicle owner; and
- G.** Be considered in possession of any vehicle towed under this Section, and therefore entitled to charge a Release at the Scene fee, when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward; and
- H.** Offer to call for or provide transportation to the vehicle owner/operator, from within the immediate vicinity of the tow scene to the location of the towed vehicle storage; and
- I.** 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
- J.** Staff the storage facility with an attendant between 8:00 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 thirty (30) minutes after receiving a request for vehicle release; and
- K.** 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 and with the tow drivers for the purpose of making change; or
  - 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; and
- L.** Notify the local police agency of the intent to tow by telephone call to the Tow Desk prior to attaching any equipment to a vehicle at a private parking facility; and
- M.** Notify the local police agency of the location of the vehicle by facsimile transmission to the Tow Desk within one hour after the vehicle is placed in storage; and
- N.** 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 eight (8) hours after the release; and

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- O.** Pay a data service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such data fees shall be payable to the Tow Desk by the 20<sup>th</sup> day of each month; and
- P.** Pay a service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such service fees shall be payable to the City of Portland by the 20<sup>th</sup> day of each month; and
- Q.** Accept as proof of ownership vehicle title or registration in addition to valid photo-identification of the person seeking the release.
- R.** Exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, as detailed in Administrative Rule LIC 9.04 Conditions.

**7.24.017 Prohibitions.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) PPI (Private Property Impound) towers registered under this PPI Code shall not:

- A.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- B.** 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;
- C.** 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;
- D.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- E.** Use predatory practices, as defined in Administrative Rule LIC 9.05, to secure PPI tows.
- F.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.
- G.** Assess or collect a surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Section 7.24.020 "Pay and Park and Non-Pay Private Parking Facilities."

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- H.** 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.

#### **7.24.018 Remedies.**

(Added by Ordinance No. 178109, effective December 17, 2003.) Failure to comply with any part of the PPI (Private Property Impound) Code or the administrative rules may be punishable by any or all of the following:

- A.** Suspension. The Director may suspend a PPI tower's permit if investigation reveals 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 have failed to resolve. Suspension may be for a period of up to fourteen calendar days. The suspension shall be effective from the PPI tower's receipt of written notice of a suspension. If the violation is not corrected within the fourteen 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 shall be effective immediately upon issuance of written notice by the City of Portland to the PPI tower. No new application shall 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.
- C.** Civil penalty. The Director may impose a civil penalty of up to \$500.00 for any substantial violation of the PPI Code or the administrative rules, including:
  - 1.** Late payment of data service fees to Tow Desk. The penalty shall be \$50.00 for each incident.
  - 2.** Late payment of service fees to the City of Portland. The penalty shall be \$50.00 for each incident.
  - 3.** Late report or failure to report a release. The penalty shall be \$50.00 for each incident.
  - 4.** Civil penalties shall be payable to the City of Portland.
- D.** 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.

- E.** Public nuisance. Any towing equipment or PPI tower's storage facility maintained in violation of the PPI Code is hereby declared to be a public nuisance. The Director may request that the City Attorney bring action or suit to abate such nuisance in any court with jurisdiction to hear such action or suit.
- F.** Civil remedies. Nothing in this Section is intended to prevent any person from pursuing legal remedies.

**7.24.019 Appeals.**

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.)

- A.** Any towing firm whose application for initial PPI (Private Property Impound) permit registration or renewal of PPI permit registration has been denied, or whose permit registration has been revoked or suspended, or who has been directed by the Director or director's designee to pay a civil penalty or refund, may appeal such action of the Director or director's designee by submitting a written request for a hearing before the Code Hearings Officer of the City of Portland, within 10 business days of receiving the Director's written findings, as set out in Chapter 22.10.
- B.** Creation of PPI Board of Appeals. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the PPI Board of Appeals. The PPI Board of Appeals shall hear and resolve protests and appeals arising from adoption of Administrative Rules by the Director. The findings of the PPI Board of Appeals shall be final.
  - 1.** Composition of the PPI Board of Appeals. The PPI Board of Appeals shall consist of three members. A quorum shall consist of three members. The Commissioner in Charge of the Revenue Bureau shall appoint a representative member from a public agency and a representative member of the general public, and shall approve a representative member from the towing industry selected by the towing industry.
  - 2.** Compensation. All members of the PPI Board of Appeals shall serve without pay, except that they may receive their regular salaries during the time spent on Board matters.
  - 3.** Procedures and Rules. The Director shall establish rules and procedures for the Board and the Board shall follow those procedures in all matters heard by the Board.
  - 4.** Staff. The Revenue Bureau shall provide staff and assistance to the Board.

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5. Powers of the Board. The PPI Appeals Board shall hear protests of Administrative Rules adopted by the Director. Written notice of the protest must be received by the Revenue Bureau Towing Coordinator within 30 days after the notice of adoption of the Administrative Rule. The protest shall 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 shall not be heard.

#### **7.24.020 Pay and Park and Non-Pay Private Parking Facilities.**

(Replaced by Ordinance No. 179796, effective December 30, 2005.)

- A. Purpose. The purposes of this Section are to ensure that the regulation of parking at pay and park lots and non-pay private parking facilities shall be applied objectively with proper notice; and protecting fairness and convenience for the parking public.
- B. Savings Clause. If any provision of this Section is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of this Section.
- C. Definitions. Except where the context requires otherwise, the following words and phrases shall have the definitions given in this Section:
  1. **“15-day notice”** means the letter providing second notice of a penalty which must be sent by the operator to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle.
  2. **“Boot”** means a mechanical device attached to a vehicle to prevent its movement.
  3. **"Director"** means the Director of the Bureau of Licenses.
  4. **“Non-pay private parking facility”** means any facility at which the free parking or storage of motor vehicles is limited by time or authorization by the property owner/operator. Non-pay private parking facility does not include pay and park facilities or any facility owned or used by a public agency or district.
  5. **"Operator"** means any entity whose business includes assessing and collecting penalties at pay and park or non-pay private parking facilities.
  6. **“Park”** means to leave a vehicle standing for more than 5 minutes with no driver at the wheel.

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7. **"Parker"** means the owner, operator, or other person in control of any vehicle parking at a registered pay and park facility or non-pay private parking facility.
8. **"Pay and park facility"** means any facility open for parking or storage of motor vehicles by the general public, at which the fee for parking is payable by meter, coin box, or other similar device, or by use of a payment device at any time during hours of operation, and payment of parking fees is enforced by issuance of penalty fee notices. Pay and park facility does not include any facility owned or used by a public agency or district.
9. **"Payment device"** means any mechanical or electrical device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
10. **"Penalty fee"** means a fee assessed for failure to pay for parking, or properly display proof of payment, at a pay and park facility. This term also applies to a fee assessed for unauthorized or over-time parking at a non-pay private parking facility.
11. **"Penalty notice"** means the initial demand for payment of a penalty fee which is affixed to vehicles parked without authorization on a pay and park or non-pay private parking facility.

**D. Authorization.**

1. **Enforcement.** The Director is authorized to enforce all provisions of this Section.
  - a. **Investigation.** The Director shall have the power to investigate any and all complaints regarding alleged violations of this Section.
  - b. **Inspection.** The Director may inspect any records required by this Section to be maintained by any operator. Such records shall be made available for inspection during normal business within 24 hours of notice by the Director.
  - c. **Delegation.** The Director may delegate the authority provided under this Section to any Bureau of Licenses officer or employee.
2. **Procedures and forms.** The Director may adopt procedures and forms to implement the provisions of this Section.

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- 3.** Adoption of rules. The Director may adopt rules pertaining to matters within the scope of this Section.

  - a.** Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
  - b.** During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification shall be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau's office. Copies of all current rules shall be made available to the public upon request.
  - c.** Notwithstanding subparagraphs a. and b. of this paragraph, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly shall result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this subparagraph shall be effective for a period of not longer than 180 days.
- E.** Rates. The Director shall establish a maximum designated penalty fee for vehicles parked on pay and park, or non-pay, private parking facilities without the authorization of the property owner/operator.
- F.** Registration of pay and park and non-pay private parking facility. No person shall collect any penalty fees at any pay and park, or non-pay private parking facility, unless such facility has first been registered with the Director and is in compliance with the provisions of this Section.
- 1.** Applications. The operator of any pay and park, or non-pay private



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parking facility shall submit to the Director an application form containing:

- a.** The name, address and telephone number of the applicant;
- b.** Proof of valid insurance as described in this Section;
- c.** A copy of the proposed notice of demand for payment;
- d.** A sample copy of the 15-day notice.
- e.** Penalty fee notices, 15-day notices and any subsequent demands for payment shall include:
  - (1)** The name, address and telephone number of the operator;
  - (2)** A description of the vehicle, including make, model, color and license plate;
  - (3)** The time and date the notice was issued;
  - (4)** The exact location of the pay and park or non-pay private parking facility;
  - (5)** Any facility number that may be assigned by the operator;
  - (6)** The amount of the penalty demanded;
  - (7)** Appropriate instructions describing deadlines and acceptable methods of payment;
  - (8)** Any additional fees that may be added if not paid within 30 days; and
  - (9)** A statement that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the operator have been unsuccessful.
- f.** The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
- g.** Such other information relating to the purposes of this Section as the Director may require.

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2. The Director shall reject any incomplete application, or any application received without the nonrefundable registration fee of \$100.00 for each pay and park, or non-pay private parking facility.
3. The Director shall review the operator's proposed penalty notice and the proposed 15 day notice letter, and approve or reject them. Rejected documents shall be returned to the applicant for amendment and resubmission. There shall be no additional registration fee for resubmission. If such documents have previously been approved by the City, it shall not be necessary to resubmit them with each new location application.
  - a. The notice of demand for payment form shall not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The penalty fee notice form shall be subject to the review and approval of the City Attorney's Office.
4. The Director shall inspect the pay and park, or non-pay private parking facility for which an application has been made. If the Director determines that a facility complies with all of the requirements of this Section, the Director shall issue a registration to the operator for such facility. If it is determined that the facility does not comply with the requirements of this Section, the application shall be denied and returned to the applicant together with a statement of the requirements with which the facility fails to comply. If an application is denied, the applicant may resubmit the application without payment of additional fees at any time within 60 days if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of fees may be made with respect to each facility. If upon such reapplication, the registration is again denied, the applicant must file a new application accompanied by the required fee.
5. The registration shall be dated as of the first day of the month in which the registration is issued, and shall expire one year from that date.
6. Reporting Changes. Changes in information contained in the operator's application shall be filed with the Director prior to implementation of such changes.
7. Renewal. The Bureau shall send renewal notices to all registered operators not less than one month prior to the expiration date. A renewal form requesting any changes in the registered information shall be provided. Registrations shall be renewed upon submission of the completed renewal form and payment of the nonrefundable \$100.00 fee for each facility. Any

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registration not renewed within 30 days after the expiration date shall be invalid and a new application shall be submitted with a \$100.00 registration fee and approved before operations may resume.

- 8.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Section shall not be assignable or otherwise transferable.
- G.** Payment device. Payment devices shall be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.
- H.** Pay and Park signage requirements. The operator of a pay and park facility shall post and maintain:

  - 1.** At each entrance to the facility, a sign with the words "PAY TO PARK, ALL HOURS" or when the pay and park facility has posted operating hours other than 24 hours a sign with the words "PAY TO PARK POSTED HOURS" in letters not less than 7 inches high and 4 inches wide. The signs shall be reflectorized. The center of such signs shall be no lower than 42 inches from the ground. The signs shall be visible and unobstructed by any tree, shrub, bush or any other obstacle. The signs shall be no more than 10 feet from the entrance and shall be located within 2 feet of the property line of the facility; and,
  - 2.** When a "PAY TO PARK POSTED HOURS" sign has been placed on the facility in accordance with this section, a sign or signs at each entrance of the parking facility indicating the exact hours that the parking facility shall be operated as a pay and park facility, in letters not less than 3 inches high and 2 inches wide. The signs shall be reflectorized. The center of such signs shall be no lower than 42 inches from the ground. The signs shall be visible and unobstructed by any tree, shrub, bush or any other obstacle. The signs shall be no more than 10 feet from the entrance and shall be located within 2 feet of the property line of the facility; and,
  - 3.** A sign or signs visible from every vehicle entrance of the facility with the words "PAY HERE" in letters not less than 10 inches high and 4 inches wide indicating the location of the payment device. The signs shall be reflectorized and, during hours of operation, shall be sufficiently illuminated before dawn and after dusk so that they are readily visible to a person of normal vision from every vehicle entrance; and
  - 4.** At each location where payment may be made, a sign or signs stating:

    - a.** A complete list of all applicable charges for parking or storage and posted hours when a "PAY TO PARK POSTED HOURS" sign has

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been placed on the facility in accordance with this section;

- b.** That proof of payment must be placed in the vehicle so that it is clearly displayed and visible through the windshield; and
- c.** If vehicles are subject to being towed away or impounded, or are subject to penalty fees, the sign shall so state and shall include the phone number to be called for the release of vehicles. It shall be unlawful to tow away or impound any vehicle for nonpayment of parking charges unless such signs are posted and maintained.
- d.** The signs under this Subsection shall be in letters not less than 2 inches high and 2 inches wide. The signs shall be reflectorized and, during hours of operation before dawn and after dusk, shall be sufficiently illuminated so that they are readily visible to a person of normal vision.

**I.** Non-pay private parking signage requirements. The operator of a non-pay private parking facility shall post and maintain:

- 1.** At least one sign shall be posted and readily visible at each entryway into the parking lot, not more than 10 feet from the public right of way or street edge. Such signs shall:
  - a.** Be posted so that the center of the sign is not more than eight (8) feet nor less than four (4) feet above the ground; and
  - b.** Be at least 18" x 24" in size; and
  - c.** State that parking is prohibited, reserved or otherwise restricted; and
  - d.** State who is authorized to park, define the limitations on parking and the hours during which parking is restricted; and
  - e.** State that parking in violation of posted restrictions may result in assessment of a penalty fee up to \$32.00, or towing and storage of a vehicle at the vehicle owner's expense; and
  - f.** Be maintained so as to remain unobstructed by any tree, shrub, bush, vehicle or other obstacle.
- 2.** When a private parking facility is shared by multiple business operations, parking spaces shall be marked, or signs posted, so as to indicate which spaces are reserved for each business.

**J.** Assessment of Penalty fees.

- 1.** Nonpayment of parking fees at pay and park facilities. The parker shall pay the required parking fees upon parking the vehicle. The parker shall place the proof of payment in the vehicle so that it is clearly displayed and visible through the windshield.
  - a.** The registered operator of a pay and park facility may assess and collect a penalty fee from any parker found to have parked without paying the required parking fees upon parking the vehicle and without placing the proof of payment in the vehicle so that it is clearly displayed and visible through the windshield.
  - b.** It shall be unlawful to assess and collect a penalty fee at any unattended pay and park lot located within the City of Portland unless:
    - (1)** The operator has complied with the requirements of this Section for registration of the location as a pay and park facility, and
    - (2)** The facility is in compliance with the provisions of this Section, and
    - (3)** The facility is equipped with a payment device.
- 2.** Penalty assessments for unauthorized parking at non-pay private parking facilities. The operator of a non-pay private parking facility may assess and collect a penalty fee from any parker found to have parked without authorization or for a period longer than authorized.
  - a.** It shall be unlawful to assess and collect a penalty fee at a non-pay private parking facility unless:
    - (1)** The operator has complied with requirements of this Section for registration of the location as a non-pay private parking facility, and
    - (2)** The facility is in compliance with all provisions of this Section.

**K.** Notice of demand for payment of penalty fees.

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- 1.** When a registered operator finds a vehicle parked at a registered pay and park facility without payment of the parking fees as required, and without the proof of payment in the vehicle placed so that it is clearly displayed and visible through the windshield, the registered operator may affix a notice of demand for payment of a penalty fee to the vehicle.
- 2.** When a vehicle is found parked at a non-pay private parking facility without authorization, the registered operator may affix to the vehicle, in a prominent location, a penalty notice demanding payment of a penalty fee.
- 3.** The notice of demand for payment in a form approved by the Director, shall be processed as follows:
  - a.** A copy shall be affixed to the vehicle,
  - b.** A record of the notice shall be retained by the registered operator for not less than one year, and
  - c.** All records of penalty fee notices shall be available to the Director upon request.
- 4.** Within 15 days of issuing the initial notice of demand for payment, the registered operator shall mail a second notice advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating the amount demanded, the method of payment, and the schedule of increases for continued non-payment. The notice shall also provide space for the recipient to inform the registered operator that the person to whom the notice was sent is not the current registered owner of the vehicle, and a statement that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve any disputes with the registered operator have been unsuccessful. If one or more of the following occur, the registered operator shall have an additional 15 days to mail the second notice:
  - a.** The vehicle has not been registered by the current owner;
  - b.** The vehicle is not registered in Oregon or Washington;
  - c.** The vehicle is rented; or
  - d.** The registered owner has moved leaving no forwarding address.

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**PUBLIC ORDER AND POLICE**

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- C.** The hearing shall be before the Chief of Police or his/her designated representatives. The Coordinator and the alarm user shall have the right to present written and oral evidence, subject to the right of cross-examination. If the Chief of Police determines that the false alarms alleged have or have not occurred in a permit year, the Chief of Police shall issue written findings waiving, expunging or entering a false alarm designation on an alarm user's record as appropriate. If false alarm designations are entered on the alarm user's record, the Coordinator shall pursue fine collection as set out in this Chapter.
- D.** Failure to appear at a scheduled hearing without providing prior notice and cause for rescheduling a hearing will be justification for immediate suspension of the permit. Thereafter a new hearing may be scheduled after submission of a written request to the Chief of Police.

**14B.10.110 Sound Emission Cutoff Feature.**

- A.** Alarm systems which can be heard outside the building, structure or facility of the alarm user shall be equipped with a sound emission cutoff feature which will stop the emission of sound 15 minutes or less after the alarm is activated.
- B.** When an alarm system may be heard outside a building, structure or facility for more than 15 minutes continuously or intermittently, and the alarm owner or alarm company is not readily available or able to silence the device, the Portland Police Bureau is authorized to enter the premises and physically disconnect the sounding device. The alarm owner shall be liable for the cost of, or associated with, disconnecting the alarm. Neither the City nor its officers, agents or employees shall be liable for such costs.
- C.** The alarm owner shall be liable for cost of reconnecting the alarm. Neither the City nor its officer, agents or employees shall be liable for such cost.

**14B.10.120 Confidentiality and Statistics.**

- A.** All information submitted in compliance with this Chapter shall be held in the strictest confidence and shall be deemed a public record exempt from disclosure pursuant to ORS 192.502. The Coordinator shall be charged with the sole responsibility for the maintenance of all records of any kind whatsoever under this Chapter.
- B.** Subject to the requirements of confidentiality, the Coordinator shall develop and maintain statistics having the purpose of assisting alarm system evaluation for use by members of the public.

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**14B.10.130 Enforcement and Penalties.**

- A. Enforcement of this ordinance may be by civil action as provided in ORS 30.315, or by criminal prosecution.
- B. Violation of this ordinance shall be punishable upon conviction by a fine of not more than \$500.
- C. The failure or omission to comply with any section of this ordinance shall be deemed a violation and may be so prosecuted, subject to the penalty provided in paragraph B. of this Section.

**14B.10.140 Liability.**

No liability shall accrue to the City of Portland, the Bureau of Police, or its officers, employees, or agents for any loss or injury due to alleged untimely response or no response to an alarm signal under a valid permit.

**Chapter 14B.20**

**DRUG-FREE ZONES**  
(Replaced by Ordinance No. 179995,  
effective date April 14, 2006)

**Sections:**

- 14B.20.010 Drug-Free Zones.
- 14B.20.020 Designation of Drug-Free Zones.
- 14B.20.030 Civil Exclusion.
- 14B.20.035 Violation of an Exclusion – Penalties.
- 14B.20.040 Issuance of Exclusion Notices.
- 14B.20.050 Procedure.
- 14B.20.060 Appeal, Review and Variances.
- 14B.20.070 Listing of Drug-Free Zones.

**14B.20.010 Drug-Free Zones.**

- A. For the purposes of this chapter, the following definitions apply:
  - 1. Arrest: to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an



offense.

2. Essential needs: food, physical care, and medical attention.
3. Reside: to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
4. Travel: the movement on foot or within or upon a vehicle within a drug-free zone from one point to another without delay other than to obey traffic control devices.

- B.** Drug-free zones are those areas of the City as designated by the City Council under Chapter 14B.20 of this Code, which are areas where the number of arrests where there was probable cause to believe a person has committed any of the offenses enumerated in Section 14B.20.030 for a twelve (12) month period within the 18 months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City that are not located within a drug-free zone.

**14B.20.020 Designation of Drug-Free Zones.**

- A.** If the City Council designates an area meeting the criteria of Section 14B.20.010 of this Code to be a drug-free zone, Council shall do so by ordinance. The designation shall be valid for a period of three (3) years.
- B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the period referred to in section 14B.20.020 A., as to whether there is a need to re-configure the drug-free zones enumerated in 14B.20.070.
- C.** This Chapter, and the procedures and exercise of exclusion authority it contains, are valid for a period of one (1) year following Council adoption.
- D.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the one (1) year period as to whether there is a need to re-authorize this Chapter.

**14B.20.030 Civil Exclusion.**

(Amended by Ordinance No. 180213, effective June 14, 2006.)

- A.** A person is subject to exclusion under the process described in this chapter for a period of ninety (90) days from any public right of way and park within a drug-free zone designated in Code Chapter 14B.20 if that person has been arrested and

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either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the following offenses within that drug-free zone, unless the offense was committed entirely within a private residence:

1. Attempt to unlawfully possess a controlled substance, in violation of ORS 161.405;
  2. Criminal solicitation to unlawfully possess a controlled substance in violation of ORS 161.435;
  3. Criminal conspiracy to unlawfully possess a controlled substance in violation of ORS 161.450;
  4. Any violation of any of the controlled substance offenses described in:
    - a. ORS 475.840;
    - b. ORS 475.846 through 475.894;
    - c. ORS 475.904; or
    - d. ORS 475.910; except
    - e. Possession of less than an ounce of marijuana under ORS 475.864(3) shall not be a basis for exclusion.
  5. Criminal conspiracy to unlawfully deliver a controlled substance in violation of ORS 161.450;
  6. Attempt to unlawfully deliver an imitation controlled substance, in violation of ORS 161.405;
  7. Criminal conspiracy to unlawfully deliver an imitation controlled substance in violation of ORS 161.450; or
  8. Unlawful delivery of an imitation controlled substance, in violation of ORS 475.912.
- B.** A one (1) year exclusion from any public right of way and park within a drug-free zone shall take effect upon the day after conviction for any of the offenses enumerated in Subsection A of this Section if that offense was committed within that drug-free zone and the person was both given actual notice prior to the

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exclusion that the City would impose a one-year exclusion upon conviction and notified of the right of appeal and the process for initiating an appeal.

- C.** A person excluded from a drug-free zone under authority of this Section may not enter that drug-free zone except to travel to and from and be present at the events and locations listed below:
- 1.** Attend a meeting with an attorney;
  - 2.** Attend a scheduled initial interview with a social service provider;
  - 3.** Comply with court-or corrections-ordered obligations;
  - 4.** Contact criminal justice personnel at a criminal justice facility;
  - 5.** Attend any administrative or judicial hearing relating to an appeal of:
    - a.** the person's notice of exclusion; or
    - b.** the denial, revocation, or amendment of the person's variance;
  - 6.** Travel through that drug-free zone on a Tri-Met vehicle; or
  - 7.** Travel through that drug-free zone on the I-5, I-84 or I-405 freeways within its boundaries;
  - 8.** Reside in a dwelling or facility;
  - 9.** Satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the drug-free zone;
  - 10.** Obtain social services when:
    - a.** the excluded person is in need of social services;
    - b.** the social services are sought for reasons relating to the health or well-being of the excluded person; and
    - c.** the social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients.

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- 11. Obtain education by:
  - a. Enrolling as a student at an educational facility; or
  - b. attending school at an educational facility.
- 12. Work as the owner, principal, agent or employee at a place of lawful employment;
- 13. Perform work directly related to lawful employment;
- 14. Be present at any place or event as specified by a variance issued by the Chief of Police or designee pursuant to 14B.20.060 B.
- D. An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by 14B.20.050; including notice of the limitations to the exclusion contained in 14B.20.020.
- E. An exclusion is not valid if the probable cause on which it is based consists of mere use or effects of use of controlled substances rather than criminal acts concerning controlled substances as defined by Oregon statute, whether or not the person subject to exclusion pursues an appeal of the exclusion.

**14B.20.035 Violation of an exclusion - penalties.**

- A. It is unlawful for a person to enter or remain in a drug-free zone in violation of a valid exclusion imposed pursuant to this Code. For violation of this subsection, a court may impose a fine of no more than \$500 or imprisonment of no more than 30 days, or both.
- B. A person who enters or remains in a drug-free zone in violation of a valid exclusion issued pursuant to this Code is subject to arrest for Criminal Trespass (ORS 164.245).

**14B.20.040 Issuance of Exclusion Notices.**

The Chief of Police and/or designees are the persons in charge of the public rights of way and parks in the drug-free zones for purposes of issuing notices of exclusion in accordance with this Chapter.

**14B.20.050 Procedure.**

- A. If a person is arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to

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believe that the person has committed any of the offenses enumerated in Subsection A. of Section 14B.20.030 within a drug-free zone, the Chief of Police and/or designees may exclude that person from that drug-free zone. Every person excluded shall be provided a notice of exclusion and variances substantially similar to Exhibit C attached to Ordinance No. 179995. Additions to the notice of exclusion that increase the scope of the exclusion from that described in Exhibit C render the notice and the exclusion invalid.

- B.** At the time a person is issued a notice of exclusion from a drug-free zone, the Chief of Police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in subsection B of Section 14B.20.060.
- C.** The notice of exclusion shall be in writing and a copy delivered to the excluded person. The notice of exclusion shall include the following:
  - 1.** A description of the areas designated as a drug-free zone in Section 14B.20.070 from which that person is excluded; and
  - 2.** Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.
  - 3.** Notice that conviction of the offense for which the person was arrested and excluded will result in a one-year exclusion and information concerning the right to appeal a conviction-based exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

**14B.20.060 Appeal, Review and Variances.**

- A.** A ninety (90) day exclusion shall take effect at 12:01 a.m. on the 22nd calendar day following issuance of the notice of exclusion if the person issued the notice of exclusion has not filed an appeal as provided in this Chapter and a Code Hearing Officer has reviewed a police report documenting the exclusion notice and has found that the report presents credible evidence that supports probable cause to believe the person:
  - 1.** committed any of the offenses enumerated in Subsection A of Section 14B.20.030 within a drug-free zone.
  - 2.** received the notice required by 14B.20.050 A.
- B.** If a person issued a notice of exclusion files an appeal as provided in this Chapter, imposition of a ninety (90) day exclusion shall be stayed pending a final,

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enforceable decision upholding the exclusion.

- C. APPEAL.** A person to whom notice of exclusion is issued shall have a right to appeal as follows:
- 1.** Appeals shall be made to the Code Hearings Officer of the City of Portland. Any hearings regarding such appeals shall be conducted in accordance with Chapter 22.10 of this Code.
  - 2.** Copies of documents in the City's control which are intended to be used at the hearing shall be made available, upon request, to the appellant.
  - 3.** An appeal of a ninety (90) day notice of exclusion must be filed, in writing, by 5:00 p.m. of the fifteenth calendar day following issuance of the notice of exclusion.
  - 4.** An appeal of a one (1) year conviction-based exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date of conviction.
  - 5.** An appeal of:
    - a.** a denial of a request for a variance; or
    - b.** a denial of a request for an amendment to a variance; or
    - c.** a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance.
  - 6.** A ninety (90) day exclusion shall not take effect during the time that an appeal of the ninety (90) day exclusion is pending.
  - 7.** A one (1) year conviction-based exclusion shall take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, shall remain in effect unless the Code Hearings Officer issues a contrary decision.
  - 8.** At the hearing on an appeal of a ninety (90) day exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in Subsection A. of Section 14B.20.030, and that the conduct supporting the exclusion occurred within a drug-free zone.

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9. At the hearing on an appeal of a one (1) year conviction-based exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in Subsection A. of Section 14B.20.030, and that the conduct supporting the conviction occurred within a drug-free zone.
10. At the hearing on an appeal of a denial of a request for a variance as provided in 14B.20.060 C.5.a., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
11. At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in 14B.20.060 C.5.b., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
12. At the hearing on an appeal of a revocation or amendment of a variance as provided in 14B.20.060 C.5.c., the City shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment.
13. At the hearing on an appeal of a ninety (90) day exclusion, the following shall be prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Section 14B.20.030 A.:
  - a. A determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial ninety (90) day notice of exclusion was issued for violation of any of the offenses enumerated in Section 14B.20.030 A.; or
  - b. An accusatory instrument charging the person to whom a ninety (90) day notice of exclusion was issued, for violation of any of the offenses enumerated in Section 14B.20.030 A.
14. At the hearing on an appeal of a one (1) year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Section 14B.20.030 A., shall be conclusive evidence that the described conduct occurred, but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a drug-free zone.

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- D. VARIANCES.** Variances modify an exclusion, and shall be granted, denied, amended or revoked in accordance with the following provisions:
- 1.** All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a drug-free zone.
  - 2.** All Police Bureau Precincts shall receive and process requests for Drug-Free or Prostitution Free Zone variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station.
  - 3.** Variance. The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in 14B.20.050 B., the Chief of Police and/or designees shall grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within the drug-free zone only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.
- E. REVOCATION OR AMENDMENT OF VARIANCES.** A variance may be revoked or amended for the following reasons and in the following manner:
- 1.** The excluded person provided false information in order to obtain the variance;
  - 2.** There is probable cause to believe the person has committed any of the offenses enumerated in Section 14B.20.030 A. in the drug-free zone subsequent to the issuance of the variance;
  - 3.** The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;



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4. If the person presents new circumstances that would support amending the variance; or
5. A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to 14B.20.060 B.1. unless the excluded person appeals the determination by following the procedures in 14B.20.060 A.5.c.

**14B.20.070 Listing of Drug-Free Zones.**

(Amended by Ordinance No. 180125, effective May 10, 2006) The following descriptions shall comprise the boundaries of the drug-free zones listed, and the drug-free zones shall include the entire area on and within the listed boundaries.

- A. Central Zone: Beginning at a point on the north edge of the Steel Bridge directly above the west shore of the Willamette River; thence westerly along the north edge of the Steel Bridge and continuing along the north edge of the northern most off-ramp from the Steel Bridge until it intersects with the east curb line of N.W. 3<sup>rd</sup> Avenue; thence northerly along an extension of the east curb line of N.W. 3<sup>rd</sup> Avenue until that line intersects with an extension of the north curb line of N.W. Hoyt Street; thence westerly along the extension of the north curb line of N.W. Hoyt Street until it intersects with the east curb line of N.W. 4<sup>th</sup> Avenue; thence in a northwesterly direction along the east curb line becoming the north curb line of N.W. 4<sup>th</sup> Avenue as it intersects with N.W. 5<sup>th</sup> Avenue and becomes N.W. Irving Street; thence continuing westerly along the north curb line of N.W. Irving Street until it intersects with the west curb line of N.W. Broadway Avenue; thence southerly along the west curb line of N.W. Broadway Avenue until it intersects with the north curb line of N.W. Hoyt Street; thence westerly along the north curb line of N.W. Hoyt Street until it intersects with the west curb line of N.W. 15<sup>th</sup> Avenue; thence southerly along the west curb line of N.W. 15<sup>th</sup> Avenue until it intersects with north curb line of N.W. Glisan Street; thence westerly along the north curb line of N.W. Glisan Street until it intersects with the east curb line of N.W. 16<sup>th</sup> Avenue; thence northerly along the east curb line of N.W. 16<sup>th</sup> Avenue until it intersects with the north curb line of N.W. Irving Street; thence westerly along the north curb line of N.W. Irving Street until it intersects with the west curb line of N.W. 23<sup>rd</sup> Avenue; thence southerly along the west curb line of N.W. 23<sup>rd</sup> Avenue until it intersect with the south curb line of West Burnside Street; thence easterly along the south curb line of West Burnside Street until it intersects with the west curb line of S.W. King Avenue; thence southerly along the west curb line of S.W. King Avenue until it intersects with the south curb line of S.W. Salmon Street; thence easterly along the south curb line of S.W. Salmon Street until it intersects with the west curb line of S.W. 14<sup>th</sup> Avenue; thence southerly along the west curb line of S.W. 14<sup>th</sup> Avenue until it intersects with the south curb

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line of S.W. Columbia Street; thence easterly along the south curb line of S.W. Columbia Street until it intersects with the west curb line of S.W. 13<sup>th</sup> Avenue; thence southerly along the west curb line of S.W. 13<sup>th</sup> Avenue until it intersects with the south curb line of S.W. Market Street; thence easterly along the south curb line of S.W. Market Street to a point where the extension of the south curb line of S.W. Market Street intersects with the east curb line of S.W. Naito Parkway; thence easterly from that point continuing in a direct line due east to the west shore of the Willamette River; thence northerly along the west shore of the Willamette River until it intersects with the south edge of the Hawthorne Bridge; thence easterly along the south edge of the Hawthorne Bridge until it intersects with the east edge of the area known as the East Bank Esplanade, including the circular ramp on the east end and south side of the Hawthorne Bridge; thence northerly along the east edge of the area known as the East Bank Esplanade, including all of its floating walkways, until it intersects with the south side of the East Bank Esplanade pedestrian overpass to N.E. Lloyd Boulevard; thence easterly along the south edge of the area known as the East Bank Esplanade pedestrian overpass, including the walking ramp, until it intersects with the west curb line of N.E. Lloyd Boulevard; thence southeasterly along the south curb line of N.E. Lloyd Boulevard until it intersects with the west curb line of N.E. Martin Luther King Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Boulevard until it intersects with the north curb line of N.E. Davis Street; thence westerly along the north curb line of N.E. Davis as it crosses N.E. 3<sup>rd</sup> Avenue and projects in a straight line to a point on the west curb of N.E. 2<sup>nd</sup> Avenue; thence southerly along the west curb line of N.E. 2<sup>nd</sup> Avenue as it passes under the Burnside Bridge, including the entire Burnside Bridge, until it intersects with the south curb line of S.E. Belmont Street; thence easterly along the south curb line of S.E. Belmont Street until it intersects with the east curb line of S.E. 12<sup>th</sup> Avenue; thence northerly along the east curb line of S.E. 12<sup>th</sup> Avenue as it crosses E. Burnside Street and becomes N.E. 12<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 12<sup>th</sup> Avenue until it intersects with the south curb line of N.E. Lloyd Boulevard; thence easterly along the south curb line of N.E. Lloyd Boulevard until it becomes N.E. 16th Avenue; thence northerly along the east curb line of N.E. 16th Avenue until it becomes N.E. 15th Avenue; thence northerly along the east curb line of N.E. 15th Avenue until it intersects with the north curb line of N.E. Halsey Street; thence westerly along the north curb line of N.E. Halsey Street until it intersects with the west curb line of N.E. Martin Luther King Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Boulevard until it intersects with the north curb line of N.E. Multnomah Street; thence westerly along the north curb line of N.E. Multnomah Street as it merges onto the Steel Bridge; thence westerly along the north edge of the Steel Bridge to a point above the west shore of the Willamette River and continuing down to the point of the beginning.

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- B.** East Zone: Beginning at a point 1000 feet west of the intersection of the north curb line of N.E. Killingsworth and the west curb line of N.E. 82<sup>nd</sup> Avenue; thence southerly following a line that is at all times parallel to and 1000 feet from the west curb line of N.E. 82<sup>nd</sup> Avenue as it crosses E. Burnside Street and becomes S.E. 82<sup>nd</sup> Avenue; thence southerly following a line that is at all times parallel to and 1000 feet from the west curb line of S.E. 82<sup>nd</sup> Avenue to a point that is 1000 feet to the west of the southwest corner of S.E. Crystal Springs Boulevard; thence easterly along the south curb line of S.E. Crystal Springs Boulevard to a point that is 1000 feet to the east of the southeast corner of S.E. Crystal Springs Boulevard; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of S.E. 82<sup>nd</sup> Avenue as it crosses E. Burnside Street and becomes N.E. 82<sup>nd</sup> Avenue; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of N.E. 82<sup>nd</sup> Avenue to a point that is 1000 feet east of the north curb line of N.E. Killingsworth; thence westerly along the north curb line of N.E. Killingsworth continuing to the point of beginning.
- C.** North Zone: Beginning at a point on the southwest corner of N. Fremont Street as it intersects with N. Missouri Avenue; thence easterly along the south curb line of N. Fremont Street until it intersects with the west curb line of N. Vancouver Avenue; thence southerly along the west curb line of N. Vancouver Avenue until it intersects with the south curb line of N. Stanton Street; thence easterly along the south curb line of N. Stanton Street as it crosses N. Williams Avenue and becomes N.E. Stanton Street; thence easterly along the south curb line of N.E. Stanton Street until it intersects with the west curb line of N.E. Rodney Avenue; thence southerly along the west curb line of N.E. Rodney Avenue until it intersects with the south curb line of N.E. San Rafael Street; thence easterly along the south curb line of N.E. San Rafael Street until it intersects with the east curb line of N.E. 7<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 7<sup>th</sup> Avenue until it intersects with the south curb line of N.E. Wygant Street; thence easterly along the south curb line of N.E. Wygant Street until it intersects with the east curb line of N.E. 14<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 14<sup>th</sup> Avenue until it intersects with the south curb line of N.E. Wygant Street; thence easterly along the south curb line of N.E. Wygant Street until it intersects with the east curb line of N.E. 20<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 20<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Killingsworth Street; thence westerly along the north curb line of N.E. Killingsworth Street until it intersects with the east curb line of N.E. 15<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 15<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Ainsworth Street; thence westerly along the north curb line of N.E. Ainsworth Street until it intersects with the east curb line of N.E. 10<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 10<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Portland Boulevard; thence westerly

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along the north curb line of N.E. Portland Boulevard until it intersects with the west curb line of N.E. 6<sup>th</sup> Avenue; thence southerly along the west curb line of N.E. 6<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Portland Boulevard; thence westerly along the north curb line of N.E. Portland Boulevard until it intersects with the west curb line of N.E. Martin Luther King Jr. Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Jr. Boulevard until it intersects with the north curb line of N.E. Ainsworth Street; thence westerly along the north curb line of N.E. Ainsworth Street as it crosses N. Williams Avenue and becomes N. Ainsworth Street; thence westerly along the north curb line of N. Ainsworth Street until it intersects with the west curb line of N. Missouri Avenue; thence southerly along the west curb line of N. Missouri Avenue until it intersects with the north curb line of N. Killingsworth Street; thence westerly along the north curb line of N. Killingsworth Street until it intersects with the west curb line of N. Concord Avenue; thence southerly along the west curb line of N. Concord Avenue, including all of the Going Street Pedestrian Bridge until it intersects with the south curb line of N. Skidmore Street; thence easterly along the south curb line of N. Skidmore Street until it intersects with a point extending in a straight line from the west curb line of N. Missouri Avenue where it meets Interstate 5; thence southerly along the west curb line of N. Missouri Avenue to the point of beginning.

**Chapter 14B.30**

**PROSTITUTION-FREE ZONES**

(Replaced by Ordinance No. 179996,  
effective April 14, 2006)

**Sections:**

- 14B.30.010 Prostitution-Free Zones.
- 14B.30.020 Designation of Prostitution-Free Zones.
- 14B.30.030 Civil Exclusion.
- 14B.30.035 Violation of an Exclusion - Penalties.
- 14B.30.040 Issuance of Exclusion Notices.
- 14B.30.050 Procedure.
- 14B.30.060 Appeal, Review and Variances.
- 14B.30.070 Listing of Prostitution-Free Zones.

**14B.30.010 Prostitution-Free Zones.**

- A.** For the purposes of this chapter, the following definitions apply:
- 1.** Arrest: to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.
  - 2.** Essential needs: food, physical care, and medical attention.
  - 3.** Reside: to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
  - 4.** Travel: the movement on foot or within or upon a vehicle within a prostitution-free zone from one point to another without delay other than to obey traffic control devices.
- B.** Prostitution-free zones are those areas of the City as designated by the City Council under Chapter 14B.30 of this Code, which are areas where the number of arrests where there was probable cause to believe a person has committed any of the offenses enumerated in Section 14B.30.030 for a twelve (12) month period within the eighteen (18) months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City that are not located within a prostitution-free zone.

**14B.30.020 Designation of Prostitution-Free Zones.**

- A.** If the City Council designates an area meeting the criteria of Section 14B.30.010 of this Code to be a prostitution-free zone, Council shall do so by ordinance. The designation shall be valid for a period of three (3) years.
- B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the period referred to in section 14B.30.020 A., as to whether there is a need to re-configure the prostitution-free zones enumerated in 14B.30.070.
- C.** This Chapter, and the procedures and exercise of exclusion authority it contains, are valid for a period of one (1) year following Council adoption.
- D.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the one (1) year period as to whether there is a need to re-authorize this Chapter.

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**14B.30.030 Civil Exclusions.**

- A.** A person is subject to exclusion under the process described in this chapter for a period of ninety (90) days from any public right of way and park within a prostitution-free zone designated in Code Chapter 14B.30 if that person has been arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the following offenses within that prostitution-free zone, unless the offense was committed entirely within a private residence:
1. Attempted prostitution, in violation of ORS 161.405;
  2. Prostitution, in violation of ORS 167.007;
  3. Attempted promoting prostitution, in violation of ORS 161.405;
  4. Promoting prostitution, in violation of ORS 167.012;
  5. Attempted compelling prostitution, in violation of ORS 161.405;
  6. Compelling prostitution, in violation of ORS 167.017;
  7. Loitering to solicit prostitution, in violation of Portland City Code 14A.40.040; or
  8. Unlawful prostitution procurement activity, in violation of Portland City Code 14A.40.050.
- B.** A one (1) year exclusion from any public right of way and park within a prostitution-free zone shall take effect upon the day after conviction for any of the offenses enumerated in Subsection A. of this Section if that offense was committed within that prostitution-free zone and the person was both given notice prior to the exclusion that the City would impose a one-year exclusion upon conviction and notified of the right of appeal and the process for initiating an appeal.
- C.** A person excluded from a prostitution-free zone under authority of this Section may not enter that prostitution-free zone except to travel to and from and be present at the events and locations listed below:
1. Attend a meeting with an attorney;

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2. Attend a scheduled initial interview with a social service provider;
3. Comply with court-or corrections-ordered obligations;
4. Contact criminal justice personnel at a criminal justice facility;
5. Attend any administrative or judicial hearing relating to an appeal of:
  - a. the person's notice of exclusion; or
  - b. the denial, revocation, or amendment of the person's variance;
6. Travel through that prostitution-free zone on a Tri-Met vehicle;
7. Travel through that prostitution-free zone on the I-5, I-84, I-205 or I-405 freeways within its boundaries;
8. Reside in a dwelling or facility;
9. Satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the prostitution-free zone;
10. Obtain social services when:
  - a. the excluded person is in need of social services;
  - b. the social services are sought for reasons relating to the health or well-being of the excluded person; and
  - c. the social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients.
11. Obtain education by:
  - a. Enrolling as a student at an educational facility; or
  - b. Attending school at an educational facility.
12. Work as the owner, principal, agent or employee at a place of lawful employment;

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- 13. Perform work directly related to lawful employment;
  - 14. Be present at any place or event as specified by a variance issued by the Chief of Police or designee pursuant to 14B.30.060 B.
- D. An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by 14B.30.050; including notice of the limitations of the exclusion contained in 14B.30.020.

**14B.30.035 Violation of an exclusion - penalties.**

- A. It is unlawful for a person to enter or remain in a prostitution-free zone in violation of an exclusion imposed pursuant to this Code. For violation of this subsection, a court may impose a fine of no more than \$500 or imprisonment of no more than 30 days, or both.
- B. A person who enters or remains in a prostitution-free zone in violation of an exclusion issued pursuant to this Code is subject to arrest for Criminal Trespass (ORS 164.245).

**14B.30.040 Issuance of Exclusion Notices.**

The Chief of Police and/or designees are the persons in charge of the public rights of way and parks in the prostitution-free zones for purposes of issuing notices of exclusion in accordance with this Chapter.

**14B.30.050 Procedure.**

- A. If a person is arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the offenses enumerated in Subsection 14B.30.030 A. within a prostitution-free zone, the Chief of Police and/or designees may exclude that person from that prostitution-free zones. Every person excluded shall be provided a notice of exclusion and variances substantially similar to Exhibit C attached to Ordinance No.179996. Additions to the notice of exclusion that increase the scope of the exclusion from that described in Exhibit C render the notice and the exclusion invalid.
- B. At the time a person is issued a notice of exclusion from a prostitution-free zone, the Chief of Police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in 14B.30.060 B.



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- C. The notice of exclusion shall be in writing and a copy delivered to the excluded person. The notice of exclusion shall include the following:
1. A description of the area designated as a prostitution-free zone in Section 14B.30.070 from which that person is excluded;
  2. Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code; and
  3. Notice that conviction of the offense for which the person was arrested and excluded will result in a one-year exclusion and information concerning the right to appeal a conviction-based exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

**14B.30.060 Appeal, Review and Variances.**

- A. A ninety (90) day exclusion shall take effect at 12:01 on the 22<sup>nd</sup> calendar day following issuance of the notice of exclusion if the person issued the notice of exclusion has not filed an appeal as provided in this Chapter and a Code Hearings Officer has reviewed a police report documenting the exclusion notice and has found that the report presents credible evidence that supports probable cause to believe the person:
1. committed any of the offenses enumerated in Subsection A of Section 14B.30.030, and ;
  2. received the notice required by 14B.30.050 A.
- B. If a person issued a notice of exclusion files an appeal as provided in this chapter, imposition of a ninety (90) day exclusion shall be stayed pending a final, enforceable decision upholding the exclusion.
- C. APPEAL. A person to whom a notice of exclusion is issued shall have a right to appeal as follows:
1. Appeals shall be made to the Code Hearings Officer of the City of Portland. Any hearings regarding such appeals shall be conducted in accordance with Chapter 22.10 of this Code.
  2. Copies of documents in the City's control which are intended to be used at the hearing shall be made available, upon request, to the appellant.

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3. An appeal of a ninety (90) day notice of exclusion must be filed, in writing, by 5:00 p.m. of the fifteenth calendar day following issuance of the notice of exclusion.
4. An appeal of a one (1) year conviction-based exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date of conviction.
5. An appeal of:
  - a. a denial of a request for a variance; or
  - b. a denial of a request for an amendment to a variance; or
  - c. a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance.
6. A ninety (90) day exclusion shall not take effect during the time that an appeal of the ninety (90) day exclusion is pending.
7. A one (1) year conviction-based exclusion shall take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, shall remain in effect unless the Code Hearings Officer issues a contrary decision.
8. At the hearing on an appeal of a ninety (90) day exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in Subsection 14B.30.030 A., and that the conduct supporting the exclusion occurred within a prostitution-free zone.
9. At the hearing on an appeal of a one (1) year conviction-based exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in Subsection 14B.30.030 A., and that the conduct supporting the conviction occurred within a prostitution-free zone.
10. At the hearing on an appeal of a denial of a request for a variance as provided in 14B.30.060 C.5.a., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.

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11. At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in 14B.30.060 C.5.b., the City shall have the burden to show by a preponderance of the evidence that the amendment was in accordance with this section.
  12. At the hearing on an appeal of a revocation or amendment of a variance as provided in 14B.30.060 C.5.c., the City shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment.
  13. At the hearing on an appeal of a ninety (90) day exclusion, the following shall be prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Subsection 14B.30.030 A.:
    - a. A determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial ninety (90) day notice of exclusion was issued for violation of any of the offenses enumerated in Subsection 14B.30.030 A.; or
    - b. An accusatory instrument charging the person to whom a ninety (90) day notice of exclusion was issued, for violation of any of the offenses enumerated in Subsection 14B.30.030 A.
  14. At the hearing on an appeal of a one (1) year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Subsection 14B.30.030 A., shall be conclusive evidence that the described conduct occurred but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a prostitution-free zone.
- D. VARIANCES.** Variances modify an exclusion, and shall be granted, denied, amended, or revoked in accordance with the following provisions:
1. All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a prostitution-free zone.

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2. All Police Bureau Precincts shall receive and process requests for Drug-Free or Prostitution-Free Zone variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station.
3. Variance. The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in 14B.30.050 B., the Chief of Police and/or designees shall grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within the prostitution-free zone only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

**E. REVOCATION OR AMENDMENT OF VARIANCES.** Variances may be revoked or amended for the following reasons and in the following manner:

1. The excluded person provided false information in order to obtain the variance;
2. There is probable cause to believe the person has committed any of the offenses enumerated in Subsection 14B.30.030 A. in the prostitution-free zone subsequent to the issuance of the variance;
3. If the circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;
4. If the person has new circumstances that would support amending the variance; or
5. A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to 14B.30.060 B.1. unless the excluded person appeals the determination by following the procedures in 14B.30.060 A.5.c.

**14B.30.070 Listing of Prostitution-Free Zones.**

The following descriptions shall comprise the boundaries of the prostitution-free zones

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listed, and the prostitution-free zones shall include the entire area on and within the listed boundaries.

- A.** West Prostitution-Free Zone: Beginning at a point on the northeast corner of N.W. 14th Avenue as it intersects with N.W. Johnson Street; thence westerly along the north curb line of N.W. Johnson until it intersects with the west curb line of N.W. 23rd Avenue; thence southerly along the west curb line of N.W. 23rd Avenue as it crosses West Burnside Street and becomes S.W. Vista Avenue; thence southerly in a straight line to a point that is 500 feet from the intersection of the south curb line of West Burnside Street and the west curb line of S.W. Vista Avenue; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of West Burnside Street until it intersects with the east curb line of N.W. 14th Avenue; thence northerly along the east curb line of N.W. 14th Avenue continuing along to the point of the beginning.
- B.** East Prostitution-Free Zone: Beginning at a point at the intersection of the west curb line of N.E. 82nd and the north curb line of N.E. Skidmore; thence westerly along the north curb line of N.E. Skidmore to a point 1000 feet from the point of beginning; thence southerly following a line that is at all times parallel to and 1000 feet from the west curb line of N.E. 82nd Avenue as it crosses E. Burnside Street and becomes S.E. 82nd Avenue; thence southerly following a line that is at all times parallel to and 1000 feet from the west curb line of S.E. 82nd Avenue to a point that is 1000 feet to the west of the southwest corner of S.E. Crystal Springs Boulevard; thence easterly along the south curb line of S.E. Crystal Springs Boulevard to a point that is 1000 feet to the east of the southeast corner of S.E. Crystal Springs Boulevard; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of S.E. 82nd Avenue as it crosses E. Burnside Street and becomes N.E. 82nd Avenue; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of N.E. 82nd Avenue to a point that is 500 feet to the south of the south curb line of N.E. Sandy Boulevard; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of N.E. Sandy Boulevard until it intersects with the west curb line of N.E. 92<sup>nd</sup> Avenue; thence northerly along the west curb line of N.E. 92<sup>nd</sup> Avenue until it intersects with the north curb line of N.E. Sandy Boulevard; thence easterly along the north curb line of N.E. Sandy Boulevard to a point that is 200 feet to the east of the centerline of N.E. 92nd Avenue; thence southerly along a line that is at all times parallel to and 200 feet to the east from the centerline of N.E. 92nd Avenue to a point that is 500 feet from the south curb line of N.E. Sandy Boulevard; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of N.E. Sandy Boulevard to the east curb line of N.E. 122nd Avenue; thence northerly along the east curb line of N.E. 122nd Avenue to a point 500 feet north of the north curb line of N.E. Sandy Boulevard; thence westerly following a line that is at all times

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parallel to and 500 feet from the north curb line of N.E. Sandy Boulevard until it intersects with the west curb line of N.E. 82nd; thence southerly along the west curb line of N.E. 82nd to the point of beginning.

**Chapter 14B.40**

**IMPOUNDMENT AND  
INVESTIGATION FOR DUII**

**Sections:**

- 14B.40.010 Impoundment.
- 14B.40.020 Investigation.
- 14B.40.030 Administration and Fees.

**14B.40.010 Impoundment.**

A vehicle used by a person arrested in the City of Portland for the offense of Driving Under the Influence of Intoxicants may be seized and impounded. The period of impoundment shall be sufficient to give the Bureau of Police a reasonable period of time to determine whether the person arrested has been previously convicted of or forfeited bail or security for Driving Under the Influence of Intoxicants in violation of the laws of Oregon or of any other jurisdiction, or has been previously convicted of or forfeited bail or security for murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in Oregon or another jurisdiction. The vehicles of persons with such a criminal record are subject to forfeiture under state law.

**14B.40.020 Investigation.**

The Bureau of Police is authorized to initiate an investigation in pertinent state and national records databases for information relevant to making the determination described in 14B.40.010 and to compile that information in a readily accessible database.

**14B.40.030 Administration and Fees.**

The Bureau of Police is authorized to develop implementing procedures under this Chapter and to develop a fee structure which ensures that to the extent possible, the Bureau's costs and expenses in undertaking impoundment and investigation are paid by the person arrested for DUII, or other person or entity seeking to recover the vehicle.

**Chapter 14B.50**

**FORFEITURE**

**Sections:**

- 14B.50.010 Certain Vehicles as Nuisances.
- 14B.50.020 Forfeiture Proceedings.
- 14B.50.030 Prostitution.
- 14B.50.040 Gambling.

**14B.50.010 Certain Vehicles as Nuisances.**

The following motor vehicles are hereby declared to be nuisances and subject to seizure and *in rem* civil forfeiture:

- A. A motor vehicle operated by a person whose operator's license is criminally suspended or revoked under ORS 811.182.
- B. A motor vehicle used to commit Driving Under the Influence of Intoxicants in violation of ORS 813.010, to the extent forfeiture of such vehicle is permitted under state law.
- C. A motor vehicle used to commit prostitution as defined in ORS 167.007.
- D. A motor vehicle used to commit Fleeing or Attempting to Elude Police under ORS 811.540.

**14B.50.020 Forfeiture Proceedings.**

All forfeiture proceedings pursuant to this Chapter shall be done in accordance with the provisions of Oregon Laws, Chapter 791 (1989).

**14B.50.030 Prostitution.**

Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.002 to 167.027 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of 14B.50.020.

**14B.50.040 Gambling.**

Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.117 to 167.166 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of 14B.50.020.

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**Chapter 14B.60**

**CHRONIC  
NUISANCE PROPERTY**

**Sections:**

- 14B.60.010 Definitions.
- 14B.60.020 Violation.
- 14B.60.030 Procedure.
- 14B.60.040 Commencement of Actions; Remedies; Burden of Proof.
- 14B.60.050 Summary Closure.
- 14B.60.060 Enforcement.
- 14B.60.070 Attorney Fees.

**14B.60.010 Definitions.**

- A.** Chronic Nuisance Property.
  - 1.** Property on which three or more Nuisance Activities exist or have occurred during any thirty (30) day period; or,
  - 2.** Property on which or within 200 feet of which any Person Associated With the Property has engaged in three or more Nuisance Activities during any thirty (30) day period; or,
  - 3.** Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 and/or 475.940 through 475.995 has occurred within the previous thirty (30) days, and the Chief of Police or a Precinct Commander has determined that the search warrant was based on evidence of continuous or repeated Nuisance Activities at the Property; or,
  - 4.** Property on which continuous or repeated Nuisance Activities as defined in Portland City Code 14B.60.010 D.7.,8.,13., and/or 14. exist or have occurred.
- B.** Commissioner in Charge. The Portland City Commissioner assigned responsibility for the Bureau of Police.



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- C.** Control. The ability to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.
- D.** Nuisance Activities. Any of the following activities, behaviors or conduct:
1. Harassment as defined in ORS 166.065(1)(a).
  2. Intimidation as defined in ORS 166.155 through 166.165.
  3. Disorderly conduct as defined in ORS 166.025.
  4. Assault or menacing as defined in ORS 163.160 through ORS 163.190.
  5. Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS 163.415 through ORS 163.445.
  6. Public indecency as defined in ORS 163.465.
  7. Prostitution or related offenses as defined in ORS 167.007 through ORS 167.017.
  8. Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482.
  9. Offensive littering as defined in ORS 164.805.
  10. Criminal trespass as defined in ORS 164.243 through 164.265.
  11. Theft as defined in ORS 164.015 through 164.140.
  12. Arson or related offenses as defined in ORS 164.315 through 164.335.
  13. Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285, and/or 475.940 through 475.995.
  14. Illegal gambling as defined in ORS 167.117, and/or ORS 167.122 through ORS 167.127.
  15. Criminal mischief as defined in ORS 164.345 through 164.365.

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- 16.** Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors or conduct.
  - 17.** Fire or discharge of a firearm as defined in Portland City Code 14A.60.020.
  - 18.** Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.
  - 19.** Unlawful drinking in public places as defined in Portland City Code 14A.50.010.
  - 20.** Curfew as defined in Portland City Code 14A.80.010.
  - 21.** Indecent exposure as defined in Portland City Code 14A.40.030.
- E.** Person. Any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using Property in the City of Portland.
- F.** Person Associated With. Any Person who, on the occasion of a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a Property or Person present on a Property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a Property, Person in Charge, or owner of a Property.
- G.** Person in Charge. Any Person, in actual or constructive possession of a Property, including but not limited to an owner or occupant of Property under his or her ownership or Control.
- H.** Precinct Commander. Any Commander of the Portland Police Bureau in charge of a Precinct.
- I.** Property. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For Property consisting of more than one unit, Property may be limited to the unit or the portion of the Property on which any Nuisance Activity has occurred or is occurring, but includes areas of the Property used in common by all units of

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Property including without limitation other structures erected on the Property and areas used for parking, loading and landscaping.

**14B.60.020 Violation.**

- A.** Any Property determined by the Chief of Police or a Precinct Commander to be Chronic Nuisance Property is in violation of this Chapter and subject to its remedies.
- B.** Any Person in Charge of Property determined by the Chief of Police or a Precinct Commander to be a Chronic Nuisance Property is in violation of this Chapter and subject to its remedies.

**14B.60.030 Procedure.**

- A.** When the Chief of Police or a Precinct Commander receives two or more police reports documenting the occurrence of Nuisance Activities on or within 200 feet of a Property, the Chief of Police or Precinct Commander shall independently review such reports to determine whether they describe the activities, behaviors or conduct enumerated under Portland City Code 14B.60.010 D.1.-21. Upon such a finding, the Chief of Police or a Precinct Commander may notify the Person in Charge in writing that the Property is in danger of becoming Chronic Nuisance Property. The notice shall contain the following information:
  - 1.** The street address or a legal description sufficient for identification of the Property.
  - 2.** A statement that the Chief of Police or Precinct Commander has information that the Property may be Chronic Nuisance Property, with a concise description of the Nuisance Activities that exist, or that have occurred. The Chief of Police or the Precinct Commander shall offer the Person in Charge an opportunity to propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the Nuisance Activities giving rise to the violation.
  - 3.** Demand that the Person in Charge respond to the Chief of Police or the Precinct Commander within ten (10) days to discuss the Nuisance Activities.
- B.** When the Chief of Police or Precinct Commander receives a police report documenting the occurrence of additional Nuisance Activity on or within 200 feet of a Property after notification as provided by Portland City Code 14B.60.030 A.1.; or, in the case of Chronic Nuisance Property as defined in Portland City

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Code 14B.60.010 A.3. or 4., for which notice under Portland City Code 14B.60.030A is not required, the Chief of Police or the Precinct Commander shall notify the Person in Charge in writing that the Property has been determined to be a Chronic Nuisance Property. The notice shall contain the following information:

1. The street address or a legal description sufficient for identification of the Property.
  2. A statement that the Chief of Police or the Precinct Commander has determined the Property to be Chronic Nuisance Property with a concise description of the Nuisance Activities leading to his/her determination.
  3. Demand that the Person in Charge respond within ten (10) days to the Chief of Police or the Precinct Commander and propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the Nuisance Activities giving rise to the violation.
  4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the Person in Charge at the address of the Property determined to be a Chronic Nuisance Property, or such other place which is likely to give the Person in Charge notice of the determination by the Chief of Police or the Precinct Commander.
  5. A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the Property is located, and/or the occupant at the address of the Property, if these Persons are different than the Person in Charge, and shall be made either personally or by first class mail, postage prepaid.
- C.** If the Person in Charge fails to respond as required by Portland City Code 14B.60.030 B.3., the Chief of Police or the Precinct Commander may refer the matter to the Commissioner in Charge and the City Attorney. Prior to referring the matter to the Commissioner in Charge and the City Attorney, the notice required by Portland City Code 14B.60.030 B. shall also be posted at the property.
- D.** If the Person in Charge responds as required by Portland City Code 14B.60.030 B.3. and agrees to abate Nuisance Activities giving rise to the violation, the Chief of Police or the Precinct Commander may postpone referring the matter to the Commissioner in Charge and the City Attorney. If an agreed course of action does not result in the abatement of the Nuisance Activities within sixty (60) days; or, if no agreement concerning abatement is reached within sixty (60) days, the Chief of Police or the Precinct Commander may refer the matter to the

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Commissioner in Charge and the City Attorney.

- E.** When a Person in Charge makes a response to the Chief of Police or the Precinct Commander as required by Portland City Code 14B.60.030 A.3. or B.3. any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any Nuisance Activities have occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.
- F.** The failure of any Person to receive notice as provided by Portland City Code 14B.60.030 A. or B. shall not invalidate or otherwise affect the proceedings under this Chapter.

**14B.60.040 Commencement of Actions; Remedies; Burden of Proof.**

- A.** The Commissioner in Charge may authorize the City Attorney to commence legal proceedings in the Circuit Court to abate Chronic Nuisance Property and to seek closure, the imposition of civil penalties against any or all of the Persons in Charge thereof, and, any other relief deemed appropriate.
- B.** If the Court determines Property to be Chronic Nuisance Property, the Court shall order that the Property be closed and secured against all unauthorized access, use and occupancy for a period of not less than six (6) months, nor more than one (1) year. The order shall be entered as part of the final judgment. The Court shall retain jurisdiction during any period of closure.
- C.** If the Court determines a Property to be Chronic Nuisance Property, the Court may impose a civil penalty of up to \$100 per day for each day Nuisance Activities occurred on the Property, following notice pursuant to Portland City Code 14B.60.030 B.; or, the cost to the City to abate the Nuisance Activities at the Property whichever is greater. The amount of the civil penalty shall be assessed against the Person in Charge and/or the Property and may be included in the City's money judgment.
- D.** If satisfied of the good faith of the Person in Charge, the Court shall not award civil penalties if the Court finds that the Person in Charge at all material times could not, in the exercise of reasonable care or diligence, determine that the Property had become Chronic Nuisance Property.
- E.** In establishing the amount of any civil penalty, the Court may consider any of the following factors and shall cite those found applicable:

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1. The actions taken by the Person in Charge to mitigate or correct the Nuisance Activities at the Property;
  2. The financial condition of the Person in Charge;
  3. Repeated or continuous nature of the problem;
  4. The magnitude or gravity of the problem;
  5. The cooperation of the Person in Charge with the City;
  6. The cost to the City of investigating and correcting or attempting to correct the Nuisance Activities;
  7. Any other factor deemed relevant by the Court.
- F.** The City shall have the initial burden of proof to show by a preponderance of the evidence that the Property is Chronic Nuisance Property.
- G.** Evidence of a Property's general reputation and/or the reputation of persons residing in or frequenting it shall be admissible.

**14B.60.050 Summary Closure.**

Any summary closure proceeding shall be based on evidence showing that Nuisance Activities exist or have occurred on the Property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In the event of summary closure, the City is not required to comply with the notification procedures set forth in Portland City Code 14B.60.030 A. and B.

**14B.60.060 Enforcement.**

- A.** The Court may authorize the City to physically secure the Property against all unauthorized access, use or occupancy in the event that the Person in Charge fails to do so within the time specified by the Court. In the event that the City is authorized to secure the Property, the City shall recover all costs reasonably incurred by the City to physically secure the Property as provided by this Section. The City Bureau(s) physically securing the Property shall prepare a statement of costs and the City shall thereafter submit that statement to the Court for its review as provided by ORCP 68.

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- B.** The Person in Charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28), if, without actual notice, the tenant moved into the Property after either:
- 1.** A Person in Charge received notice of the determination of the Chief of Police or any Precinct Commander pursuant to Portland City Code 14B.60.030 B.; or
  - 2.** A Person in Charge received notice of an action brought pursuant to Portland City Code 14B.60.050.
- C.** A lien shall be created against the Property for the amount of the City's money judgment. In addition, any Person who is assessed penalties under Portland City Code 14B.60.040 C. and/or costs under Portland City Code 14B.60.060 A. shall be personally liable for payment thereof to the City. Judgments imposed by this Chapter shall bear interest at the statutory rate.

**14B.60.070 Attorney Fees.**

The Court may, in its discretion, award attorneys' fees to the prevailing party.

**Chapter 14B.70**

**SHORT TERM MOTEL RENTAL**

**Sections:**

- 14B.70.010 Definitions.
- 14B.70.020 Rental of Rooms.
- 14B.70.030 Procedure.
- 14B.70.040 Appeals Process.
- 14B.70.050 City Remedies.

**14B.70.010 Definitions.**

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

- A.** Person in control: an employee or owner with the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on or at the motel, hotel, inn, or other facility designed for overnight rental.
- B.** Customer: any person who pays valuable consideration to occupy any room or rooms in a motel, hotel, inn, or other facility designed for overnight rental.

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- C.** Employee: any officer, director, agent, or employee of a motel, or any independent contractor who works on or at the rental property.
- D.** Fee: the consideration charged by the operator for the occupancy of space in a motel, valued in money, goods, labor, credits, or other consideration.
- E.** Motel: any structure, or portion of any structure, which is occupied or intended or designed for dwelling, lodging, or sleeping purposes and includes but is not limited to any hotel, inn, tourist home, studio hotel, bachelor hotel, lodging house, and rooming house.
- F.** Occupancy: the use or possession, or the right to the use or possession, for lodging or sleeping purposes of any room or rooms in a motel.
- G.** Operator: the person who is the proprietor of the motel in any capacity.
- H.** Owner: any person, agent, firm, or corporation having a legal or equitable interest in a motel, and includes, but is not limited to a mortgagee in whom possession is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the property.
- I.** Renting by the hour: the use or possession for lodging or sleeping purposes of any room for an amount less than one-half of the minimum daily rental rate.

**14B.70.020 Rental of Rooms**

- A.** A motel becomes a public nuisance when any motel employee or person in control permits on three or more occasions during any thirty (30) day period or twelve (12) or more occasions during any twelve (12) month period, a customer to rent a room designed for dwelling, lodging, or sleeping purposes, by the hour, or rents the same room more than twice within a 24 hour period.
- B.** Any motel which becomes a public nuisance is subject to the remedies provided for in this Chapter.

**14B.70.030 Procedure.**

When the City believes the motel property has become a public nuisance as defined in this Chapter, the City shall attempt to notify the owner(s) of record and the person, firm, or corporation in possession of the property, in writing that the property has been determined to be a public nuisance. The notice shall contain the following information:



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- A.** The street address and a legal description sufficient for identification of the property.
- B.** A statement that the City has found the property to be a public nuisance, together with a concise description of the events or conditions leading to this finding, including the date and time of the events or conditions.
- C.** Demand that the owner or rightful possessor of the motel property respond within twenty (20) days to the Chief of Police or the Precinct Commander and appeal the City's determination or propose an abatement plan that the Chief of Police or the Precinct Commander agrees will abate the nuisance activities giving rise to the violation.
- D.** The City shall attempt to serve a copy of the notice personally on the owner, rightful possessor, or agent, if known, at least ten (10) days before the commencement of any judicial action by the City. In addition, the notice shall be mailed certified mail, return receipt requested, postage prepaid, and addressed to the owner of the business at the address of the property believed to be a public nuisance and to such other address as is shown on Multnomah County tax rolls, or such other place which is believed to give the owner of the business and of the property actual notice of the City's determination.
- E.** The failure of any person or owner to receive actual notice of the funding of a public nuisance as defined in this Chapter shall not invalidate or otherwise affect the proceedings under this Chapter.

**14B.70.040 Appeals Process**

- A.** If the owner, business, agent, or rightful possessor of the property disagrees with the City's findings and determination, the owner or other rightful possessor may file an appeal with Bureau of Police within twenty (20) days of the City's determination that the motel property is a public nuisance.
- B.** The request for the appeal shall be in writing, and include the owner or rightful possessor's full name, street address and legal description sufficient for identification of the property determined a public nuisance, and the reason(s) for disagreement with the City's findings and determination.
- C.** Should the owner or rightful possessor of the property be dissatisfied with the outcome of the appeal, the owner or rightful possessor may issue a further appeal to the City Code Hearings Officer pursuant to Chapter 22.10 of this Code.

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**14B.70.050 City Remedies.**

- A.** The Chief of Police or the Precinct Commander may refer the matter to the City Attorney where:

  - 1.** The owner or rightful possessor fails to respond within twenty (20) days from the determination that the motel property constitutes a public nuisance by the Chief of Police or Precinct Commander, either by appealing the City's determination or by submitting a proposed abatement plan as provided in this Chapter;
  - 2.** No agreeable written abatement plan for abatement is reached within thirty (30) days from determination of a public nuisance by the Chief of Police or the Precinct Commander;
  - 3.** The owner or rightful possessor fails to execute commencement of the abatement plan within a reasonable amount of time, not to exceed sixty (60) days of the plan's enactment; or
  - 4.** The owner or rightful possessor fails to comply and maintain compliance with all conditions of the written abatement plan for one year.
- B.** Failure to respond or failure to propose an abatement plan shall be prima facie evidence of the owner or rightful possessor's lack of cooperation. Failure to execute or comply with any abatement plan shall be prima facie evidence of lack of good faith in mitigating or correcting the situation.
- C.** When the owner or rightful possessor makes a response to the Chief of Police or the Precinct Commander as required by this Chapter, any conduct or statements made in connection with the response does not constitute an admission that any nuisance activities have occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.
- D.** If a court determines a motel to be a public nuisance within the meaning of this Chapter, the court may order any remedy it deems appropriate to abate the nuisance, including a civil penalties not to exceed \$500 for the first occasion and not to exceed \$2,500 for the second occasion, and closure of the motel for up to six months for the third occasion.

2. \$30 shall be deposited into the Private for Hire Transportation Safety Fund.

**16.40.245 Denial of Taxicab Driver's Permit.**

- A. No taxicab driver's permit shall be issued or renewed to any person if the Supervisor determines, after a review of that person's traffic and criminal record and any other information the supervisor deems pertinent, that the public safety would not be served by the issuance or renewal of a permit to that person. However, the Supervisor may not deny a taxicab driver's permit under this Section, except for cause specified in regulations adopted pursuant to Section 16.40.120.

**16.40.250 Driver's Permit to be Posted.**

(Amended by Ordinance No. 179684 and 180153, effective June 16, 2006.)

- A. Upon receipt of the application materials specified in Section 16.40.235, the Supervisor shall issue to the applicant a temporary taxicab driver's permit, valid for 30 days after date of issuance. The permit shall prominently display the words, "TEMPORARY DRIVER'S PERMIT. NOT VALID AFTER ...," followed by the expiration date of the permit in number of the same size. The temporary driver's permit shall be posted in the manner specified in Subsection 16.40.250.B, and shall be surrendered if the taxicab driver's permit is denied.
- B. When a taxicab driver's permit has been granted, the Supervisor shall furnish to the taxicab driver a printed identification card containing the permit number and expiration date and the taxicab driver's name and photograph. This card shall be posted in a prominent place within the passenger compartment of any taxicab being driven by the taxicab driver, and shall be shown to any passenger, police officer, or the Supervisor or his agent upon request.
- C. No person shall drive or allow any person to:
  1. Drive any taxicab without a valid permit card; or,
  2. Drive with the permit card of another taxicab driver displayed in accordance with this Section.
- D. Upon presentation of convincing evidence that a taxicab driver's permit has been lost or destroyed and payment of a replacement fee of \$10, the Supervisor shall issue a replacement permit.

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#### **16.40.255 Permit Suspension, Revocation, and Civil Penalties.**

(Amended by Ordinance No. 171759, effective November 12, 1997.)

- A.** Any permit issued under this Chapter may be revoked or suspended by the Supervisor if the Supervisor finds, based upon investigation, reasonable grounds to believe that:

  - 1.** The provisions of this Chapter or regulations adopted hereunder have been violated;
  - 2.** Any statement contained in the application for such permit or license is false;
  - 3.** The suspension or revocation is necessary to protect the public safety generally or the safety of the taxicab-riding public in particular; or
  - 4.** The revocation or suspension is otherwise authorized by this Chapter.
- B.** Any suspension or revocation pursuant to this Section shall be in writing, setting forth the reasons therefor and the right of appeal pursuant to Section 16.40.260.
- C.** Except as provided below, any suspension or revocation shall be effective 10 days after mailing a copy thereof by first class United States mail addressed to the taxicab company or taxicab driver at the business or residence address shown on the permit application or renewal.
- D.** Notwithstanding Subsection 16.40.255.C, a suspension or revocation may be made effective immediately if the Supervisor finds reasonable grounds to believe that:

  - 1.** A person holding a taxicab driver's permit is not covered by liability insurance required by Section 16.40.730; or,
  - 2.** Continued operation by the taxicab company or taxicab driver would cause, or is likely to cause, imminent danger to the public health, safety, or morals.
- E.** The Supervisor may assess a civil penalty in an amount of up to \$500 per day or per occurrence against any person found to be in violation of Chapter 16.40 or any regulation or order of the Taxicab Board of Review. The civil penalty, payable to the City of Portland, shall be submitted to the City Taxicab Supervisor and deposited to the City's General fund. In assessing a civil penalty against a taxicab company or taxicab driver the Supervisor may assess civil penalties in lieu

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2. \$55 shall be deposited into the Private for Hire Transportation Safety Fund.
- F.** All limited passenger transportation vehicle permits are subject to revocation by the Supervisor upon expiration of the term of the permit if there is inadequate demand for service to justify renewal of the permit. The Supervisor shall develop uniform standards that shall apply to revocation of vehicle permits based on inadequate demand.
- G.** All limited passenger transportation providers shall comply with the permit conditions and any applicable administrative regulations of the Board. Violation of any of the conditions shall result in denial of an application for a vehicle permit or in revocation of an issued vehicle permit. In the event of revocation of a vehicle permit due to violation of permit conditions, the applicant or permittee shall be barred from reapplication for a vehicle permit for a period of 180 days from the date of revocation.
- H.** Limited Passenger Transportation vehicle permit renewal. Permittees shall pay a renewal fee in the amount of \$155 per year for each permitted vehicle. Payment is due no later than December 31 of the year preceding renewal. If permittee fails to pay the renewal fee or provide other renewal information by December 31 of the year preceding renewal, the vehicle permit shall be deemed abandoned and the vehicle permit shall become void on January 1 of the renewal year. Any voided vehicle permit shall not be renewable in a subsequent year, and any permittee whose vehicle permit has become void shall be required to complete the initial application process if the permittee wants a vehicle permit in the future.
- I.** The renewal fee shall be allocated as provided by Section 16.40.920 E.
- J.** Each limited passenger transportation permit holder shall have an effective policy that prohibits smoking of any substance and the use of tobacco in any form by LPT drivers or passengers in LPT vehicles.
1. Each permitted LPT vehicle shall prominently display a warning sign, in a form and location approved by the Supervisor, including details of the prohibition, fines for violating the prohibition and a contact telephone number for complaints.
  2. In the event that a passenger persists in using tobacco in violation of this prohibition, the passenger may be subject to denial of service, provided such denial does not jeopardize the safety of the passenger.

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#### **16.40.930 LPT Drivers.**

(Replaced by Ordinance No. 176282; amended by 177794, 178705, 179684 and 180153, effective June 16, 2006.)

##### **A. Prohibitions.**

- 1.** No person shall drive or allow another person to drive an LPT vehicle without a valid driver's license.
- 2.** No person shall drive or allow another person to drive an LPT vehicle without a valid LPT driver permit issued to that person by the City.
- 3.** No LPT driver shall drive an LPT vehicle while consuming or under the influence of alcohol, or in a careless or reckless manner or in a manner contrary to the laws of this City or the State of Oregon.
- 4.** No LPT driver shall drive any LPT vehicle while consuming, or under the influence of drugs, unless the drugs are available commercially over the counter, or are being taken pursuant to a doctor's prescription, and, in any case, the drug usage does not impair the driver's ability to drive the LPT vehicle.
- 5.** No LPT driver shall use an LPT vehicle in the commission of any crime.
- 6.** No LPT driver shall use profane or obscene language offensive to a passenger while driving an LPT vehicle.
- 7.** No LPT driver shall smoke any substance or use tobacco, or allow a passenger to smoke any substance or use tobacco in any form inside any LPT vehicle, including Specially Attended Transportation (SAT) Vehicles, Executive Sedans, and Shuttle vehicles.
  - a.** Violation of this prohibition by any driver shall result in the following sanctions:
    - (1)** First offense, a letter of warning;
    - (2)** Second offense, civil penalty of \$100.00;
    - (3)** Subsequent offenses, temporary suspension of driver permit.
- 8.** No LPT driver shall defraud a passenger in any way.

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9. No LPT driver shall be discourteous to a passenger.
10. No LPT driver shall refuse to issue a receipt for a fare paid if one is requested.

**B. Permit Application.**

1. An applicant for an LPT driver permit shall submit a fully completed application in a form provided by the Supervisor.
2. A nonrefundable fee of \$70.00 shall accompany the application, allocated as follows:
  - a. \$35 shall be deposited into the City's General Fund.
  - b. \$35 shall be deposited into the Private for Hire Transportation Safety Fund.

**C. Review of Permit Applications.**

1. The Supervisor shall perform a driver license background check using the Oregon Department of Transportation DMVCICS system for drivers licensed by the State of Oregon. For drivers licensed from states other than Oregon, the applicant shall provide a copy of his or her driving record from the state in which the driver is licensed for the driver license background check.
2. The Supervisor shall obtain a Portland Police Records check and a Law Enforcement Data Systems (LEDS) check of any criminal activity. The Supervisor may, at the Supervisor's sole discretion, require or accept in lieu of a Portland Police Records and LEDS check a criminal background report from other sources, as long as such sources are approved by the Board.
3. Within ten calendar days the Supervisor shall review the application and the driver background and criminal activity checks to determine whether an LPT driver permit should be issued, and either grant the LPT driver permit, or notify the applicant and the sponsoring company that the application is denied or that additional time is needed to process the application.

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#### **D. Permit Denial.**

- 1.** If the Supervisor's review indicates that an LPT driver permit should not be issued in the interest of public safety, based on the applicant's application, driver background or criminal history record, the Supervisor shall not issue an LPT driver permit. The Supervisor's review shall be based on the following factors:
  - a.** The applicant has failed to disclose any information required in the application, or fails or refuses to provide upon written request by the Supervisor any information that reasonably relates to the application or clarification thereof, or provides false information in the application or to the Supervisor.
  - b.** During the ten year period preceding the filing of the initial application the applicant has been convicted of any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, weapons, or any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, and leaving the scene of an injury accident or hit and run injury.
  - c.** During the ten year period preceding the filing of the initial application, the applicant has greater than ten traffic infractions as defined in ORS 801.557; and greater than ten serious traffic violations ORS 801.477; greater than ten motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, greater than ten of any combination of traffic infractions, serious traffic violations, or motor vehicle accidents as provided above.
  - d.** During the ten-year period preceding the initial application the applicant has been suspended or revoked pursuant to ORS 809.410.
  - e.** The applicant is not properly licensed to do business in the City of Portland pursuant to PCC Title 7.
- 2.** If the Supervisor denies the permit application, the Supervisor shall so notify the applicant in writing.

- E. Issuance of Permit.** If the Supervisor's review indicates that the application should be approved and an LPT driver permit granted based on the application, the applicant's driver background and criminal activity record, and if none of the



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factors listed in Section 16.40.930 D.1.a. to e. is present, the Supervisor shall provide the applicant with a printed identification card containing the permit number and expiration date and the driver's name and photograph.

**F. Identification Cards.**

1. The LPT driver's identification card shall be posted in a prominent place within the passenger compartment of the LPT vehicle.
2. The LPT driver shall display his or her identification card upon request to any passenger, police officer, the Supervisor or the Supervisor's designee.
3. The identification card shall be in possession of the LPT driver at all times the LPT driver is driving an LPT vehicle.
4. The Supervisor may issue a replacement identification card if presented with convincing evidence that the original identification card has been lost or destroyed. The fee for issuance of a replacement identification card is \$15.00.

**G. Permit Term.** Permits shall be issued for a term not to exceed one year. All permits shall expire on December 31 of each year.

**H. Permit Renewal.**

1. An LPT driver permit may be renewed upon the payment of a renewal fee of \$70.00 on or before December 1 of each year.
2. If the LPT driver fails to pay the renewal fee or provide required information by December 1 of the year preceding renewal, the permit shall be deemed abandoned and the permit shall be void on January 1 of the renewal year. Any voided permit shall not be renewable in a subsequent year, and any LPT driver whose permit has become void shall be required to complete the initial application process, and pay \$70.00, to obtain another LPT driver permit.
3. Renewal fees shall be allocated as provided by Section 16.40.930 B.2.
4. If any information provided on the initial application has changed by the time of renewal, the LPT driver shall complete a renewal application update form provided by the Supervisor.

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5. If the LPT driver's permit expires before completion of the renewal process, the LPT driver shall not operate any LPT vehicle until the permit renewal process is completed.
  6. If at the time of submission of a renewal application the Supervisor determines that an application for an initial permit for that applicant would be denied the Supervisor shall deny the renewal application.
- I. Immediate Suspension.** Immediate suspension is an immediate and temporary loss of a permit, pending completion of the process provided by this section, for a violation that if proved will result in revocation, or for conduct that constitutes a continuing threat to public safety.
1. **Process.**
    - a. Upon a finding of probable cause that a violation has occurred that if proved will result in revocation of a permit, or upon a finding of probable cause that conduct has occurred that constitutes a threat to the public safety, the Supervisor shall impose an immediate suspension pending resolution of the alleged violation.
    - b. The Supervisor shall attempt to immediately notify the alleged violator by telephone of the immediate suspension and shall follow the telephone notification by a written notification mailed by U.S. Mail, certified, return receipt requested, and by regular U.S. Mail.
    - c. The written notice shall contain the Supervisor's findings concerning the alleged violation and shall allow a time of ten (10) days from the date of issuance of the notice for the alleged violator to file a written response with the Supervisor. The written notice shall contain the date of issuance of the notice and the potential civil penalty if the violation is sustained.
    - d. If the alleged violator fails to timely respond to the written notice, or if the Supervisor sustains the violation after response by the alleged violator, immediate suspension shall be imposed. A second notice shall be issued by the Supervisor to the violator including the date of issuance of the notice, the term of the immediate suspension, the consequences of failure to timely comply with the immediate suspension, and information concerning the appeal process.

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**Chapter 17.34**

**SANITARY DISCHARGES**

(Added by Ordinance No. 153801; amended by  
Ordinance Nos. 163816 and 180037, effective April 28, 2006.)

**Sections:**

17.34.005	Intent of Chapter.
17.34.010	Declaration of Policy.
17.34.020	Definitions.
17.34.025	Authority of Director to Adopt Rules.
17.34.030	General Discharge Prohibitions.
17.34.040	Discharge Limitations.
17.34.050	Pretreatment Facilities.
17.34.060	Reporting Requirements.
17.34.070	Industrial Wastewater Discharge Permits.
17.34.075	Other Sanitary Discharge Permits or Authorizations.
17.34.080	Inspection and Sampling.
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17.34.110	Enforcement.
17.34.120	Records Retention.
17.34.130	Conflict.
17.34.140	Severability.
17.34.150	Fees.
17.34.160	Requests for Reconsideration.

**17.34.005      Intent of Chapter.**

(Added by Ordinance No. 180037, effective April 28, 2006.) It is the intent of the City to provide needed sewer service to all users while meeting the outlined objectives. This Chapter provides the structure under which the service will be provided for industrial wastewater dischargers so that the system is protected and can continue to provide efficiently for the wastewater treatment needs of the City. This chapter describes a group of regulations that applies to all sanitary discharges, including those regulated under BES Pre-treatment and City discharge authorization programs. This chapter applies to all separate sanitary and combined sewer systems, which are both considered sanitary sewers for the purposes of this chapter.

**17.34.010      Declaration of Policy.**

(Amended by Ordinance Nos. 172879 and 180037, effective April 28, 2006.) It is the policy of the City of Portland to provide the planning, engineering and administration

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necessary to develop and manage sewer facilities that are adequate for the transportation, treatment and disposal of waste water from within the City and to operate the sewer system in such a manner which protects public health and the environment. In carrying out this policy, the objectives of this Chapter are:

- A. to prevent pollutants from entering the sewer system which will interfere with its normal operation or contaminate the resulting sludge;
- B. to prevent the introduction of pollutants into the sewer system which will not be adequately treated and will pass through into the environment;
- C. to improve the opportunity for recycling and reclamation of wastewater and sludge;
- D. to insure protection of worker safety and health;
- E. to insure that all industrial users comply with applicable federal, state and local laws and regulations governing wastewater discharges and that sanctions for failure to comply are imposed.

#### 17.34.020 Definitions.

(Amended by Ordinance Nos. 172879 and 180037, effective April 28, 2006.) For purposes of Chapter 17.34, and rules adopted thereunder, the following terms shall have the following definitions:

- A. **Branch sewer.** The term branch sewer shall mean a conduit extending from the plumbing system of a building or buildings to and connecting with a public or private sewer.
- B. **Categorical pretreatment standards.** Categorical pretreatment standards are limitations on pollutant discharges to Publicly Owned Treatment Works (POTWs) promulgated by the U.S. Environmental Protection Agency in accordance with Section 307 of the Clean Water Act, that apply to specified process wastewater of particular industrial categories [40 CFR Chapter I, Subchapter N, Parts 405-471 and amendments thereto]. A current listing of industries subject to National Categorical Pretreatment Standards is available from the Director of Environmental Services.
- C. **City Engineer.** The term City Engineer shall mean the City Engineer of the City of Portland, Oregon, or his or her duly authorized representative or agent.
- D. **City or City of Portland.** “City” or “City of Portland” shall mean the municipality of Portland, Oregon, a municipal corporation of the State of Oregon, acting through the City Council or any Board, Committee, body, official or person

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to whom the Council shall have lawfully delegated the power to act for or on behalf of the City. Unless a particular Board, Committee, body, official or person is specifically designated in this Chapter or rules adopted hereunder, wherever action by the City is explicitly required or implied herein, it shall be understood to mean action by the Director of Environmental Services of Portland, Oregon, or his or her duly authorized representative or agent.

- E. Clean Water Act.** The Clean Water Act is the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.).
- F. Director of Environmental Services.** The Director of Environmental Services (Director) is the Director of The Bureau of Environmental Services of the City of Portland, Oregon, or his or her duly authorized representative or agent.
- G. Discharge.** A discharge is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking, or placing of any material so that such material enters the sewer system.
- H. Discharger.** A discharger is any person or entity that allows materials to be released into the City's sewer system.
- I. Domestic waste.** Domestic waste is any waste consistent with that generated from single or multiple residential dwellings including, but not limited to, wastes from bathrooms, laundries and kitchens.
- J. Domestic wastewater.** Domestic wastewater is any water that contains only domestic waste.
- K. Hazardous or toxic substances.** Hazardous or toxic substances are those substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §9601 et seq.), section 502(13) of the Clean Water Act, and any other substances so designated by the Director of Environmental Services and contained in rules adopted pursuant to this Chapter.
- L. Industrial Discharger.** An Industrial Discharger is any Industrial User that discharges industrial wastewater to the City sewer system.
- M. Industrial User.** An Industrial User is any person that discharges nondomestic wastewater.
- N. Industrial waste.** Industrial waste shall mean any liquid, solid, or gaseous substance, or combination thereof, resulting from or used in connection with any process of industry, manufacturing, commercial food processing, business,

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agriculture, trade or research, including but not limited to the development, recovering or processing of natural resources and leachate from landfills or other disposal sites.

- O. Industrial wastewater.** Industrial wastewater is any water that contains industrial waste.
- P. Industrial wastewater discharge permit.** An industrial wastewater discharge permit is a permit to discharge industrial wastewater into the City sewer system issued under the authority of this Chapter and which prescribes certain discharge requirements and limitations.
- Q. Interference.** Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the normal operation of the City sewer system, or which causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or any increase in the cost of treatment of sewage or in the cost of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations); Section 405 of the Clean Water Act, the Solid Waste Disposal Act (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of RCRA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
- R. Pollutant.** A pollutant is any substance discharged into the City sewer system which is prohibited or limited by the requirements of this Chapter or rules adopted hereunder.
- S. Person.** The term "person" shall mean any individual, company, enterprise, partnership, corporation, association, government agency, society, or group, and the singular term shall include the plural.
- T. POTW.** POTW means Publicly Owned Treatment Works, which includes any devices and systems, owned by a State or municipality, used in the collection, transportation, storage, treatment, recycling and reclamation of wastewater.
- U. Pretreatment.** Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater in accordance with federal, state and local laws, regulations and permits prior to or in lieu of discharging or otherwise introducing such pollutants into the City sewer system.

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- V. Sewer system.** The sewer system is the entire sewage collection and treatment system, including but not limited to, all conduits, pumps, treatment equipment, physical and biological processes, and any other components involved in the collection, transportation, treatment, reuse, and disposal of wastewater and sludge.
- W. Significant Industrial User.** Except as provided in subparagraph (c), the term Significant Industrial User means:
1. All industrial users subject to Categorical Pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
  2. Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Director of Environmental Services on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
  3. Upon a finding that an industrial user meeting the criteria in paragraph (b), above, has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Director of Environmental Services may at any time, on his or her own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.
- X. Significant Noncompliance.** Significant noncompliance with applicable pretreatment requirements exists when a violation of an industrial user meets one or more of the following criteria:
1. Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the monthly average limit for the same pollutant parameter.
  2. Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

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3. Any other violation of pretreatment effluent limit (daily maximum or longer-term average) that the Director of Environmental Services determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within 30 days after the due date, required reports such as applications, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance;
8. Any other violation or group of violations that the Director of Environmental Services determines will adversely affect the operation or implementation of the local pretreatment program.

**17.34.025 Authority of Director of Environmental Services to Adopt Rules.**

- A. For purposes of the functions described in Charter section 11-303, the City Engineer may delegate his or her authority to perform those functions to the Director of Environmental Services. This delegation can be made by filing a written notice of delegation with the City Auditor and approval of the delegation by resolution of the City Council. Upon approval of the delegation by the City Council, the Director of Environmental Services shall be responsible for performing the delegated functions, and the City Engineer shall not be responsible for supervising or approving actions of the Director of Environmental Services pursuant to the delegated authority. This delegation shall remain in effect until modified by resolution of the City Council.
- B. The Director of Environmental Services is hereby authorized to adopt rules, procedures and forms to implement the provisions of this chapter.



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**C. Adoption of Rules.**

- 1.** Upon the recommendation of the Director of Environmental Services, the Bureau of Environmental Services may adopt rules pertaining to matters within the scope of this Chapter.
- 2.** Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
- 3.** During the public review, a designee of the Director of Environmental Services shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director of Environmental Services and shall be filed in the office of the Director of Environmental Services.
- 4.** Notwithstanding paragraphs (2) and (3) of this section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

**17.34.030 General Discharge Prohibitions.**

(Amended by Ordinance Nos. 172879 and 180037, effective April 28, 2006.)

- A.** It is unlawful to discharge industrial wastewater into the City sewer system except in compliance with this Chapter and rules adopted hereunder.
- B.** Prohibited discharges. It is unlawful to discharge, cause to discharge or allow to discharge directly or indirectly into the City sewer system any of the following:

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- 1.** Wastewater containing substances in such concentrations that they inhibit or interfere with the operation or performance of the sewer system, or that are not amenable to treatment or reduction by the sewage treatment process employed, or are only partially amenable to treatment such that the sewage treatment plant effluent cannot meet the requirements of any agency having jurisdiction over its discharge to the receiving waters, or that exceed concentrations in excess of limitations in any permit issued by the City or other regulatory agency or in this Chapter or rules adopted hereunder, or that prevent or impair the use or disposal of sewage treatment plant sludge and sludge products in accordance with applicable State and federal regulations;
- 2.** Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the sewer system, or wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius (using test methods prescribed at 40 CFR 261.21), or discharges which cause the atmosphere in any portion of the sewer system to reach a concentration of 10% or more of the Lower Explosive Limit (LEL).
- 3.** Any solid or viscous substances capable of obstructing wastewater which will or may cause obstruction to the flow of wastewater or other interference with the operation of the sewer system;
- 4.** Any noxious, malodorous or toxic liquids gases, vapors or fumes, solids, or other substances which, either singly or by interaction with other wastes, may cause acute or chronic worker health and safety problems, a public nuisance, a hazard or interference with any part of the sewer system;
- 5.** Any industrial wastewater containing a hazardous or toxic substance which, either singly or by interaction with other substances, injures or interferes with the sewer system or constitutes a hazard to humans or animals, or creates a hazard in, or adversely affects the receiving waters, or results in such substances being discharged in combined sewer overflows or sewage treatment plant effluent in any concentrations in excess of limitations imposed by any permit, law or regulation;

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6. Any wastes, wastewaters or substances having a pH less than 5.0 or more than 11.5, or capable of causing damage or hazard to structures, equipment, processes or personnel of the sewer system, unless these limits are modified by permit. Such wastes include, but are not limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine;
7. Any liquid or vapor having a temperature higher than 65 degrees Celsius (149 degrees Fahrenheit) or containing heat in amounts which will inhibit biological activity, or result in interference at the treatment plant. In no case shall a discharge to the sewer system contain heat in such quantities that the temperature of the treatment plant influent exceeds 27 degrees Celsius (80 degrees Fahrenheit);
8. Any material trucked or hauled from a cesspool, holding or septic tank or any other nondomestic source, except such material received at designated locations under City contract or permit in accordance with any other applicable requirements of the City Code or rules adopted thereunder;
9. Any substance which may solidify or become discernibly viscous at temperatures above 0 degrees Celsius or 32 degrees Fahrenheit;
10. Any material that has not been properly comminuted to 0.65 centimeters (1/4 inch) or less in any dimension;
11. Any slugload, as defined in this Chapter or rules adopted hereunder;
12. Any substances with excessive color, as determined by the Director of Environmental Services, which are not removed in the treatment process;
13. Any batch discharges without written permission from the Director of Environmental Services. Batch discharges shall comply with all other requirements of this Chapter and rules adopted hereunder;
14. Any concentrations of inert suspended or settleable solids which may interfere with the operation of the sewer system;
15. Any concentrations of dissolved solids which may interfere with the operation of the sewer system;
16. Any radioactive material, except in compliance with a current permit issued by the Oregon State Health Division or other state or federal agency having jurisdiction;

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17. Any substance which may cause sewer system effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or which interferes with the reclamation process. (In no case, shall a substance discharged to the sewer system cause the City to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under the Clean Water Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act (42 USC 6901), the Clean Air Act (42 USC 1857), the Toxic Substances Control Act (15 USC 2601), or any other federal or State statutes, regulations or standards applicable to the sludge management method being used, or any amendments thereto.)
  18. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
  19. Noncontact cooling water (except that noncontact cooling water may be discharged to the separate storm sewer system upon approval by the Director of Environmental Services);
  20. Any substance that causes the City to violate the terms of its NPDES permit;
  21. Any discharge limits in rules adopted in rules pursuant to this Chapter.
- C. A discharge or flow resulting from an emergency situation such as a water line break or fire fighting by the Fire Department shall not be prohibited from discharging to the sewer during the period of the emergency. Any repairs made after the period of emergency has ceased will comply with all regulations of this code.

**17.34.040 Discharge Limitations.**

- A. It is unlawful for a discharger to discharge wastes or wastewater to the City sewer system in excess of limitations established in an industrial wastewater discharge permit or in violation of the prohibited discharges in Section 17.34.030. The Director of Environmental Services shall establish specific discharge limitations under separate rules to meet the objectives of this Chapter.
- B. It is unlawful for a discharger to use dilution as a partial or complete substitute for adequate treatment to achieve compliance with the standards and limitations set forth in this Chapter or rules adopted hereunder or in an industrial waste discharge permit issued pursuant to the Chapter. The Director may impose mass limitations on dischargers who are using dilution to meet the applicable pretreatment standards or requirements of this Chapter or rules adopted hereunder, or in other

cases where the Director determines that the imposition of mass limitations is deemed appropriate.

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

**17.34.050      Pretreatment Facilities.**

- A. If, as determined by the Director of Environmental Services, treatment facilities, operation changes or process modifications at an industrial discharger's facility are needed to comply with any requirements under this Chapter or are necessary to meet any applicable state or federal requirements, the Director of Environmental Services may require that such facilities be constructed or modifications or changes be made to the pretreatment facilities within the shortest reasonable time, taking into consideration construction time, impact of the untreated industrial wastewater on the City sewer system, impact of the industrial wastewater on the marketability of the City treatment plant sludge or sludge products, and any other appropriate factor.
- B. Any requirement provided for or authorized pursuant to this Chapter may be incorporated as a part of an industrial wastewater discharge permit issued under Section 17.34.070 or any other enforcement document and made a condition of issuance of such permit or made a condition of the acceptance of the industrial wastewater from such facility.
- C. Plans, specifications and other information relating to the construction or installation of preliminary pretreatment facilities required by the Director of Environmental polices under this Chapter shall be submitted to the Director. No construction or installation thereof shall commence until written approval of plans and specifications by the Director is obtained. No person, by virtue of such approval, shall be relieved of compliance with other local, State or federal laws relating to construction and permits. Every facility for the preliminary

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pretreatment or handling of industrial wastewater shall be constructed in accordance with the approved plans and specifications and shall be installed and maintained at the expense of the occupant of the property discharging the industrial wastewater.

- D.** Any person constructing a pretreatment facility, as required by the Director of Environmental Services, shall also install and maintain at his or her own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the pretreatment facility to the public sewer. The sampling manhole or monitoring access shall be placed in a location designated by the Director and in accordance with specifications approved by the Director.

#### **17.34.060 Reporting Requirements.**

- A.** Periodic compliance reports.

- 1.** Any discharger that is required to have an industrial wastewater discharge permit pursuant to Section 17.34.070 shall submit to the Director of Environmental Services during the months of June and December, unless required on other dates or more frequently by the Director a report indicating the nature of the effluent over the previous reporting period. The report shall include a record of the concentrations (and mass if limited in the permit) of the limited pollutants that were measured and a record of all flow measurements taken at designated sampling locations, and shall also include any additional information required by this Chapter or rules adopted pursuant to this Chapter.
- 2.** Flows shall be reported on the basis of actual measurement; provided, however, that the Director of Environmental Services may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that actual measurement is not feasible.
- 3.** The Director of Environmental Services may require reporting by industrial wastewater dischargers that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.
- 4.** The Director of Environmental Services may require self-monitoring by the discharger or, if requested by the discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Section.

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- a.** If the Director agrees to perform such periodic compliance monitoring, he or she may charge the discharger for such monitoring, based upon the costs incurred by the City for sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills.
  - b.** The Director is under no obligation to perform periodic compliance monitoring for a discharger.
  - c.** Periodic compliance monitoring is that monitoring which is necessary to provide information on discharge quantity and quality required for periodic compliance reports.
- B.** Final Compliance Report. Within 90 days following the date for final compliance by the discharger with applicable pretreatment standards and requirements set forth in this Chapter or rules adopted hereunder or an industrial wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the City sewer system by a new source discharger, any discharger subject to this Chapter shall submit to the Director of Environmental Services a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and pretreatment is necessary to bring the discharger into compliance.
- C.** All applications, reports, and reporting information shall be certified and signed in accordance with 40 CFR 403.12;
- D.** Confidential information.
  - 1.** Any records, reports or information obtained under this Chapter or rules adopted hereunder shall be available to the public or any governmental agency without restriction, unless classified by the Director of Environmental Services as confidential. In order to obtain a confidential classification on all or part of any records, reports or information submitted, the discharger shall:
    - a.** Submit a written request to the Director identifying the material that is desired to be classified as confidential and;

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- b. Demonstrate to the satisfaction of the Director that records, reports or information or particular parts thereof, are exempt from disclosure pursuant to the Oregon Public Records Law.
  2. Effluent data, as defined in 40 CFR 2.302, submitted pursuant to this Chapter shall not be classified as confidential.
  3. Records, reports or information or parts thereof classified as confidential by the Director of Environmental Services shall not be released or made part of any public record or hearing unless such release is ordered by the District Attorney or a court of competent jurisdiction; provided, however, such confidential information shall, when required by law or governmental regulation, and upon written request, be made available to state or federal agencies having jurisdiction, duties or responsibilities relating to this Chapter, the National Pollutant Discharge Elimination System or applicable Oregon laws and regulations.
- E. Fraud and False Statements. Any reports required by this Chapter or rules adopted thereunder and any other documents required by the City to be submitted or maintained by the discharger shall be subject to the enforcement provisions of this Chapter and other applicable local and State laws and regulations relating to fraud and false statements. Additionally, a discharger shall be subject to the provisions of 18 U.S. Code Section 1001 relating to fraud and false statements, and the provisions of Section 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officers.
- F. Notification of Hazardous Waste Discharge. An industrial discharger shall notify the Director of Environmental Services in writing of any discharge into the sewer system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall be in accordance with the requirements of rules adopted pursuant to this Chapter.
- G. Notification of Violation. An industrial discharger shall report noncompliance with permit limits within 24 hours of becoming aware of the noncompliance. The industrial discharger shall repeat the sampling and analysis and submit results to the Director of Environmental Services within 30 days of becoming aware of the violation.
- H. Notification of Changed Discharge. All industrial dischargers shall promptly notify the Director of Environmental Services in advance of any substantial change in the volume or character of pollutants in their discharge.



**17.34.070 Industrial Wastewater Discharge Permits.**

(Amended by Ordinance Nos. 165068 and 172879, effective November 18, 1998.)

- A.** Requirement for a permit. Except as provided in Section 17.34.070 B an industrial wastewater discharger shall have an industrial wastewater discharge permit prior to discharging into the City sewer system if:
  - 1.** The discharger is a Significant Industrial User, as defined in this Chapter; or
  - 2.** The discharge is required to be permitted under procedures contained in the City's approved pretreatment program.
- B.** Existing discharges.
  - 1.** If discharges are in existence prior to the date that an industrial wastewater discharge permit is required, the discharger shall be notified in writing by the Director of Environmental Services that such a permit is required. Such existing dischargers shall be allowed to continue discharging into the City sewer system without an industrial wastewater discharge permit until a permit is issued or denied, provided the discharger files a completed environmental survey and application for an industrial wastewater discharge permit within 90 days of receipt of the notice.
  - 2.** Discharges that require an industrial wastewater discharge permit and are allowed to continue discharging without such a permit under Section 17.34.070 B 1 shall comply with the requirements of this Chapter and rules adopted hereunder.
- C.** Application for industrial wastewater discharge permit.
  - 1.** Existing Significant Industrial Users, as defined in this Chapter, shall submit application for a permit on a form provided by the Director within 180 days after the effective date of a categorical pretreatment standard issued by the U.S. EPA or within 90 days after receiving notification from the Director of Environmental Services that such a standard has been issued, whichever is sooner.
  - 2.** New Source Dischargers. Any new source discharger determined by the Director of Environmental Services to be a Significant Industrial User shall submit an application for a permit on a form provided by the Director within 90 days of notification by the Director, provided that a new source discharger shall not discharge to the sewer system without a permit.

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3. Submission of the application for permit required by this section shall satisfy the requirements of 40 CFR 403.12(b).
4. The application for permit shall not be considered complete until all information required by the application form, by this Chapter, and by rules adopted hereunder is provided, until all fees are paid, and until the certification statement required by 40 CFR 403.12(b)(6) is signed by the authorized representative, unless specific exemptions are granted by the Director of Environmental Services.

**D. Issuance of industrial wastewater discharge permits.**

1. Industrial wastewater discharge permits shall be issued or denied by the Director of Environmental Services within 90 days after a completed application is received, unless that period is extended in writing by the Director of Environmental Services for good and valid cause.
2. Industrial wastewater discharge permits shall contain conditions which meet the requirements of this Chapter and rules adopted hereunder as well as those of applicable State and federal laws and regulations.
3. If pretreatment facilities are needed to meet the applicable pretreatment standards or requirements in an industrial wastewater discharge permit, the permit shall require the installation of such facilities in a compliance schedule.
4. Whenever an industrial wastewater discharge permit requires installation or modification of pretreatment facilities or a process change necessary to meet discharge standards or spill control requirements, a compliance schedule shall be included which establishes the date for completion of the pretreatment facilities or process changes. The compliance schedule may contain appropriate interim dates for completion of specified tasks. Compliance dates established in a permit cannot exceed federal categorical deadline dates.
5. Industrial wastewater discharge permits shall expire no later than 5 years after the effective date of the permit and shall not be transferable.
6. The Director of Environmental Services may deny the issuance of an industrial wastewater discharge permit if he or she determines that the discharge will result in violations of local, State or federal laws or regulations, will cause interference or damage to any portion of the City sewer system, or will create an imminent or potential hazard to human health or the environment.

**E.** Modification of permits.

1. An industrial wastewater discharge permit may be modified for good and valid cause at the written request of the permittee or at the discretion of the Director of Environmental Services.
2. Permittee modification requests shall be submitted to the Director of Environmental Services and shall contain a detailed description of all proposed changes in the discharge. The Director may request any additional information needed to adequately review the application or assess its impact.
3. The Director of Environmental Services may deny a request for modification if he or she determines that the change will result in violations of local, State or federal laws or regulations, will cause interference or damage to any portion of the City sewer system, or will create an imminent or potential hazard to human health or the environment.
4. If a permit modification is made at the direction of the Director of Environmental Services, the permittee shall be notified in writing of the proposed modification at least 30 days prior to its effective date and informed of the reasons for the changes. Any request for reconsideration shall be made before the effective date of the changes.

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

**G.** Renewal of Permits. A permittee shall apply for renewal of its industrial wastewater discharge permit within 90 days of the expiration date of the existing permit. Upon timely application for renewal, an existing permit will remain effective until the renewal application is acted upon.

**H.** Appeal of permit. Upon receipt of a final industrial wastewater discharge permit, a permittee may appeal any of its terms or conditions to the Code Hearings Officer in accordance with procedures set out at Chapter 22.10 of the Portland City Code; provided that such an appeal shall include a copy of the permit that is

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the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

#### **17.34.075 Other Sanitary Discharge Permits or Authorizations**

(Added by Ordinance No. 180037, effective April 28, 2006.) The City may require authorization for any discharge to the sanitary or combined sewer of materials that violate the discharge prohibitions listed in 17.34.030.

- A.** Authorization may take the form of a written authorization for an intermittent or ongoing discharge. Authorization may also require the adherence to management practices to reduce pollutant releases associated with the authorized discharge
- B.** Dischargers may be required to provide:
  - 1.** Evaluation of the proposed discharge, including: sampling, prior to being granted authorization to discharge.
  - 2.** Adequate information and access to the location or process creating the discharge, to allow the City to fully evaluate any pretreatment needs for authorizing the discharge.
- C.** The City may require pretreatment for any discharge to the City's sewer system, including but not limited to requirements specified in 17.34.050.
- D.** Non-compliance with these requirements is subject to the enforcement steps specified in 17.34.110 and in the associated Sanitary System Discharge administrative rules.

#### **17.34.080 Inspection and Sampling.**

- A.** Inspection.
  - 1.** Authorized City representatives may inspect the monitoring facilities of any industrial wastewater discharger to determine compliance with the requirements of this Chapter. The discharger shall allow the City or its authorized representatives to enter upon the premises of the discharger at all reasonable hours for the purpose of inspection, sampling, photographic documentation or records examination and copying. The City shall also have the right to install on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.

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**2.** Conditions for entry.

- a.** The authorized City representative shall present appropriate credentials at the time of entry;
- b.** The purpose of the entry shall be for inspection, observation, measurement, sampling, testing, photographic documentation, or records examination and copying in accordance with the provisions of this Chapter;
- c.** The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Director of Environmental Services.
- d.** All regular safety and sanitary requirements of the facility to be inspected shall be complied with by the City representative(s) entering the premises.

**B.** Sampling.

- 1.** Samples of wastewater being discharged into the sewer system shall be representative of the discharge. Other sampling locations may be required by permit. The sampling method shall be one approved by the Director of Environmental Services and one in accordance with 40 CFR Part 136.
- 2.** Samples taken by City personnel for the purpose of determining compliance with the requirements of this Chapter or rules adopted hereunder may be split with the discharger (or a duplicate sample provided in the instance of fats, oils and greases) if requested before or at the time of sampling.
- 3.** All sampling and analyses shall be performed in accordance with the procedures set forth in 40 CFR Part 136 and any amendments thereto or with any other test procedures approved by the Administrator of the Environmental Protection Agency. If there are no approved test procedures the Director of Environmental Services may approve other analytical procedures. The results of all samples taken shall be reported.

**C.** Sampling manhole or access. The Director of Environmental Services may require an industrial wastewater discharger to install and maintain at the discharger's expense a suitable manhole in the discharger's branch sewer or other suitable monitoring access to allow observation, sampling and measurement of all industrial wastes being discharged into the City sewer system. The manhole shall be constructed in accordance with plans approved by the Director Services and

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shall be designed so that flow measuring and sampling equipment can be conveniently installed. Access to the manhole or monitoring access shall be available to City representatives at all times.

#### **17.34.090 Accidental Spill Prevention and Control.**

- A.** Notification. Any person becoming aware of spills or uncontrolled discharges of hazardous or toxic substances or substances prohibited under Section 17.34.030 directly or indirectly into the City sewer system or into a tributary to the City sewer system, shall immediately report such discharge by telephone to the Director of Environmental Services and to any other authorities required under other local, state, or federal laws or regulations.
- B.** Written notice. Within 5 days following an accidental discharge as described in paragraph (a), above, the discharger shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the discharger from any fines, civil penalties, or other liability which may be imposed under the authority of this Chapter or rules adopted hereunder or other applicable law.
- C.** Posted notice. A notice informing employees of an industrial wastewater discharger of the notification requirement above which contains information regarding reporting in the event of such a discharge shall be posted in a conspicuous place and shall be visible to all employees who may reasonably be expected to observe such a discharge.
- D.** Preventive measures. Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of hazardous or toxic substances or substances prohibited under Section 17.34.030 to enter the City sewer system shall be eliminated or labeled and controlled so as to prevent the entry of wastes in violation of this Chapter. The Director of Environmental Services may require the industrial user to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial wastewater discharge permit or as a condition of continued discharge into the City sewer system. A schedule of compliance shall be established by the Director which requires completion of the required actions within the shortest reasonable period of time. Violation of the schedule without an extension of time by the Director is a violation of this Chapter.
- E.** Accidental Spill Prevention Plans.
  - 1.** Industrial users that handle, store or use hazardous or toxic substances or substances prohibited under Section 17.34.030 on their sites shall prepare

and submit to the Director of Environmental Services an Accidental Spill Prevention Plan, according to the requirements set out in rules adopted pursuant to this Chapter, within 60 days after notification by the Director or as required by an industrial wastewater discharge permit.

**17.34.110 Enforcement.**

(Amended by Ordinance Nos. 165068 and 180037, effective April 28, 2006.) Dischargers that fail to comply with the requirements of this Chapter and rules adopted hereunder may be subject to enforcement actions by the Director of Environmental Services.

**A. Violations.**

- 1.** A violation shall have occurred when any requirement of this Chapter or rules adopted hereunder has not been met, or when any condition of a permit or agreement issued under the authority of this Chapter or rules adopted hereunder is not met.
- 2.** Each day a violation occurs or continues shall be considered a separate violation.
- 3.** For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation except as provided elsewhere in this Chapter or rules adopted hereunder.
- 4.** Where a discharge causes interference or pass through, the discharger shall have an affirmative defense where it is demonstrated that:
  - a.** It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and
  - b.** The discharge was in compliance with properly developed local limits prior to and during the pass through or interference; or
  - c.** If a local limit designed to prevent pass through or interference has not been developed for the pollutants that caused the pass through or interference, the discharger's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from prior discharge activity which was regularly in compliance with the requirements of this Chapter and rules adopted hereunder.

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- B.** Enforcement Mechanisms. In enforcing any of the requirements of this Chapter or rules adopted hereunder, the Director of Environmental Services, or a duly authorized representative, may:
1. Take civil administrative actions, as set out in rules adopted under the authority of this Chapter;
  2. Issue compliance orders;
  3. Institute an action before the Code Hearings Officer;
  4. Cause an appropriate action to be instituted in a court of competent jurisdiction; or
  5. Take such other action as the Director of Environmental Services, in the exercise of his or her discretion, deems appropriate.
- C.** Civil Penalties. Violations of this Chapter or rules adopted hereunder may result in assessment of civil penalties in an amount up to \$5000 per day per violation. All civil penalties shall be deposited with the City Treasurer. Failure to pay a civil penalty within 30 days following a final determination regarding the penalty is grounds for permit revocation or termination of the permittee's discharge. Penalties shall accrue interest and other charges until the penalty is paid in full.
- D.** Termination or prevention of a discharge/permit revocation.
1. Notwithstanding any other provisions of this Chapter, the Director of Environmental Services may terminate or prevent a discharge into the City sewer system or revoke an industrial wastewater discharge permit if:
    - a. The discharge or threatened discharge presents or may present an endangerment to the health or welfare of persons or the environment, or threatens to interfere with the operation of the City sewer system; or
    - b. The permit to discharge into the City sewer system was obtained by misrepresentation of any material fact or by lack of full disclosure; or
    - c. The discharger violates any requirement of this Chapter or of an industrial wastewater discharge permit; or,
    - d. Such action is directed by a court of competent jurisdiction.



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2. Notice of termination or prevention of discharge or permit revocation shall be provided to the industrial wastewater discharger or posted on the subject property prior to terminating or preventing the discharge or revoking a permit.
    - a. In situations that do not represent an imminent endangerment to health or the environment or an imminent threat of interference with the sewer system, the notice shall be in writing, shall contain the reasons for the termination or prevention of the discharge or permit revocation, the effective date, the duration, and the name, address and telephone number of a City contact, shall be signed by the Director of Environmental Services, and shall be received at the business address of the discharger no less than 30 days prior to the effective date.
    - b. In situations where there is an imminent endangerment to the health or welfare of persons or the environment or an imminent threat of interference with the operation of the sewer system, the Director of Environmental Services may immediately terminate an existing discharge or prevent a new discharge from commencing or revoke a permit after providing informal notice to the discharger or after posting such notice on the subject property. Informal notice may be verbal or written and shall include the effective date and time and a brief description of the reason. Within 3 working days following the informal notice, a written formal notice as described in 17.34.110(d)(2)(A) shall be provided to the discharger.
  3. The Director of Environmental Services shall reinstate an industrial wastewater discharge permit which has been revoked under the terms of this Chapter or shall reinstate industrial wastewater treatment service upon clear and convincing proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of endangerment or interference as set forth in this Chapter.
- E.** Annual Publication. A list of Significant Industrial Users that are subject to the definition of significant noncompliance shall be published annually in the newspaper of general circulation published in Portland, summarizing the enforcement actions taken against industrial users during a prior twelve month period.
- F.** Cost recovery.
1. The Director of Environmental Services may recover all reasonable costs incurred by the City which are attributable to or associated with violations

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of this Chapter, including but not limited to the costs of administration, investigation, sampling and monitoring, legal or enforcement activities, damage to or contamination of the sanitary or combined sewer systems. BES may recover costs associated with remediation of a violation, contracts and health studies, and any fines and civil penalties assessed to the City that result from activities not in compliance with this Chapter or rules adopted hereunder. Liens may be imposed on the property or properties in accordance with the provisions of Chapter 22.06.

2. All such costs shall be documented by the City and shall be served upon the discharger by certified or registered mail, return receipt requested. Such documentation shall itemize the costs the Director of Environmental Services has determined are attributable to the violations.
3. The costs are due and payable by the discharger upon receipt of the letter documenting such costs. All such costs shall be paid to the City Treasurer and credited to the Sewage Disposal Fund. Nonpayment or disputes regarding the amount shall be referred for appropriate action to the City Attorney. The City Attorney may initiate appropriate action against the discharger to recover costs under this Section.
4. The Director of Environmental Services may terminate a discharge for nonpayment of costs after 30 days notice to the discharger.

#### **G. Appeal of enforcement action.**

1. Upon receipt of a final determination of an enforcement action, discharger may appeal any of the following items to the Code Hearings Officer in accordance with procedures set out at Chapter 22.10 of the Portland City Code:
  - a. The final determination of violation;
  - b. The amount of civil penalty;
  - c. The required remediation action
  - d. The time frame for corrective action;
  - e. Termination of service or permit.
2. The following are not appealable to the Code Hearings Office;

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- a. Costs related to nuisance abatement, appeal processing or assessed environmental damage;
  3. All appeals shall include a copy of all relevant documentation, including the Bureau's final determination letter, that is the subject of the appeal. Documentation shall state the basis for the appeal, and shall be filed with the Bureau of Environmental Services which shall initiate the Code Hearings Officer review.
- H.** City not liable. Nothing in this Chapter shall be construed to confer liability on the City for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this Chapter.

**17.34.120 Records Retention.**

(Amended by Ordinance No. 172879, effective November 18, 1998.) All dischargers subject to this Chapter shall retain and preserve for no less than 3 years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. This period of retention may be extended per 40 CFR 493.12(o)(2) when requested by the Director, the Oregon Department of Environmental Quality, or the Regional Administrator of the Environmental Protection Agency during the course of any unresolved litigation regarding the industrial user. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

**17.34.130 Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

**17.34.140 Severability.**

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

**17.34.150 Fees.**

(Amended by Ordinance Nos. 173138 and 173414, effective June 25, 1999.)

- A.** The Director of Environmental Services shall set annual fees for all industrial waste discharge permits. In determining these fees, the Director shall consider at least the following factors: process wastewater discharge flow; industrial user classification; permit status (new or renewed); self monitoring frequency; city

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monitoring frequency; regulatory history and the regulatory permits and special requirements.

- B.** Permit fees. Industrial waste discharge permit fees are shown in Figure 8 published at the end of this Title. The fees for each fiscal year are effective July 1, but will be billed as soon after January 1 as is practical. The Director of the Bureau of Environmental Services shall establish by July 1, a cost accounting system to determine the fees based on the actual costs. This accounting system shall be developed with the involvement of the industries charged these permit fees, and these fees will not be charged until the accounting system is in place. The Bureau will review proposed changes to industrial waste permit fees with Council and the Portland Development Commission prior to submitting subsequent sewer rate ordinances.
- C.** The Director shall also have authority to set fees for all non-routine, non-domestic batch discharges to the sewer system. Service fees for such discharges not otherwise addressed in an industrial wastewater discharge permit shall be \$50 per occurrence, in addition to other applicable charges.

#### **17.34.160 Requests for Reconsideration.**

A discharger may request the Director of Environmental Services to reconsider any determination made under this Chapter if there is reason to believe that sufficient data or information is available to support a different determination. Any request for reconsideration shall be accompanied by the data and information the discharger used as a basis for the request. The Director of Environmental Services may then revise the initial determination or retain the original determination based upon the submitted request.

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- B.** Unauthorized discharge of septage into the sewer system within the jurisdiction of the City or the Tri-County area is prohibited.
- C.** The City will have full authority to refuse a load, limit the amount of discharge and/or establish necessary restrictions on discharge under the following conditions:
  - 1.** Unacceptable acidic or alkaline strength or corrosive properties;
  - 2.** Septage is from a non-approved source;
  - 3.** Failure to supply complete, accurate and verifiable septage information;
  - 4.** Operator observed inconsistencies between certified contents and actual contents;
  - 5.** Operational or capacity limitations at CBWTP.  
In the event that septage is rejected by the City, the DEQ shall be immediately notified of such rejection.

**17.35.040      Reserved.**

**17.35.050      Reserved.**

**17.35.060      Performance Guaranty.**

(Amended by Ordinance No. 166674, effective June 23, 1993.) Each applicant, except governmental agencies shall post a performance guaranty in a form including but not limited to a surety bond, penal bond, performance bond, irrevocable letter of credit, pledge of assets, or other form which shall be approved by the City Attorney. The amount will be determined by the conditions of the permit and the number and capacity of the applicant's vehicles. Minimum coverage shall be \$10,000. All changes in personnel and equipment shall be reported to the City within 30 days. The value of the performance guaranty shall be forfeited to the City under any of the following conditions:

- A.** The discharge of septage in violation of 17.35.030;
- B.** The discharge of septage at unauthorized locations in the Tri-County area (or the City of Portland);
- C.** Effective July 1, 1994, failure to make timely payment, pursuant to 17.35.090 B, of charges billed under this Chapter. (Forfeiture of guaranty up to amount of overdue charges only, after notice of intent to demand payment from guarantor.)

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#### **17.35.070 Fee Schedule.**

(Amended by Ordinance Nos. No. 156500, 160886, 162109, 165136, 166674, 167692, 168857, 170190, 171224, 172288, 173414, 175620, 176524, 177530, 178449, 179274 and 180189, effective July 1, 2006.) The fee schedule applicable to discharging by permit holders is as follows:

- A.** Discharge permit fee. A permit is provided to qualified septage haulers for an annual fee of \$114.00. Fees are to be paid on an annual basis at time of permit application.
- B.** Discharge rates. Each delivery received at the plant is subject to the following discharge rates, which will be applied to full tank capacity of the delivery vehicle. The discharge rate shall be 12.0 cents per gallon. The plant may accept partial loads on a pre-approved basis. Measurement disputes between septage haulers and City personnel will be resolved by a process established by the Director.
- C.** After-hours fee. Deliveries received at the plant outside of normal business hours are subject to an after-hours fee of \$37.50.

#### **17.35.080 Collection and Billing.**

(Amended by Ordinance No. 166674, effective June 23, 1993.) The operator is directed to provide one copy of the load certificate to the permittee, retain two copies of each load certificate executed by permittee, and to convey one copy of each load certificate to the office of the City as may be required by the Office of Finance and Administration.

The City shall mail a monthly statement of account to each permittee. Failure to pay the amount shown within 30 days of the date of billing shall result in imposition of interest fees, as named in Title 5, Section 5.48.040, on the amount past due.

#### **17.35.090 Revocation/Amendment of Permit.**

(Amended by Ordinance No. 166674, effective June 23, 1993.) All septage discharge permits issued to an applicant by the City may be revoked for any of the following reasons:

- A.** Failure to accurately certify the source of a load of septage prior to discharge
- B.** Failure to pay all charges for discharge within 60 days of billing by the City.
- C.** Any act that is named as a cause for forfeiture of the performance guaranty, as outlined in Section 17.35.060.  
Septage permits shall be amended for the following reasons:
  - 1.** A change occurs in a permittee's operations that affect the conditions of this Chapter.

**Chapter 17.36**

**SEWER USER CHARGES**

(New Section added by Ordinance No.  
159085, effective Nov. 10, 1986.)

**Sections:**

- 17.36.005 Definitions.
- 17.36.010 Sewer User Service Charges.
- 17.36.012 Clean River Incentive and Discount Program.
- 17.36.020 Special Charges.
- 17.36.022 Mid-County Sewer Financial Assistance Program.
- 17.36.025 Stormwater System Development Charge.
- 17.37.027 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.
- 17.36.030 Sewage Service Agreements with Governmental Agencies.
- 17.36.040 Special Provisions.
- 17.36.050 Meters.
- 17.36.060 Extra-Strength Wastewater Charges.
- 17.36.065 Other Charges.
- 17.36.070 Computing and Billing.
- 17.36.080 Certain Installations Unlawful.
- 17.36.090 Identification of Inspectors.
- 17.36.100 Collection.
- 17.36.105 Deposit and Application.
- 17.36.120 Compensation to Bureau of Water Works.
- 17.36.130 Adjustment of Bills.
- 17.36.135 Administrative Rules, Procedures and Forms.
- 17.36.150 Appeal.

**17.36.005 Definitions.**

(Amended by Ordinance Nos. 159797, 163001, 164262, 165622, 166574, 168793, 169323, 170613, 170717, 173367, 174178, 176561 and 180189 effective July 1, 2006.)  
For the purpose of this Chapter, the following definitions shall apply:

- A. “Available sewer”. A sewer shall be deemed available to a property when a collector, trunk, or other major public sanitary sewer is in a dedicated street or easement adjacent to, or within the property, and such sewer was designed or intended to provide direct service to the property. For the purposes of this Chapter, a sewer shall not be considered available to a property if an extension of the public sewer is required before a branch can be constructed to the property.

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- B.** “Biochemical Oxygen Demand (BOD)”. This phrase or its abbreviation shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of 5 days at a temperature of 20 Celsius (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register).
- C.** “Composite sample”. A composite sample is a series of individual discrete samples taken at selected intervals based on either an increment of flow or time. The samples are mixed together to approximate the average composition of discharge to the City sewer system. A composite for one day shall consist of a pool of samples, collected over the period of expected discharge during the production day. Where special conditions warrant, the Director may designate an alternative procedure that is acceptable.
- D.** “Director”. Director shall mean the Director of the Bureau of Environmental Services or his or her designated representative.
- E.** “Drainage Service”. Drainage service shall be defined as activities and services related to the planning, engineering, construction and operation and maintenance of drainage facilities that provide stormwater drainage system services.
- 1.** Drainage facilities shall include but not be limited to storm or combined sewers; stormwater storage facilities and stormwater treatment facilities; drainage ditches, sumps, streams, detention ponds, wetlands, ponds, lakes, swales, creeks, or natural drainage ways; or curbs, gutters, or catchment basins within public rights of way, and any other facilities within the City Charter definition of sewer.
  - 2.** Stormwater drainage system services. Stormwater drainage system services are defined as services required to drain and treat stormwater, including: providing drainage for roads serving developed properties, mitigation of flooding and prevention of erosion, improving the water quality of runoff, gathering and conveying runoff from individual properties when the runoff exceeds the capacity of private facilities to handle the water on-site, and protecting properties from contamination by containing hazardous materials spills in the roadway. The method of calculating this measurement shall be as set forth in procedures adopted by the Bureau of Environmental Services.
  - 3.** Impervious area. The area of a property (excluding any part in public use) which does not allow rainwater to percolate naturally into the ground, such as a roof, or a paved driveway, walkway, and parking area. Areas that are covered by porous pavement, brick or other infiltrating materials, ecoroofs, or other stormwater management devices shall be classified as



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impervious areas for billing purposes. Public rights-of-way and areas covered by compacted soils or compacted gravels are excluded from this definition for the purposes of this Section.

4. Drainage service customer. A drainage service customer shall be a person who has the right to possession of a property, and directly or indirectly benefits from stormwater drainage system services provided by the City. Public roads are deemed to be open to the general public, and not in the possession of a person.
- F.** “Dwelling unit”. Any housing unit with sanitary and kitchen facilities either designed or used to accommodate one or more residents, including detached residences, multiple housing units, mobile homes and mobile home spaces. This does not include commercial (transient) housing units such as hotel and motel units; overnight trailer or recreational vehicle spaces; or housing units in institutional care facilities. A single dwelling unit shall be any dwelling unit, as defined above, in a building containing no other dwelling units. This includes units in planned developments, and care facilities classed as a single-family unit by the Building Bureau.
- G.** “Multiple dwelling unit”. Any dwelling unit, as defined above, in a building containing more than one dwelling unit. This includes the dwelling units in commercial buildings containing more than one dwelling unit, houseboats, mobile homes and mobile home spaces where more than one unit exists.
- H.** “Public use”. This phrase shall include the following:
1. Streets dedicated for public use or owned by a city, county, state or other governmental body.
  2. Recreational areas used by the general public which are owned by a school district or other governmental body, but not including buildings or their associated parking lots in such recreational areas.
- I.** “Rolling Average”. The phrase shall mean the average of the 10 most recent monthly averages of valid city- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate unless another period is approved by the Director of Environmental Services.
- J.** “Sanitary sewage”. Sanitary sewage shall include, but is not limited to, domestic wastewater, industrial/commercial process wastewater or contaminated stormwater which is discharged to sewer facilities owned or maintained by the City by permit or approval of the Director and the City has agreed to accept, or as determined by the Director.

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- K.** “Sanitary service customer”. A sanitary service customer shall be a person who has the right to possession of a property, and who causes or permits the discharge of sanitary sewage from property in their possession into sanitary sewer facilities owned or maintained by the City.
- L.** “Temporary connection”. A connection to the sanitary sewer system shall be deemed temporary if the duration of the connection is less than three years and connection and disconnection occur only once. However, for purposes of this definition and determining the applicability of sewer system connection charges, connections to the sanitary sewer system made for the purpose of servicing an environmental remediation activity of less than three years will not be considered a temporary connection unless approved by the Director. In granting a temporary connection the Director shall, at a minimum, consider the nature of the remediation site and type of City sewer(s) available for connection.
- M.** “Temporary structure”. A structure shall be deemed temporary if it is a separate and distinct entity from all other structures and it is created and removed in its entirety, including impervious area associated with the structure, within a continuous period of three years or less.
- N.** “Total Suspended Solids (TSS)”. This phrase shall mean total suspended matter that either floats on the surface or is in suspension in water or wastewater and that is removable by laboratory filtering (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register).
- O.** “Groundwater”. Groundwater is subsurface water that occurs in soils and geological formations that are fully saturated, and which drains to a subsurface structure or is pumped to the surface. Groundwater includes, but is not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction dewatering activities.

#### **17.36.010 Sewer User Service Charges.**

(Amended by Ordinance Nos. 159797, 161643, 163001, 164262, 165135, 165622, 166574, 166778, 168893, 169940, 170198, 170717, 173367, 174178, 174508 and 174615, effective June 30, 2000.) Sewer user service charges, as authorized by the Charter, are established and made effective as follows:

- A.** Charges for Sanitary Sewer Services. Except as otherwise provided by this Title, sewer user service charges shall be paid by all sanitary sewage customers who cause or permit the discharge of sanitary sewage from a property in their

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possession into sewage facilities owned or maintained by the City. The charges shall begin upon connection. Charges for sanitary sewer services include sanitary sewer volume charges, account service charges and penalties for non-payment or late-payment of sewer charges and may include other charges as provided for in this Chapter.

1. Dwelling units. Charges for dwelling units shall be based on the volume of sewage discharge to the sanitary sewer system. When discharge meter readings are not available, the Bureau may elect to use the water meter consumption as the calculation for the sanitary sewage discharge. To avoid including irrigation water usage in this calculation, the Bureau will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate shall be made based on the customer class of characteristics as determined by the Director. The sewer user rates for dwellings are shown in Figure 3 published at the end of this Title.
  2. Commercial, industrial and all occupancies other than residential. The calculation of the charges for commercial, industrial and all occupancies other than residential shall be based on the amount of incoming water volume as measured by the City water meter or information from the water district serving the property or by a Bureau approved meter that measures actual discharge volume. Discharge meters must meet the current standards for such meters as described by the Director. To establish reduced charges or credit for water not subject to sewer charges, customers must comply with the requirements in Section 17.36.040 "Special Provisions." If a sewer customer does not have a City meter or water district meter measuring the supply of water to the property, the private water supply must be metered in accordance with Section 17.36.040. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be based upon the impervious area producing the contaminated stormwater and the average rainfall or a discharge meter. The discharge will be charged sanitary sewer volume rates. The sewer user rates for commercial, industrial and occupancies other than residential are as shown in Figure 3 at the end of this Title.
  3. Combined dwelling units and other. Where dwelling units and other occupancies are combined on the same water supply, the charges for sanitary sewage service shall be computed in the same manner as those for commercial, industrial and all occupancies other than residential.
- B.** Charges for drainage services. Except as otherwise provided by this Title, drainage service charges shown in Figure 3 shall be paid by all drainage service

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customers who benefit from stormwater drainage system services or drainage facilities owned or maintained by the City. The Water account customer is assumed to be the drainage service customer for the purposes of drainage services. If there is no Water account customer, the Bureau of Environmental Services shall determine the drainage service customer.

1. Basis for charge. Drainage fees shall be charged based on each drainage service customer's proportionate share of stormwater drainage system services. For administrative purposes, the user's proportionate share will be assumed to be perfectly correlated with the amount of impervious area on the user's site. Unless the Bureau of Environmental Services measures actual site characteristics, impervious area shall be assumed to be the average impervious area for the customer's class as shown in the most recent rate study.
2. Dwelling units. Unless the City chooses to measure the actual amount of impervious area on a site in the drainage service customer's possession, the City shall assume average dwelling unit characteristics, including impervious area, for each class of dwelling unit. The averages used shall be 2,400 square feet for one or two dwelling units, 3,000 square feet for three dwelling units, and 4,000 square feet for 4 dwelling units. Impervious area for buildings with 5 or more dwelling units shall be measured. The charge per 1000 square feet of impervious area is shown in Figure 3.
3. Properties other than dwelling units. The drainage service customer's proportionate share of stormwater drainage system services shall be calculated based on the amount of impervious area on that site rounded to the nearest 1000 square feet, and calculated as a multiple of the charge for 1000 square feet of impervious area that is shown in Figure 3.
4. Drainage Districts. Payments from Multnomah Drainage District No. 1, Peninsula Drainage District No. 1, and Peninsula Drainage District No. 2 under an Intergovernmental Agreement will constitute payment of monthly stormwater charges by properties within the boundaries of the districts, for purposes of this section.

#### **C. Service outside the City:**

1. The charges for the use of the City's sewage system from properties outside the City shall be as given in Figure 3 at the end of Title 17.
2. Business, industrial, commercial, and all other non-residential services outside the City:

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- a. The Director may require, and shall have authority to enter into agreements for and on behalf of the City, permitting connection and providing sewer service to commercial and industrial properties outside the City when he/she finds such service feasible and appropriate. The Director shall have authority to conduct such investigations as deemed necessary in connection with the application of any non-residential occupancy to connect with a public sewer under City control. All sewers to be connected under authority of this Subsection shall be first approved by the Director as to design and location. Street opening permits shall be obtained from the appropriate authority in the jurisdiction wherein the sewer is located.
  - b. The Director may require the owner, tenant or lease holder to post a cash or surety bond in the sum of not over \$4,000, as one of the conditions for entering into an agreement allowing connection from commercial or industrial property outside the City. The bond shall be deposited with the City Treasurer and shall be declared forfeited upon certificate by the Director, approved by the Commissioner In Charge, in case of delinquency of more than 30 days in the payment of the sewer user service charge.
3. Determination of which property is outside the City. In determining whether any residential or business, industrial, commercial, institutional or other property is to be deemed within or without the City limits where the same are partially within and without, any such property where 66.7 percent or more of the assessed valuation of the same is recorded in the records of the County Assessor as lying beyond the City limits, the property shall be deemed wholly without the City for the purposes of this Section.

**17.36.012 Clean River Incentive and Discount Program.**

(Added by Ordinance No. 175160, effective January 12, 2001.)

- A.**     **Objectives.** The objectives of the Clean River Incentive and Discount Program are to increase ratepayer control over stormwater management charges and to advance City environmental goals. The City shall achieve the objectives of the Clean River Incentive and Discount Program by providing economic incentives, technical assistance, and environmental education to ratepayers who control and manage the quality and quantity of stormwater runoff on their private property.
- B.**     **Authority.** The Director of Environmental Services shall have the authority to establish and administer the Clean River Incentive and Discount Program

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**C. Administrative Rules, Procedures and Forms.**

- 1.** Upon the recommendation of the Director of Environmental Services, the Bureau of Environmental Services may adopt rules, procedures, and forms pertaining to matters within the scope of this Section.
- 2.** At a minimum, the rules shall contain the following elements:
  - a.** definitions for all terms and concepts that are unique to the Clean River Incentive and Discount Program, unless otherwise referenced in City Code;
  - b.** criteria to be used by the City to determine eligibility for Clean River Incentives and Discounts;
  - c.** methods for calculating the amount of incentives and discounts to be awarded to eligible applicants;
  - d.** procedures for verifying the validity and accuracy of incentives and discounts, and enforcing the rules of the Clean River Incentive and Discount Program; and
  - e.** procedures for review and reconsideration of Bureau decisions upon request of ratepayers.
- 3.** Any rule adopted pursuant to this section shall require a public review process. Not less than thirty nor more than forty-five days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
- 4.** During the public review, a designee of the Director of Environmental Services shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee; taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director of Environmental Services and shall be filed in the office of the Director of Environmental Services.

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5. Notwithstanding paragraphs 2. and 3. of this section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

**17.36.015 Sewer System 24-Month Payment Plan.**

(Added by Ordinance No. 168255; repealed by 170717, effective Dec. 13, 1996.)

**17.36.020 Special Charges.**

(Amended by Ordinance Nos. 159797, 160911, 164262, 165135, 165654, 166124, 166574, 169323, 170717, 172290, 172556, 172557, 174508, 176524, 177530, 178009, 178449, 179274 and 180189 effective July 1, 2006.) The following charges are for connection and use of a public sewer under City control, from properties either inside or outside the City. These charges shall be collected upon issuance of a building permit, or where a building permit is not required, upon issuance of a sewer connection permit.

- A. Sanitary System Development Charge. The sanitary system development charge is a fee or charge for connection and use, or increased usage, of sewers and sewage purification systems to be used in connection with the design, construction, acquisition, operation, maintenance, and discharge of contract requirements of the City of Portland for sewage treatment, disposal and purification. The methodology for calculating the sanitary system development charge shall be as set forth in the document *Sanitary and Stormwater System Development Charge Methodology*, adopted annually by ordinance.
  1. A customer desiring to connect a building to a sanitary or combined sewer, or to increase the sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer, or to increase flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer shall pay the sanitary system development charge listed in Figure 5 at the end of Title 17.
  2. The sanitary sewer system development charge will be calculated based on the number of Equivalent Dwelling Units (EDUs). EDUs for nonresidential uses will be calculated from Plumbing Fixture Units (PFUs), taken from the Oregon Plumbing Specialty Code in effect at the time of the permit application. EDUs for groundwater discharges to sanitary or combined sewer will be calculated based on estimated discharge volume, and will be subject to review as described below.
  3. Industrial wastewater. Customers with industrial wastewater discharges will be subject to review of sewer usage within 2 years of occupancy.

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EDUs will be calculated from the highest six-month average of metered usage over that period. The customer of record will be responsible for EDUs in excess of those paid at the issuance of the permit.

4. Credit for prior sewer connection. For buildings on sites that were previously connected to the sewer system or that had buildings previously connected to a sanitary sewer, full credit for sanitary system development charges will be allowed for each equivalent dwelling unit purchased under this subsection that existed prior to demolition or disconnection.
  5. Credit for prior sewer user charge payments. When a property owner desires to connect a building to a sanitary sewer, where sanitary sewer user charges have been paid for the building for several years, a credit of \$21 per equivalent dwelling unit for each year of such prior user charge payments from 1949 to 1991 shall be applied toward the sanitary system development charge. No credit shall be allowed for buildings that were wrecked prior to July 1, 1971.
  6. Temporary structures and temporary connections shall not be subject to the sanitary system development charge. However sanitary system development charges, including penalties and interest charges, shall become due and payable from structures or customers that originally were exempted from sanitary system development charges as a temporary structures or temporary connections, but are not removed within 3 years as provided in the definition of temporary structures and temporary connections. Temporary structures and temporary connections are not exempt from paying sewer user fees, including extra strength charges.
  7. Prepayment. An applicant may elect to pre-pay sanitary system development charges by providing a letter of intent to the Bureau of Environmental Services, which includes the parcel description and address if applicable, and the estimated number of EDUs (equivalent dwelling units) to be paid. The applicant may receive a refund at any time of excess EDU's paid (refunds will be based on rates in effect at the time of prepayment and without interest), and applicant must pay for any outstanding EDU's (calculated by the Bureau of Environmental Services) at the time of the building permit, at the rate in effect at that time. After September 15, 1988, no prepayment shall be accepted for connection to be performed more than five years from the date of prepayment.
- B. Line Charge.** The line charge is collected in lieu of assessment and shall be paid prior to when an owner connects a structure's plumbing to a City sewage disposal system.



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1. A customer desiring sewer connection and service by a private line or house branch directly to an existing public sewer of any size under City control, when the cost of any adjacent public sewer was not contributed to on behalf of customer's property by assessment for direct service or its equivalent, shall pay a line charge as given in Figure 5 at the end of Title 17.

The line charge shall be based on the square footage of the property. For properties zoned residential and used predominately for residential purposes, the square footage used for calculating the line charge shall be limited to the lot area within 100 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line shall be considered as continuing 100 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge shall be based on a minimum assumed lot size of 1,200 square feet. When an adjacent, developed lot, as defined in Title 33.910 that is under same ownership, is used in conjunction with a neighboring, developed lot that is connecting to the sewer, the adjacent lot shall be charged a line charge for its frontage as described above. This includes but is not limited to improved parking lots, and lots with garages or landscaping.

For all other property, the square footage used for calculating the line charge shall be limited to the lot area within 300 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line shall be considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge shall be based on a minimum assumed lot size of 3,600 square feet.

When a sewer is constructed that can not provide gravity service, the line charge shall be reduced by 50% if the property has gravity service to the first floor only and must install a pump for the basement and 75% of the line charge will be reduced if no gravity service is available for the first floor and the property must install a pump. The adjustment should not exceed the costs associated with the installation of a pump system. Property owners may appeal this determination to the Director, or designee, if the pump costs exceed the line charge adjustment.

2. Other agency sewer. Where a customer within the City or within a City service area desires connection to a sewer of another agency having a contract with the City for such connection, paragraph 1 above shall apply as though the sewer were under City control, unless the contract terms provide otherwise.

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- 3.** Temporary connection. Connection with a public sewer from property inside or outside the City limits under this Subsection shall be deemed temporary and to give no right to permanent connection regardless of lapse of time, and shall be subject to disconnection at the order of the Director whenever it is determined that the property can be served by another sewer which has been designed or engineered to carry the sewage from that property. If a particular property is or has been directly assessed for an alternate sewer available to serve the property, and the property has been connected to an existing sewer with payment of a line charge (formerly direct connection charge), then the current owner of the property will be eligible for refund of the appropriate amount of the line charges paid, without interest, upon his or her application therefor. No refund shall be made unless the property has been directly assessed for a City sewer and such amount placed on the City open lien docket within 7 years of the date of first connecting to the City sewer.
- C.** Branch charge. An owner desiring sewer connection and service by a public sewer where the Director determines that branches have been extended from the public sewer during or after its construction, and the property has not paid for the branch through assessment or otherwise, shall pay the branch charge as listed in Figure 5. The charge shall be collected prior to the connection being made, in addition to any other sewer connection charges which may be required by the Code of the City. Additional branches that have been requested by the property owner or their representative at the time of sewer design or construction but not used at the time of connection, shall also be charged to the property prior to connection to the public sewer.
- D.** Bond in lieu of payment. When the equivalent dwelling units for a proposed connection (or change) cannot be determined in advance, or when the owner or applicant does not agree with the Director's determination, but only when the occupancy is not adequately defined above, the Director may accept a cash or surety bond in an amount determined by him, and posed by the owner in lieu of immediate payment of the charge. A reasonable time after the connection (or change) is made, but not more than 2-1/2 years, the Director, using water consumption records or other evidence, shall determine the number of equivalent dwelling units and the amount of the system development charges payable. Upon notice, the owner shall pay the system development charges required. If the owner does not pay the charges within 60 days, the bond shall be declared forfeited upon certificate by the Director, approved by the Commissioner In Charge.

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- E.** Sampling manhole charge. When a property is subject to an extra strength charge, as determined by the Director, at the owners request the City may install a sampling manhole on the house branch, providing the owner agrees to pay all direct and indirect costs of installing the manhole.
- F.** Deferral of connection charges. Property owners who qualify to defer sewer assessment charges but who want to connect to the system can defer payment of connection charges until such date as the Director may specify by ordinance. The charge in effect at the time of connection shall apply at time of payment. Deferred connection charges shall be delinquent when not paid after a period of 90 days from the date due and shall bear interest and penalties as set forth in Section 17.36.100 of the Code of the City of Portland, Oregon. Property owners may convert the deferral to an installment payment loan. The Director shall establish rules, procedures and forms to govern the administration of the deferral program.

**17.36.022 Mid-County Sewer Financial Assistance Program.**

(Added by Ordinance No. 165188, amended by 166162, 166229, 166424, 166750, 167504, 170717, and 170952, effective Feb. 26, 1997.)

- A.** Purpose and Intent. The purpose of this section is to establish procedures for extending financial assistance to owners of single family residential properties which are subject to the 1986 mandatory sewer order of the Oregon Environmental Quality Commission. The City intends to provide financial assistance in order to assure the environmental quality of natural resources, provide stability to single family residential neighborhoods, and minimize financial distress to single family residential property owners caused by mandatory City actions to protect the environment. The City also intends to provide financial assistance in a manner which protects the City's financial condition, secures existing City financial commitments, and complies with City policies relating to urban services, sewer utilities, land use and debt financing.
- B.** Definitions. For purposes of this section, the following definitions shall be used:

  - 1.** "Affected Area" shall mean:

    - a.** Properties located within the geographic area subject to the 1986 order of the Environmental Quality Commission of the State of Oregon issued under ORS 454.305 and properties subject to mandatory connection under PCC 17.33.010 A 4 and assessed or subject to future assessment for sanitary sewer local improvements on or after January 1, 1985.

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- b.** Properties subject to mandatory connection as required by PCC 17.33.010 A 4.
- 2.** “Eligible Property” shall mean:
  - a.** Property which is devoted primarily to Household Living use, within the meaning of PCC Title 33;
  - b.** The development of the property consists exclusively of House or Attached House development, and accessory developments, within the meaning of PCC Title 33;
  - c.** The property is located within the affected area and is also located within the boundaries of the City of Portland or the owner of the property has signed an irrevocable consent to annex the property to the City of Portland or the property meets the eligibility criteria contained in the stipulated judgment approved by the U.S. District Court for the District of Oregon in the case of Hussey et al. v. City of Portland, Civil No. 92-1302 FR; and
  - d.** The property owner is not in violation of the mandatory connection requirements contained in PCC chapter 17.33.
- 3.** “Owner” shall mean the deedholder(s) of record as shown on the most current records of the County Assessor at the time ownership of a property is determined by the City or other persons who by contract, power of attorney or other legal assignment have authority to financially obligate eligible property for local sewer special charges.
- 4.** “Local Sewer Special Charge” shall mean a charge against benefitted property for the portion of the costs of sewer local improvements charged as described in PCC 17.36.0208 in lieu of a special assessment for the costs of sewer local improvement districts, and include one house branch. Additional house branches, as requested by the property owner, will be charged at the current rate as provided in PCC 17.36.020 D.
- 5.** “Chargeable Area.” Notwithstanding PCC 17.36.020 C, Chargeable Area shall be calculated as follows:
  - a.** The line charge shall be based on the area of the property (square feet), and shall be limited to the area within 100 feet of the public rights-of-way or easement line of the sewer, except;

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- (1) The minimum line charge shall be based on a minimum assumed lot size of 1,200 square feet;
- (2) Land locked or other properties that do not have frontage on a public right-of-way or sewer easement line will be charged for the minimum assumed lot size and sewer service will only be provided to the edge of the right-of-way.
- (3) All properties receiving the benefits of the Financial Assistance Program will be charged a line charge not less than the current rate at the time of payment for one house branch;
- (4) For purposes of calculating line charges, the street or easement line shall be considered as continuing 100 feet beyond the end of the sewer or beyond where the sewer turns away from the property. Once the sewer construction is completed, properties that have been charged for line charges outside of the 100 foot area will be eligible for a rebate or credit of the excess charges;
- (5) For properties situated such that gravity service cannot be provided, Chargeable Area shall be calculated in accordance with this subsection and the property owner may request reimbursement at the time the gravity determination is made. The reimbursement shall be based on the difference between the cost of connection if gravity service is provided and the additional connection cost to provide service without full gravity sewer service. This reimbursement shall not exceed 50% of the A Chargeable Area cost if first floor gravity service is provided, or 75% of the total A Chargeable Area cost if no gravity service is provided. A person aggrieved by the determination of the reimbursement may appeal the determination in writing to the Citizens Sewer Advisory Board (CSAB).
- (6) Any property owner aggrieved by the calculation of the A Chargeable Area of their property may appeal in writing to the Citizens Sewer Advisory Board (CSAB). After reviewing the appeal, the CSAB will make a recommendation to the Administrator for the disposition of the appeal.

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- (7) These methods of A Chargeable Area calculations will apply to all Mid County Sewer Project properties with sewers constructed as Capital Improvement Projects after May 1, 1992.
6. "Sewer Improvement Assistance Program" shall mean the financial assistance provided to owners of eligible property as provided in subsection E of this section.
7. "Large Lot Deferral Program" shall mean the financial assistance provided to owners of eligible property as provided in subsection F of this section.
8. "Credit for Sub-surface Sewerage Disposal Systems" shall mean the financial assistance provided to owners of eligible property as provided by subsection G of this section.
- C. Applicability and Limitations. The provisions of this section apply to local sewer special charges required by PCC 17.36.020 C, and calculated as set forth in this section. Financial assistance described in this section is limited to owners of eligible property located within the affected area. Nothing in this section shall impair the City's ability to lien benefitted properties to secure compliance with a connection order or to secure financing agreements to pay charges in installments.
- D. Authorities and Responsibilities. The following City bureaus and agencies shall be authorized and responsible for implementing the provisions of this section:
  1. Bureau of Environmental Services will be responsible for the collection of charges, administration of the large lot deferral program and collection of adequate revenue to finance the program consistent with "cost of service" rate-making methodology as required by State statute.
  2. Office of the City Auditor will assist the Bureau of Environmental Services in administering the large lot deferral program, and will be responsible for the City's installment payment program.
  3. Office of Finance and Administration will provide fiscal guidance in maintaining the fiscal integrity of the Bureau of Environmental Services and implementing the City's Urban Services Policy.
  4. Office of the City Attorney will provide legal guidance to the Bureau of Environmental Services and the Office of the City Auditor.

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- E.** Sewer Improvement Assistance Program. The City shall provide financial assistance to owners of eligible property for the cost of providing sewer local improvements within the affected area. The following procedure shall be used to provide financial assistance:
- 1.** If the owner of an eligible property pays in full or applies for financing to pay in installments local sewer special charges on or before January 8, 1993, the City shall provide a credit for the local sewer special charge in an amount which when deducted from the special charge shall result in a net cost to the eligible property owner no greater than \$.50 per square foot of chargeable area. If the local sewer special charge is less than \$.50 per square foot of chargeable area, no credit shall apply.
  - 2.** If the owner of an eligible property pays in full or applies for financing to pay in installments the local sewer special charge after January 8, 1993, and on or before June 30, 1993, the City shall provide an credit for the local sewer special charge in an amount which when deducted from the special charge shall result in a net cost to the eligible property owner no greater than \$.515 per square foot of chargeable area. If the local sewer special charge is less than \$.515 per square foot of chargeable area, no credit shall apply.
  - 3.** If the owner of an eligible property pays in full or applies for financing to pay in installments the local sewer special charge after January 8, 1993, and on or before December 31, 1993, the City shall provide an credit for the local sewer special charge in an amount which when deducted from the special charge shall result in a net cost to the eligible property owner no greater than \$.53 per square foot of chargeable area. If the local sewer special charge is less than \$.53 per square foot of chargeable area, no credit shall apply.
  - 4.** If the owner of an eligible property pays in full or applies for financing to pay in installments the local sewer special charge after December 31, 1993, the City shall compute the local sewer special charge as provided in PCC 17.36.020.
  - 5.** If the owner of eligible property applies for financing to pay in installments a local sewer special charge as provided by this sub-section, the resulting loan shall be subject to the same conditions as set forth in PCC Chapters 5.30 and 17.12.
- F.** Large Lot Deferral Program. The City shall provide financial assistance to owners of eligible property who have a chargeable area in excess of 7,000 square feet, and who pay in full or apply for financing to pay in installments local sewer

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special charges prior to December 31, 1993. The following procedure shall be used to provide financial assistance:

1. For the first 7,000 square feet of chargeable area, the owner of eligible property shall pay in full or apply for financing to pay in installments the local sewer special charge as calculated by the City under subsection E of this section.
  2. For the chargeable area in excess of 7,000 square feet, the owner of eligible property may pay in full, apply for financing to pay in installments, or apply for financial assistance to defer the local sewer special charge as calculated by the City under subsection E of this section.
  3. The City shall charge simple interest on deferral loans established under this subsection. Simple interest shall be charged from the loan origination date to the date of payment at an annual interest rate of 5%.
  4. The City may charge a loan origination fee to defray the actual costs of administering a large lot deferral loan.
  5. The deferral loan shall become due and payable in full when title to the eligible property is transferred upon sale, death, or other event, upon application for a building permit to further develop the property. The City shall record a lien on the property in the Docket of City Liens, and record a deed restriction with the appropriate county recorder's office to prevent the issuance of any development permits or the approval of any land use applications in connection with the eligible property until the deferral loan is paid in full or financed as provided in 17.36.022(F)(6).
  6. When the deferral loan is due, the owner of eligible property may request a waiver of the requirements set forth in subsection 17.36.022(F)(5), and apply to pay in installments the deferral amount, plus all interest and costs, as provided for other local sewer special charges. The application shall be reviewed, and accepted or denied by the City Auditor. The City Auditor shall adopt administrative procedures for reviewing waiver applications. The decisions of the City Auditor are final.
  7. If the owner of eligible property applies for financing to pay a special charge in installments, the resulting loan shall be subject to the conditions as set forth in PCC Chapters 5.30 and 17.12.
- G.** Credit for Sub-surface Sewerage Disposal Systems. The City shall provide a \$500 credit for sub-surface sewerage disposal systems to owners of eligible property who pay in full or apply for financing to pay in installments local sewer



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special charges described in subsection E of this section on or before December 31, 1993. The credit shall be made in recognition of the investment that such property owners have made in sub-surface sewerage disposal systems. The City shall apply the credit to the local sewer special charges described in sub-section E of this section. If no prior investment in a sub-surface sewerage disposal system has been made, no credit shall apply.

- H.** Credit for Connection Fees. The current sewer connection fee of \$965.00 per Equivalent Dwelling Unit will increase to \$1005.00 on July 1, 1992. The City shall provide a \$40.00 credit for sewer connection fees to owners of eligible property who pay in full or apply for financing to pay in installments local sewer special charges described in subsection E of this section between July 1, 1992 and January 8, 1993. The City shall apply the credit to the local sewer special charges described in sub-section E of this section. If the owner of eligible property pays in full or applies for financing to pay in installments local sewer special charges after January 8, 1993, the connection fee shall be computed as described in 17.36.020 B and no credit shall apply.
- I.** Collection. The City shall secure all obligations of benefitted property established by this section as follows:
1. If a property fails to remain eligible as defined by this Section due to violation of the mandatory connection requirement; financial benefits provided under this Section will be revoked upon the effective date of an order of the Code Hearings Officer. In this event the City shall assess the benefitted property for the amount of the financial assistance paid or extended by the City.
  2. If a property is in default of any financial obligation established by this section, or has a local sewer special charge which is more than one(1) year past due, the City shall revoke all financial benefits provided under this section, and assess the benefitted property for the amount of financial assistance paid or extended by the City.
  3. All unpaid and deferred local sewer special charges, interest, penalties and collections costs shall be recorded in the Docket of City Liens and shall be a lien against benefitted property. The lien may be foreclosed upon as provided by City Code and State law.
  4. The City may add penalties, interest and collections costs to delinquent payments, as set forth in PCC Chapters 5.30 and 5.31. The amounts shall be determined by ordinance and are subject to change by City Council.

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- J.** Owners of property meeting the eligibility criteria contained in the stipulated judgment approved by the U.S. District Court of the District of Oregon in the case of Hussey et al. v. City of Portland, Civil No. 92-1302 FR, may apply for and receive financial assistance pursuant to the terms and conditions contained in said stipulated judgment.

#### **17.36.025 Stormwater System Development Charge.**

(Substituted by Ordinance No. 172289; amended by Ordinance Nos. 173274, 173627, 174508, 175620, 176524, 177530, 178449, 179274 and 180189, effective July 1, 2006.)

The stormwater system development charge is a fee or charge for new construction or increased use of stormwater drainage facilities by a property within the City. The methodology for calculating the stormwater system development charge shall be as set forth in the document *Sanitary and Stormwater System Development Charge Methodology*, adopted annually by ordinance.

- A.** Definitions. For purposes of this section, the following definitions shall be used:

- 1.** “Reimbursable City stormwater facilities” means stormwater facilities constructed with sewer ratepayer funds.
- 2.** “Frontage” means the length of public right of way adjacent to a property, measured in feet.
- 3.** “Net new impervious area” means the greater of zero and the difference between existing impervious area on a property and impervious area under the proposed use(s) of the property.
- 4.** “Net new vehicular trips” means the greater of zero and the difference between vehicular trips generated by existing use(s) of the property and vehicular trips generated by the proposed use(s) of the property.
- 5.** “Transportation SDC Study” means the methodology report entitled *Transportation System Development Charges Rate Study*, dated June 11, 1997 adopted as Exhibit A to Ordinance No. 171301, or as amended.
- 6.** “ITE Manual” means the manual entitled “An Institute of Transportation Engineers Informational Report - Trip Generation” Fifth Edition (1991) or as amended.

- B.** The stormwater system development charge will consist of two parts: an on-site charge, reflecting use of public facilities handling stormwater flows from individual properties; and an off-site charge, reflecting use of system facilities handling stormwater flows from rights of way.

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1. The on-site charge shall be calculated by multiplying the net new impervious area by the rate per thousand square feet of impervious area as shown in Figure 5. In the case of groundwater flows directed into stormwater facilities, the charge shall be calculated based on the amount of impervious area necessary to produce an equivalent flow given average rainfall.
  2. The off-site charge will be calculated in two parts: local access, and use of arterial streets.
    - a. The local access portion of the off-site charge shall be calculated by multiplying the length of the property's frontage by the frontage rate per foot as shown in Figure 5. For properties on which there is existing development, and for which a stormwater system development charge has previously been paid, the local access portion will be assumed to have been paid.
    - b. The arterials portion of the off-site charge shall be calculated by multiplying net new vehicular trips by the rate per vehicular trip as shown in Figure 5. Vehicular trips for a particular development shall be determined by the Transportation SDC Study, the ITE Manual, or an alternative study acceptable to the Office of Transportation for purposes of the transportation system development charge.
- C. Credits. Credits will be granted against the on-site portion of the stormwater system development charge in one of the following two cases:
1. Credits of up to 100% of the on-site portion of the stormwater system development charge will be granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers, or to the Columbia Slough, provided that the discharge for which the credit is sought does not pass through reimbursable City stormwater facilities, and that the discharge meets all applicable water quality standards. Those applying for this credit must provide adequate documentation to demonstrate that the stormwater for which the credit is being sought flows from the site to those receiving bodies without passing through reimbursable City stormwater facilities. Development using stormwater facilities built under a public works permit, which convey stormwater runoff directly to one of the receiving bodies listed above without passing through other City stormwater facilities, shall be eligible for the up to 100% credit against the on-site charge.

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2. A 100% credit will be granted for areas draining to facilities providing effective on-site retention for a 100 year storm event with a safety factor of two, defined as a rainfall intensity of 8.28" per hour per square foot of impervious area. Those applying for this credit must provide adequate documentation to demonstrate this additional retention capacity, including testing of infiltration facilities, and that on-site flows are directed to these facilities.
  3. No credits will be granted against the off-site portion of the stormwater system development charge.
- D.** The stormwater development charge shall be collected upon issuance of a building or connection permit. If desired, the applicant may pay these charges directly to the Bureau of Environmental Services after applying for, but before receiving a building permit. However, when the new building takes the place of a structure or impervious area that has existed in the last 7 years, or does not add more than 500 square feet, or is a temporary structure, no development charge shall apply. However, development charges, including penalties and interest charges, shall become due and payable from structures that originally were exempted from development charges as a temporary structure but are not removed within 3 years as provided in the definition of temporary structures. Temporary structures are not exempt from paying draining service charges.
- E.** The City will notify Portland Habilitation Center, the Columbia Corridor Association, and other persons requesting notification under this Section of any proposed changes or amendments to:
1. the City's stormwater system development charge, including any amendments to transportation-related system development charges that relate to the handling of stormwater;
  2. the methodology supporting the City's stormwater system development charge, including any amendments to transportation-related system development charges that relate to the handling of stormwater; and
  3. the methodology used to calculate the rate for any services provided by the City concerning stormwater.

For purposes of this Section, notice must be accomplished by mailing written notice to persons on the interested parties list at least 45 days before the first hearing to adopt or amend charges and rates, and the methodology supporting the adoption or amendment shall be available at least 30 days before the first hearing to adopt or amend. The Director will maintain a list of parties requesting notification. Inclusion on this list will require a written request to the Bureau.

**17.36.027 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.**

(Added by Ordinance No. 179274, effective June 24, 2005.)

- A.** The purpose of this section is to reduce the costs of developing permanent affordable housing by waiving sanitary and stormwater system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B.** The City shall exempt qualified affordable housing developments from paying all or part of sanitary and stormwater system development charges required by Sections 17.36.020 A. and 17.36.025. Applicant shall apply for exemptions under this Section prior to the date the City issues the first occupancy permit on the new development. The City may reject applications received after the date of the first occupancy permit. Where new development consists of only part of one or more of the uses described in this section, only that portion of the development that qualifies under this Section are eligible for an exemption. The balance of the new development that does not qualify for any exemption under this section shall be subject to the full system development charges. The Applicant has the burden of proving entitlement to exemptions so requested.
- C.** To obtain the exemption, the applicant must present to the Bureau of Environmental Services, at the time of Application, documentation from Portland Development Commission that the development qualifies for the exemption.
- D.** The City shall calculate exemptions in the same manner as other rented and owner-occupied properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section.
- E.** The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both.
- F.** Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of sanitary and stormwater system development charges:

  - 1.** Rental Units: The units receiving an exemption shall be affordable to households earning 60% or less of area median family income at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60% or less of area

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median family income, as adjusted by household size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area. Such units shall remain affordable for a period of 60 years.

2. Owner-Occupied Units. The units receiving an exemption shall be affordable to households earning at or below 100% of area median income and shall be sold to persons or households whose incomes are at or below 100% of area median family income, as adjusted by family size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area.
3. The Portland Development Commission may require that real property covenants be recorded in the deed records for properties receiving exemptions under this section in order to restrict the sales prices and rents to be charged for exempted units, or to provide remedies for failure to restrict units, or both.
4. For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30% of the gross household income at the level of the rent restrictions. "Affordable" for ownership units means a purchase price for which the sum of debt service and housing expenses including an allowance for utilities and other required ownership fees, when compared to the annual gross income for a family at or below 100% of area median family income, adjusted for family size, does not preclude conventional mortgage financing.
5. Per Section 30.01.040, the Bureau of Housing and Community Development and Portland Development Commission are responsible for certifying exemptions to housing developments that meet the income requirements specified in in this Subsection
6. Per Section 30.01.040, the Bureau of Housing and Community Development and Portland Development Commission are responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section.
  - a. In addition specific covenants and agreements required by the City as a condition of approval of an exemption application, qualified rental developments shall adhere to the 60-year affordability requirements for rental housing developments, including qualifying requirements related to rents and occupancy.

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- b. In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, a qualifying ownership project shall comply with applicable recapture or retention covenants,
- c. In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, the City shall terminate the exemption and make due and payable sanitary and stormwater system development charges for the previously exempt portion of the sanitary and stormwater system development charges at rates in effect at the time the City determines the violation. If the exemption terminates within two years of initial building permit issuance, additional charges will be due and owing. These charges include a processing fee of \$120.00 and carrying charges of 12% per year (1% per month), added to the system development charge rates in effect at the time, charged back to the date the exemption was granted. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

**17.36.030 Sewage Service Agreements with Governmental Agencies.**

(Amended by Ordinance No. 1666574 May 27, 1993.) The Director shall have authority to enter into sewage service agreements for and on behalf of the City with any sanitary or sewage district or governmental agency authorized to contract on behalf of property outside the City but within the district or agency, and to provide for payments to the City by the districts or agency, instead of payments by individual property owners or occupants. Bonds or other securities may be waived by the Director in agreements provided for in this Section. All other provisions of this Title applicable to sewer connections or sewer use or to agreements with individual property owners shall remain in full force and effect.

**17.36.040 Special Provisions.**

(Amended by Ordinance Nos. 159797, 166574, 170717, 174178 and 180189, effective July 1, 2006.)

- A. Establishing reduced charges or credit for water not subject to sewer user charges. Prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter for the purpose of obtaining reduced sewer charges, the owner shall submit a request for approval by the Director. A request for such credit shall include a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water using equipment, and the discharge point. At no time shall a reduced charge or credit be given retroactively (prior to the date of approval); no reduced

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sewer rate or charge shall be given until the Director has approved the request and the plans and installation. Any meter or method used for calculation of a reduced rate or credit, shall be subject to the administrative or special meter charge for each such meter or method as given in Figure 3, at the end of Title 17. All meters used to obtain a reduced sewer user charge shall conform to the provisions of Section 17.36.050.

1. Clean water to sanitary or combined sewer charges. When uncontaminated groundwater or other uncontaminated water such as that used for refrigerating or cooling purposes or condensed from steam, and put to no other use, is discharged to a public sanitary or combined sewer under City control, the volume rate used shall be a commercial sewer volume rate as shown in Figure 3 at the end of Title 17, after approval by the Director.
2. Clean water to storm only charges. When uncontaminated groundwater or other uncontaminated water such as that used for refrigerating or cooling purposes or condensed from steam, and put to no other use, is discharged to a public separated storm sewer and not connected to a combined sanitary system under City control, the volume rate used shall be a commercial clean water to storm sewer volume rate as shown in Figure 3 at the end of Title 17, after approval by the Director.
3. Discharges from publicly owned drinking fountains. Water discharged from publicly owned drinking fountains to a sanitary or combined sewer shall be charged a drinking fountain volume rate as shown in Figure 3 at the end of Title 17, after approval by the Director. Discharges from publicly owned drinking fountains to a public separated storm sewer shall be charged a commercial clean water to storm sewer volume rate.
4. Water not subject to sewer charges. When water is used in a manufactured product such as ice, canned goods or beverages; or for water lost by evaporation or used in irrigation, such water shall not be subject to sewer user charges, after a request for such credit is approved by the Director. After approval by the Director, the owner or other person in control of the premises, shall install meters or provide other Bureau acceptable means of determining the quantity of water so used.
5. When clean water discharged to a public sewer system is not from a separate metered supply, the owner or other person in control of the premises, after approval by the Director, shall install meters or provide other Bureau acceptable means of determining the quantity of water so used.



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- B.** Failure to repair a defective meter within 30 days after notice by the City that the meter is defective revokes the applicability of Paragraphs 1 and 2 of Subsection A. above, and a sewer user charge at the regular rate shall be paid on the full amount of water passing through the supply meter during these 30 days, and the regular sewer rate shall continue in effect until such time as the owner or person in charge of the premises formally notifies the Director that the meter has been repaired. Failure to report quantities of water subject to reduced charge or credit for two consecutive months revokes the applicability of Paragraphs 1 and 2 of Subsection A above, and a sewer user charge at the regular rate shall be paid on the full amount of water passing through the supply meter during these 60 days, and the regular sewer rate shall continue in effect until such time as the owner or person in charge of the premises formally notifies the Director that the reports shall continue. At no time shall a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.
- C.** Meters required. Where private meters are used to determine the amount of water reaching the sewer, the owner or person in charge of the premises shall give City employees the right of access at all reasonable times for the purpose of reading, inspecting or testing the meter. The owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and shall conform to all provisions in this Title. Failure of the owner, his lessee, or others acting under him to maintain the meter in good working order constitutes a violation of this Chapter and during the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the basis of three times the normal water usage or in such an amount as deemed proper by the Director.
- 1.** In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or forms a partial supply in addition to that furnished by the water system of the City, the private supply must be metered and any meters so used shall conform to the provisions of Section 17.36.050. Residential properties may elect to be billed based on the characteristics of this class of customer as determined by the Director.
  - 2.** Discharge meters. Where there are several water supplies or various uses of water that would be eligible for credit or charges under the various Sections of this Chapter, upon approval of the Director, a discharge meter may be installed in lieu of several submeters or other measurement methodology.
- D.** Estimating wastewater discharges. Sewer user service charges as provided in this Chapter shall be applicable to all wastewater discharges to the City sewer system regardless of the source. In unusual circumstances where the wastewater is not

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from a fixed location, such as ships, barges, houseboats and other movable facilities or dwelling units, a method of determining the volume provided by the user shall be used if approved by the Director. Otherwise, the Director shall estimate the volume of water to which sewer user service charges shall apply and this determination shall be final. The rate of charge shall be the same as though the water originated from a local, public or private source.

- E.** Where sewer charges listed in Figure 3 are inappropriate for the service provided, the Director may establish the appropriate charges based on the unit costs developed in the most recent rate study. The new charge so established shall be filed with the Council Clerk and may be reviewed by the Council on the motion of any member of the Council.

#### **17.36.050 Meters.**

(Amended by Ordinance No. 174178, effective March 17, 2000.)

- A.** Meters that are used under the provisions of this Chapter shall conform to the conditions hereinafter set forth. Any meters so used shall have the approval of the Director as to type, maintenance, calibration schedule, size and location before installation. All meters shall register in cubic feet.
- B.** Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water for the purpose of obtaining reduced sewer charges, shall be connected in such a manner as to register only that portion of the water supply used for that purpose, and not used for sanitary purposes.
- C.** Meters placed below the ground or pavement surface shall have the top of the meter not more than 8 inches below the surface and shall be enclosed in a standard water meter box and cover as used by the Bureau of Water Works of the City. Meters located above the ground or floor level shall not be more than 3-1/2 feet above the ground or floor level.
- D.** All meters shall be located in an area that is accessible at all times; the meter shall be so located that no locked door or gate shall be encountered by a City employee when inspecting the meter. No meter shall be located adjacent to dangerous machinery or structural hazard; the extent of such hazards shall be determined by the Director.
- E.** Owners of meters for the purpose of calculating sewer user charges shall implement a program to ensure meter accuracy. The program should consider the manufacturer's periodic maintenance and calibration requirements. All maintenance and calibration records shall be retained and available for review by City personnel.

**17.36.060 Extra-Strength Wastewater Charges.**

(Amended by Ordinance Nos. 159797, 164262, 166574, 174178 and 175796 effective August 24, 2001.)

- A.** Wastewater discharged to a City sewer, either directly or indirectly, is subject to the extra-strength sewage charge if the discharge has a biochemical oxygen demand or a total suspended solids concentration in excess of concentrations determined by the Director. The Director may establish concentrations of other pollutants which are to be subject to extra-strength sewage charges, and for the period until the next rate study, the rates to be charged for exceeding those levels, as listed in Figure 3. Payment of the extra-strength sewage charge does not relieve the discharger of responsibility for all other applicable provisions of Chapter 17.34 Industrial Wastewater Discharges.
- B.** Basis of extra-strength sewage charge rates.

  - 1.** Monitoring. The average concentration of daily representative samples taken over a representative period of 5 days shall be used to begin an extra-strength sewage charge rate for a rolling average, except when another period is specified by the Director. Samples shall be taken at an approved sampling manhole or other appropriate location, as determined by the Director, so that samples will be representative.

    - a.** Self-monitoring. The Director may authorize reporting by users for the purposes of calculating extra-strength sewage charge rates.
    - b.** Self-monitoring data. The Director may allow a user to submit monitoring data in support of extra-strength sewage charge rate calculations. Samples of wastewater being discharged into the sewer system shall be representative of the discharge.
    - c.** Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge rate be split with the user, as provided for in procedures issued by the Director.
    - d.** Analytical procedures. All analytical data submitted for calculating extra-strength sewage charge rates shall be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register.

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- e. Monitoring reports. Self-monitoring reports shall include sufficient information, for purposes of calculating the rolling average for Extra Strength Sewer Charges. At no time shall the number of Extra Strength Sewer Charges slugloads exceed two per calendar year.
  2. Concentration. The concentration of each pollutant in excess of the limits specified in Subsection 17.36.060 A., above shall be used to determine the extra-strength sewage charge rate (in dollars per 100 cubic feet) for the period throughout the time interval between sample periods or as defined by the Director.
  3. Volume. The volume used to bill the extra-strength charge shall be the total metered water supply to the premises. However, where the industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters, and the industrial user provides a meter or other acceptable method of determining the quantity of water not subject to the extra-strength sewage charge, then an appropriate allowance for such other uses shall be made.
- C. Other charge computations. If unusual effluent conditions make calculation by the composite method difficult or impossible, another method of sampling and computation acceptable to the Director and based on the rates in Figure 3 may be implemented.
- D. Billing. Extra-strength sewage charges shall be either included with the Water Bureau's periodic water-sewer bills or shall be billed separately by the City Auditor. Extra-strength sewage charges shall be enforceable and collectable in the same manner as water and sewer charges. In addition, if such charges are not paid within 90 days from and after billing, such nonpayment shall be cause for termination of water and/or sewer services.
- E. Minimal charges; suspension. The Director may establish a minimum limit for periodic extra-strength charges. The billing for all accounts whose periodic extra-strength sewage charges are below this minimum limit will be suspended until such time as they are found to be higher.
- F. Adjustments. The Director may sample sewage strength as outlined in this Section and adjust charges where applicable at any time in accordance with the most recent analysis.
- G. Additional sample requests; fees. Any user subject to rolling average monitoring may request the City to collect samples in excess of the prescribed criteria. Requests for the City to collect additional samples shall be submitted in writing

and shall be accompanied by full payment, in accordance with the resampling fees in Figure 3 at the end of Title 17.

**H.** Slugloads. The Director may allow the slugload provision as defined in City Code Chapter 17.34 for purposes of Extra Strength Sewer Charges if the following conditions are met:

1. The discharge is non-representative of the industrial discharge;
2. The slugload was reported to the City within 24 hours of the incident;
3. The sample results from the slugload exceeds 3 times the established standard deviation.

Once the Director allows the slugload provision, the City will follow the standard procedure for slugload as defined in City Code Chapter 17.34. The sample results will be used for calculating a single Extra Strength Sewer Charge based on the duration of the slugload and the concentrations of the results. The results will not be used for purposes of calculating the rolling average for Extra Strength Charges. At no time shall the number of Extra Strength Sewer Charges slugloads exceed two per calendar year.

**17.36.065 Other Charges.**

(Added by Ordinance Nos. 172288 and 176955, effective October 9, 2002.) Building plan review fees. The fees for the review of building plans by Bureau of Environmental Services staff for compliance with requirements for sewage disposal, stormwater management, and for determining routes of service are as shown in Figure 8. Fees shall be paid at the time the plans are submitted for review to the Bureau of Development Services.

**17.36.070 Computing and Billing.**

In cases where City water bills apply, the sewer user service charges provided in this Chapter shall be computed monthly, bimonthly, or quarterly, at the same time as the water bills and added thereto; or otherwise, as may be authorized by the Council. When billed with the water bill, sewer charges shall be due and payable on the dates and at the places provided for the payment of water bills. Where the first water bill, after sewer user service charges become effective, is computed as of a date less than one billing period after the sewer user service charge has become effective, the sewer user service charge shall be prorated according to the portion of the billing period for which it was effective.

No sewer user service charge shall be added to a water bill rendered less than 1 month after the sewer user service charge has become effective, but in such cases the sewer user service charge shall be added to the next water bill rendered thereafter.

In cases where a change of ownership or occupancy of premises occurs, billing of the

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sewer user service charge may be made along with the billing of the water charge on a fractional month basis, except in cases where actual readings shall be followed for the sewer user charge.

#### **17.36.080 Certain Installations Unlawful.**

It is unlawful to so install, change, bypass, adjust, or alter any metering device or any piping arrangement connected therewith as to show the quantity of water reaching the public sewer under City control to be less than actual quantity.

#### **17.36.090 Identification of Inspectors.**

Each City employee going upon private premises for the purpose of reading, inspecting, or testing any metering device installed under the provisions of this Title, shall wear, in a conspicuous place, upon the exterior of his or her clothing a readily discernible badge identifying the employee as a sewer user service inspector.

Each of the employees of the Bureau of Water Works, when acting as a sewer user service inspector, shall also carry credentials from said Bureau, which he or she shall show upon demand of any owner or person in charge of the premises entered.

#### **17.36.100 Collection.**

(Amended by Ordinance Nos. 165622, 166574, 166745, 166827, 167147, 167287, 177284, and 179978 effective April 7, 2006.) When billed by the Utilities Customer Services Division of the Revenue Bureau, sewer user service charges shall be a personal obligation of the customer and shall become due, and be collected monthly, bimonthly, or quarterly coincident with the water charges. In cases where no water bill is rendered, said Bureau shall compute the sewer user service charges and bill them monthly, bimonthly, or quarterly. In cases where the payment designated for sewer services is less than the total of sanitary and stormwater drainage use fees due, payment shall be applied first to the stormwater drainage user fee, with any remaining portion then applied to the sanitary sewer user charge. Any bill for a sewer user service charge, whether included with the water bill or otherwise, shall be delinquent if not paid within 10 days after that charge is due and payable and shall bear interest and collection costs at rates to be established by ordinance. Nonpayment of delinquent sanitary sewer charges may result in water shutoff, when the premises are furnished water by the Bureau of Water Works; pursuant to the procedures described in Portland City Code 21.16.040.

All charges for services provided directly by the Bureau of Environmental Services shall be chargeable to the user of said service at that premises (or any former premises where services were supplied). If the premises are not in use, all charges (not including charges incurred by a prior tenant other than the owner) shall be the responsibility of the owner. A property owner or his agent may become obligated for charges for furnishing such services to the user by accepting responsibility for payment, or by agreement with the Revenue Bureau, the billing agent for the Bureau of Environmental Services. Where a user or property owner has a delinquent bill for one premises, said delinquency shall be a charge against said user or property owner (for sewer service obtained) at any of his/her other premises serviced by the Bureau of Water Works of the City of Portland.

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The Director of the Bureau of Environmental Services, with approval of the Commissioner In Charge, may discontinue sewer service by disconnecting and plugging the sewer service line to properties whose delinquent sanitary sewer service account balance exceeds \$10,000.00 for a period of 90 days or more. The sewer service customer and property owner shall be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection, payment of the delinquent amount, including outstanding sewer user service charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount, shall remain the responsibility of the sewer service customer. In the event a sewer service customer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the sewer service customer who originally incurred the charges.

**17.36.105      Deposit and Application.**

(Added by Ordinance No. 167287; amended by Ordinance No. 179978, effective April 7, 2006.) An application, deposit, or both, for sewer service may be required from all new customers, customers shut off for nonpayment, or those customers with unsatisfactory credit moving within the Bureau's jurisdiction. Unsatisfactory credit is defined as shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the Bureau of Environmental Services or the Revenue Bureau (the billing agent for the Bureau of Environmental Services) may result in discontinuance of service.

**17.36.110      Record of Charges.**

(Repealed by Ordinance No. 179978, effective April 7, 2006.)

**17.36.120      Compensation to Bureau of Water Works.**

The Bureau of Water Works, for its services, shall be paid the actual cost of the work and expense incurred in performing the services provided in this Chapter. The charges shall be subject to confirmation and direction of payment by the City Council.

**17.36.130      Adjustment of Bills.**

(Amended by Ordinance Nos. 165654, 166574, 170717, 173369, 177284 and 179978, effective April 7, 2006.) Unless otherwise specified in this Chapter, the Director of the Bureau of Environmental Services authorizes the Revenue Bureau to make adjustments or pay refunds where it is deemed necessary for the proper conduct of the business of the Bureau.

When it has been determined that a customer has been overbilled for sewer user service charges, the Revenue Bureau, with the approval of the Bureau of Environmental Services, shall adjust the sewer service customer account for the period of the overbilling not to exceed three years. If the date the error began cannot be verified, then the adjustment shall be estimated and shall not exceed three years. When it has been

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determined that a customer has been underbilled for sewer user service charges, the date on which the billing error first occurred shall be verified and the Revenue Bureau, with the approval of the Bureau of Environmental Services, shall accrue the bill to correct the error starting from the date the error began, the date the current tenant became responsible for the bill, or three years, whichever is less. In no event shall an accrual be made for a period more than three years. If the date the error began cannot be verified, then the accrual shall be for six months usage.

Adjustments and accruals shall be in the form of credits or additional charges. Credits shall be payable to, and charges shall be payable by, the customer of record during the time the error existed. If that customer no longer has a water/sewer account, a reasonable effort shall be made to contact the customer. Upon written request, the Bureau shall provide the customer with a written explanation detailing the circumstances of the error and the calculation of the adjustment. The Revenue Bureau is authorized to make refunds of sewer user service charges collected in error, to persons who have paid the same, upon approval of the Director of said Bureau. The Mayor and the Auditor are authorized to draw a check monthly in favor of the Revenue Bureau for amounts so refunded, the check to be drawn on and chargeable to the Sewer System Operating Fund. Sewer system customers who receive a back billing or a billing delay may be offered the opportunity to pay the balance due over a period not to exceed 24 months in equal monthly or quarterly installments with no interest.

#### **17.36.135 Administrative Rules, Procedures and Forms.**

(Added by Ordinance No. 177284, effective March 28, 2003.)

- A.** Upon the recommendation of the Director of Environmental Services, the Bureau of Environmental Services may adopt rules, procedures, and forms pertaining to matters within the scope of this Chapter.
- B.** Any rule adopted pursuant to this section shall require a public review process. Not less than thirty, nor more than forty-five, days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
- C.** During the public review, a designee of the Director of Environmental Services shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee; taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director of Environmental Services and shall be filed in the office



of the Director of Environmental Services.

- D.** Notwithstanding paragraphs B. and C. of this section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

**17.36.150 Appeal.**

(Amended by Ordinance Nos. 166574, 170717, and 171694, effective November 15, 1997.) If a property owner or owner's agent does not agree that the calculation of the sewer connection charges was administered as set forth in Section 17.36.020 (Special Charges) and Section 17.36.025 (Stormwater Development Charge), he or she may appeal to the Director for an administrative review. The owner or owner's agent shall file a written appeal to the director prior to payment or within 10 days of payment of the charge. Upon receipt of the statement, the Bureau of Environmental Services shall schedule the matter for review by the Director or his or her designated representative. The owner or owner's agent shall be given an opportunity to present evidence to the Bureau in the course of the review. The owner or owner's agent shall receive a decision in writing within 10 days of the receipt of appeal request. A person aggrieved by any decision or determination of the administrative review process may appeal the decision to the Code Hearings Officer as provided in Chapter 22.10 of the Code of the City. A request for an appeal hearing shall be filed within 10 days after the date of the written decision of the Director. The Code Hearings Officer may waive this requirement for good cause shown. The request for an appeal hearing shall be in writing and shall contain a copy the decision appealed from and a statement of grounds upon which it is contended that the decision is invalid, unauthorized, or otherwise improper, together with such other information as the Code Hearings Officer may by rule require. The Code Hearings Officer may specify and provide hearing request forms to be used by persons requesting hearings.



**Chapter 17.38**

**DRAINAGE AND WATER QUALITY**

(New Chapter substituted by Ordinance  
No. 173330, effective June 4, 1999.)

**Sections:**

- 17.38.010 Authority.
- 17.38.015 Rule Making.
- 17.38.020 Purpose.
- 17.38.021 Protection of Drainageway Areas.
- 17.38.025 Stormwater Management Policies and Standards.
- 17.38.030 Definitions.
- 17.38.040 Stormwater Quality and Quantity Control Facilities Required.
- 17.38.041 Parking Lot Stormwater Requirements.
- 17.38.045 Enforcement.
- 17.38.050 Erosion Control Required.
- 17.38.060 Fill Mitigation In-lieu of Balanced Cut and Fill - the Johnson Creek Fill Mitigation Bank.

**17.38.010 Authority.**

(Amended by Ordinance No. 174745, effective August 25, 2000.) The Director of Environmental Services is responsible for administering the requirements of this Chapter. The Director has the authority and responsibility to adopt rules, procedures, and forms to implement the provisions of this chapter and to maintain a Stormwater Management Manual.

**17.38.015 Rule Making**

- A.** Public Review. Any rule adopted pursuant to this section shall require a public review process. Not less than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. The Office of Neighborhood Involvement shall be notified at least 30 days in advance of the public review process. Such notice shall include the place, time, and purpose of the public review process and location at which copies of the full set of the proposed rules may be obtained.
- B.** Adoption of Rules.
  - 1.** During the public review, a designee of the Director shall hear testimony and receive written comments concerning the proposed rules. The

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Director shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it.

2. If a substantial modification is made to the rules submitted for public review, the Director may adopt the modification as Interim Rules or shall provide an additional public review prior to adoption.
3. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.

#### **C. Interim Rules.**

1. Notwithstanding paragraphs 17.38.015 A. and B., an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties. The rule should include the specific reasons for such prejudice.
2. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.
3. After adoption, public notice of interim rules shall be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement. Such notice shall include the location at which copies of the full set of the interim rules may be obtained.

- D. Initial Rules.** Notwithstanding sections 17.38.015 A.-C. above, the rules contained in the Stormwater Management Manual filed with the Council in conjunction with Ordinance No. 173330 may be adopted by the Director without further public review.

#### **17.38.020 Purpose.**

The purpose of this Chapter is to provide for the effective management of stormwater and drainage, and to maintain and improve water quality in the Watercourses and Water Bodies within the City of Portland as described in 17.38.025.

#### **17.38.021 Protection of Drainageway Areas.**

(Added by Ordinance No. 176561; amended by 176783, effective August 30, 2002.)

- A. Authority.** The Director may require drainage reserves or tracts over seeps, springs and drainageways as necessary to preserve the functioning of these areas and to limit flooding impacts from natural and man made channels, ditches, seeps, spring, intermittent flow channels and other open linear depressions. Standards

and criteria for imposing drainage reserves or tract requirements shall be adopted by administrative rule. Placement and/or sizing of drainage reserves does not relieve property owners of their responsibility to manage stormwater in a manner that complies with the duties of property owners under applicable law. Drainage reserve or tract requirements may be imposed during land use reviews, building permit review or other development process that require Bureau of Environmental Services review.

- B.** Required Management of the Drainage Reserve. Storm drainage reserves or tracts shall remain in natural topographic condition. No private structures, culverts, excavations, or fills shall be constructed within drainage reserves or tracts unless authorized by the BES Chief Engineer. All changes must also comply with other zoning regulations as described in Title 33.

**17.38.025 Stormwater Management Policies and Standards.**

(Amended by Ordinance Nos. 174745, 176561, 176783, 176955 and 180037, effective April 28, 2006.)

- A.** Stormwater shall be managed as close as is practicable to development, and stormwater management shall avoid a net negative impact on nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met by the owner/operator prior to facility use. Surface water discharges from on-site facilities shall be conveyed via an approved drainage facility.
- B.** The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, as much as is practicable, based on the following criteria:
  - 1.** Water quality control facilities required for development shall be designed, installed and maintained in accordance with the Stormwater Management Manual, which is based on achieving at least 70% removal of the Total Suspended Solids (TSS) from the flow entering the facility for the design storm specified in the Stormwater Management Manual or Administrative Rules.
  - 2.** Land use activities of particular concern as pollution sources shall be required to implement additional pollution controls including but not limited to, those management practices specified in the Stormwater Management Manual.
  - 3.** Development in a watershed that drains to streams with established Total Maximum Daily Load limitations, as provided under the Federal Clean

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Water Act, Oregon Law, Administrative Rules and other legal mechanisms shall assure that water quality control facilities meet the requirements for pollutants of concern, as stated in the Stormwater Management Manual.

4. Stormwater discharge, which is not practicable to fully treat as defined in sections 17.38.025 B.1.-3. and the Stormwater Management Manual, shall either: be treated in an off-site facility or be given the option of paying a stormwater off-site management fee. The Bureau will employ a methodology for calculating the fee that is based upon an average unit cost of on-site facilities where such facilities would be effective. The stormwater off-site management fee collected will be placed in a mitigation account to be used to mitigate the impacts that arise from off-site discharge of stormwater runoff. Information relating to sites that are paying fees will be evaluated in planning for capital improvement projects.
  5. Notwithstanding section 17.38.025 B.4., for any parcel created after the effective date of this Chapter, stormwater shall be fully treated on-site or within the original parcel from which the new parcel was created, or in a privately developed off-site facility with sufficient capacity, as determined by the Bureau.
  6. The Director is authorized to exempt land uses, discharge locations or other areas of the city from the requirement of 17.38.025 B.1. if onsite pollution reduction or pollution control is not needed or desirable due to limited pollutant loads or off-site methods of pollution control are available. All exemptions shall be specified in the Stormwater Management Manual.
- C. The quantity of stormwater leaving the site after development shall be equal to or less than the quantity of stormwater leaving the site before development, as much as is practicable, based on the following criteria:
1. Development shall mitigate all project impervious surfaces through retention and on-site infiltration to the maximum extent practicable. Where on-site retention is not possible, development shall detain stormwater through a combination of provisions that prevent an increased rate of flow leaving a site during a range of storm frequencies as specified in the Stormwater Management Manual.
  2. The Director is authorized to exempt areas of the city from the requirement of 17.38.025 C.1. if flow control is not needed or desirable because there is sufficient capacity and limited impacts to the receiving

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drainage system. All exemptions shall be specified in the Stormwater Management Manual.

3. Any development that contributes discharge to a tributary to the Willamette River, other than the Columbia Slough, shall design facilities such that the rate of flow discharging from water quantity control facilities for up to a two-year storm does not lengthen the period of time the channel sustains erosion causing flows, as determined by the Bureau.
  4. Facilities shall be designed to safely convey the less frequent, higher flows through or around facilities without damage.
  5. Stormwater quantity discharge which is not practicable to be managed as defined in 17.38.025 C.1. through 17.38.025 C.4. and the Stormwater Management Manual shall either: be managed in an off-site facility or be given the option of paying a stormwater off-site management fee. The Bureau will employ a methodology for calculating the fee that is based upon an average unit cost of on-site facilities where such facilities would be effective. The stormwater off-site management fee collected will be placed in a mitigation account to be used to mitigate the impacts that arise from off-site discharge of stormwater runoff. Information relating to sites that are paying fees will be evaluated in planning for capital improvement projects.
  6. Notwithstanding section 17.38.025 C.5., for any parcel created after the effective date of this chapter shall fully manage stormwater on-site or within the original parcel from which the new parcel was created, or in a privately developed off-site facility with sufficient capacity, as determined by the Bureau.
- D.** All conveyance systems shall be analyzed designed and constructed for existing tributary off-site runoff and developed on-site runoff from the proposed project in compliance with the City's *Sewer Design Manual*. The general goal of these standards is to convey both on-site and off-site waters in a way that is protective of public health and safety and that minimizes environmental impacts in the downstream receiving system. The Director reserves the right to determine the appropriateness of combination facilities in meeting these standards.
- E.** All disposal (destination) systems shall comply with the standards set forth in the SWMM. Public systems shall be reviewed and approved by BES in compliance with the sizing and location standards in the SWMM. Private onsite disposal systems shall comply with the destination location hierarchy and other guidance specified in the SWMM, and shall be reviewed by BDS for compliance with the plumbing code regulations in 25.01.020.

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#### **17.38.030 Definitions.**

(Amended by Ordinance Nos. 174745, 176561, 176783 and 180037, effective April 28, 2006.)

- A.** "Approved Drainage System." A system approved by BES which, in general, shall adequately collect, convey, treat and or dispose of stormwater runoff or other site discharge. Approved systems shall meet all requirements and specification laid out in this code or in any BES design guidance document plus any applicable plumbing code provisions relating to the piped portions of any system.
- B.** "Building Permit". A permit required by state administrative rule or the City Code for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal or demolition of a building or structure or any appurtenances connected or attached to such buildings or structures.
- C.** "Capacity." The capacity of a stormwater system is the flow volume or rate that a facility (e.g., pipe, pond, vault, swale, ditch, drywell, etc.) is designed to safely contain, receive, convey, reduce pollutants from or infiltrate stormwater to meet a specific performance standard. There are different performance standards for pollution reduction, flow control, conveyance, and destination/disposal, depending on location.
- D.** "Combination Facilities." Systems that are designed to meet two or more of the multiple objectives of stormwater management.
- E.** "Director." The Director of the Bureau of Environmental Services, or the Director's designee.
- F.** "Disposal." Also called Destination in the SWMM. The ultimate discharge point for the stormwater from a particular site. Disposal/destination points can include on-site infiltration (surface infiltration facilities, drywells and sumps, soakage trenches) and off-site flow to ditches, drainageways, rivers and streams, off-site storm pipes, and off-site combination sewers.
- G.** "Drainageway." An open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.
- H.** "Impervious Surface / Area." Any surface that has a runoff coefficient greater than 0.8 (as defined in BES's Sewer Design Manual, Chart 10 "Runoff Coefficients"). Types of impervious surfaces include rooftops, traditional asphalt



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and concrete parking lots, driveways, roads, sidewalks and pedestrian plazas. Note: Slatted decks are considered pervious. Gravel surfaces are considered pervious unless they cover impervious surfaces or are compacted to a degree that causes their runoff coefficient to exceed 0.8.

- I.** "Off-Site Stormwater Facility." Any stormwater management facility located outside the property boundaries of a specific development, but designed to provide stormwater management benefits for that development.
- J.** "On-Site Stormwater Facility." Any stormwater management facility located within the property boundaries of a specific development, and designed to provide stormwater management benefits for that development..
- K.** "Pollutants of Concern." Watershed-specific parameters identified by the Oregon Department of Environmental Quality (DEQ) as having a negative impact on the receiving water body. Pollutants of concern can include suspended solids, heavy metals, nutrients, bacteria and viruses, organics, floatable debris and increased temperature.
- L.** "Practicable." Available and capable of being done as determined by the Director, after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- M.** "Public Works Project." Public Works Project means any development conducted or financed by a local, state, or federal governmental body and includes Local Improvements and Public Improvements as defined in Title 17, PUBLIC IMPROVEMENTS.
- N.** "Redevelopment." Development that requires demolition or complete removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding, re-paving and re-roofing are not considered redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment. Utility trenches in streets are not considered redevelopment unless more than 50% of the street width is removed and re-paved.
- O.** "Site Map." For purposes of this code section, a site map shall show the stormwater management facility location in relation to building structures or other permanent monuments on the site. The Site map shall depict location of sources of runoff entering the facility and the discharge point and type of receiving system for runoff leaving the facility.
- P.** "Stormwater Management." The overall culmination of techniques used to reduce pollutants from, detain, and/or retain, and dispose of (provide a destination for)

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stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish goals of reducing combined sewer overflows or basement sewer backups, or to fit within the capacity of the existing infrastructure.

- Q.** "Stormwater Management Facility." A technique used to reduce pollutants from, detain, and/or retain stormwater, and to provide a destination for stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish goals of reducing combined sewer overflows or basement sewer backups or to fit within or improve the capacity of existing infrastructure.
- R.** "Tract." A tract is a section of land set aside from development during the Land Division phase of development. Tract as used in this code section shall be the definition of tract as described in Title 33 of the City Code.
- S.** "Water Body." Water bodies include coastal waters, rivers, sloughs, continuous and intermittent streams and seeps, ponds, lakes, aquifers, and wetlands.
- T.** "Watercourse." A channel in which a flow of water occurs, either continuously or intermittently, with some degree of regularity. Watercourses may be either natural or artificial.
- U.** "Water Quality Control/Pollution Reduction Facility." Refers to any structure or drainageway or drainage device that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of maintaining or improving surface and/or groundwater quality. These facilities may include, but are not limited to, constructed wetlands, water quality swales, and ponds which are maintained as stormwater quality control facilities.
- V.** "Water Quantity Control Facility." Refers to any structure or drainage device that is designed, constructed, and maintained to collect, retain, infiltrate, or detain surface water runoff during and after a storm event for the purpose of controlling post-development quantity of stormwater leaving the development site. These facilities may include, but are not limited to, constructed wetlands, infiltration basins, and wet ponds that are maintained as stormwater quantity or quality control facilities.
- W.** "Wetland." An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas except those constructed as pollution reduction or flow control facilities. Specific wetland designations shall be made by the Corps of Engineers and the Division of State Lands.

**17.38.040 Stormwater Quality and Quantity Control Facilities Required.**

(Amended by Ordinance Nos. 174745, 176783 and 180037, effective April 28, 2006.)

No plat, site plan, building permit or public works project shall be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater quality and quantity control facilities designed according to standards or guidelines established by the Director of the Bureau of Environmental Services and as specified in the City of Portland's Stormwater Management Manual.

**A.** Exemptions. The requirements of this Chapter for stormwater management do not apply to:

- 1.** Development for which an application for development approval is accepted by the permitting agency prior July 1, 1999 shall be subject to the requirements in place at the time of application.
- 2.** Development, whether public or private, that does not result in impervious surface coverage or results in coverage that is de minimus, such as fences, environmental enhancement projects, buried pipelines or cables, and utility lines.
- 3.** Impervious surface created by a water quality or water quantity control facility. Paved or compacted gravel facility access and maintenance roads that extend beyond the facility itself, are not exempted from treatment requirements.

**B.** Appeals. Any permit applicant aggrieved by a decision, interpretation, or determination made pursuant to the administration of the Stormwater Management Manual may appeal such action in accordance with 17.38.040 B.1. and B.2.

- 1.** In order to provide for reasonable interpretation of the provisions of the Stormwater Management Manual, the Director shall establish an internal Administrative Appeals Committee and an External Appeals Board. The Commissioner in charge of the Bureau of Environmental Services shall appoint members of the External Appeals Board.
- 2.** Applicants shall file appeals in accordance with the appeals process procedures specified in the Stormwater Management Manual.

**C.** Maintenance of Water Quality and Quantity Control Facilities.

- 1.** All new development, redevelopment, plats, site plans, building permits or public works projects, as a condition of approval, shall be required to

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submit an operation and maintenance plan for the required stormwater quality and quantity control facilities for review and approval by the Bureau of Environmental Services. A water quality or quantity control facility that receives stormwater runoff from a public right-of-way shall be a public facility, unless the right-of-way is not part of the city road maintenance system.

**a.** The information required in an operation and maintenance plan shall satisfy the requirements in the Stormwater Management Manual (SWMM). Applicants are encouraged to use the O & M Plan template provided in the SWMM. The Plan shall include and not be limited to:

- (1)** Design plans of the specific facility and related parts, including design assumptions.
- (2)** A schedule for routine inspection, including post storm related inspections.
- (3)** A description of the various facility components, the observable trigger for maintenance, and the method of maintenance, including appropriate method of disposal of materials.
- (4)** The intended method of providing financing to cover future operations and maintenance.
- (5)** The party or parties responsible for maintenance of the facility including means of effecting contact, including contact means for emergency situations. The party may be an individual or an organization.

**b.** A maintenance log is required. The log shall provide a record of all site maintenance related activities. The log shall include the time and dates of facility inspections and specific maintenance activities. This log shall be available to City inspection staff upon request.

- 2.** Failure to properly operate or maintain the water quality or quantity control facility according to the operation and maintenance plan may result in an enforcement action, including a civil penalty, as specified in 17.38.045, Enforcement.
- 3.** A copy of the operation and maintenance plan shall be filed with the

Bureau of Environmental Services. Staff may require a site map to be recorded and filed with the appropriate county Department of Assessment and Taxation.

**17.38.041      Parking Lot Stormwater Requirements.**

(Added by Ordinance No. 174745; amended by Ordinance No. 180037, effective April 28, 2006.) Stormwater runoff from parking lots must be managed in parking lot interior or perimeter landscaping to the extent required by the Stormwater Management Manual. The Director is authorized to exempt activities, land uses, or identified sites from these requirements if use of parking landscape areas is not needed or desirable because of non-conforming or existing landscape areas. All exemptions are described in the Stormwater Management Manual.

**17.38.045      Enforcement.**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A.      Enforcement. Persons who fail to comply with the provisions of this chapter and the BES Stormwater Discharge Enforcement Rules adopted hereunder may be subject to enforcement actions by the Director.
- B.      Site Inspection. Authorized City representatives may inspect Water Quality and Quantity Control Facilities to determine compliance with this Ordinance. The Control Facility owner shall allow and provide for free access for representatives of the Bureau of Environmental Services to enter upon the premises where the facility is located for the purpose of inspection or assuring compliance with this Chapter and the Stormwater Management Manual.
- C.      Conditions for entry.
  - 1.      The authorized City representative shall present appropriate credentials at the time of entry.
  - 2.      The purpose of the entry shall be for inspection to ensure compliance with this Chapter and the Stormwater Management Manual of the Water Quality or Quantity Control Facility.
  - 3.      Entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Director.
- D.      Violations. A violation shall have occurred when any requirement of this Chapter or rules adopted hereunder has not been met; when a written request of the Director, made under authority of this Ordinance, is not met within the specified time; when any condition of an operations and maintenance plan or

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agreement issued under the authority of this chapter or rules is not met within a specified time, or when the facility through maintenance neglect or facility failure no longer operates as designed.

- E. Remedies. Enforcement Mechanisms.** If BES determines that a violation has occurred or is likely to occur, BES may offer technical assistance and education to the responsible party to prevent or correct the violation. In enforcing any of the requirements of this Chapter or rules adopted hereunder, the Director, or a duly authorized representative, may employ any of the following enforcement methods:
1. Take civil administrative actions, as set out in rules adopted under the authority of this chapter;
  2. Issue compliance orders;
  3. Institute an action before the Code Hearings Officer
  4. Cause an appropriate action to be instituted in a court of competent jurisdiction; or
  5. Take such other action as the Director, in the exercise of his or her discretion, deems appropriate.
- F. Penalties.** Violations of this chapter or rules adopted hereunder may result in assessment of civil penalties in an amount up to \$500 per day per violation.
1. Collection of penalties and costs. All civil penalties shall be deposited with the City Treasurer and credited to the Sewage Disposal Fund. Penalties and costs are payable upon receipt of the final order imposing penalties and costs. Penalties and costs under this chapter are a debt owing to the City and may be collected in the same manner as any other debt. Penalties shall accrue interest and any other applicable charges until the penalty is paid in full. The City may initiate appropriate legal action in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the Hearings Officer.
- G. Appeals.** Appeal of an enforcement action. Upon receipt of a final determination of an enforcement action, a person may appeal the determination to the Code Hearings Officer in accordance with the procedures set out at Chapter 22.10 of the Portland City Code provided that such appeal shall include a copy of the final determination that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

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- H.** Nuisance. A violation of this Chapter shall constitute a nuisance. Summary abatement of such nuisances is authorized.
- I.** Cost recovery. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with the violations of this Chapter, including but not limited to the costs of administration, investigations, legal or enforcement activities, damages to or contamination of the sewer and stormwater systems; and any civil penalties assessed on the City which result from activities not in compliance with this chapter or rules adopted hereunder. The Director may also make a lien on the property or properties in accordance with the provisions of Chapter 22.06.
- J.** Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to extent of such inconsistency or conflict.
- K.** Severability. If any provision, paragraph, word, Section or Chapter of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters shall not be affected and shall continue in full force and effect.

**17.38.050 Erosion Control Required.**

(Amended by Ordinance No. 173979, effective March 1, 2000.) All public works projects constructed within the City of Portland must comply with Title 10, Erosion and Sediment Control Regulations.

**17.38.060 Fill Mitigation In-lieu of Balanced Cut and Fill - the Johnson Creek Fill Mitigation Bank.**

All development within the Johnson Creek Flood Zones, according to City Code Section 24.50.060 G.1.a., are required to provide balanced cut and fill on-site. Per Subsection b of the same Section, properties within a specific area may elect to pay into the Johnson Creek Fill Mitigation Bank (JCFMB) in lieu of creating a balanced cut and fill. Single family residential lots recorded prior to May 13, 1998, the effective date of the Johnson Creek floodplain regulations related to balanced cut and fill, are eligible to use the JCFMB. Use of the JCFMB is allowed on sites where all, or a portion, of the cuts needed to balance filling is found to be impractical or impossible due to constraints of site size or configuration. The area of application for the JCFMB is indicated on Figure 9 of this Title, and is divided into two sub-areas, the Core Area and the Edge Area, each having a mitigation fee per cubic yard of fill not meeting the balanced cut and fill requirements of 24.50.060 G.1.a. Those fees, and the maximum amount of unbalanced fill allowed on one property within each area, are shown in Figure 10 of this Title. The applicant proposing to use the JCFMB shall conspicuously post the development site with a notice as provided by the Bureau of Environmental Services. A posting of not less than 14

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calendar days shall occur before a permit is issued. That notice shall indicate the applicant's intent to use the JCFMB for the proposed development. No development shall proceed until all required mitigation fees specified under this chapter have been paid. Fees collected by the JCFMB shall be dedicated to projects that provide off-site flood and stormwater mitigation in the Johnson Creek Watershed.



**Chapter 17.39**

**STORMWATER DISCHARGES**

(New Chapter added by Ordinance No.  
167404, effective Feb. 23, 1994.)

**Sections:**

17.39.005	Intent of Chapter.
17.39.010	Declaration of Policy.
17.39.020	Definitions.
17.39.025	Authority of the Director of Environmental Services to Adopt Rules.
17.39.030	General Discharge Prohibitions.
17.39.040	Discharge Limitations.
17.39.045	Control of Illicit Discharges.
17.39.050	Stormwater System Discharge Permits.
17.39.060	Inspection and Sampling.
17.39.070	NPDES Stormwater Permit Reporting Requirements.
17.39.080	Stormwater Pollution Control Plan (SWPCP).
17.39.090	Accidental Spill Prevention and Control.
17.39.100	Records Retention.
17.39.110	Enforcement.
17.39.120	Conflict
17.39.130	Severability.
17.39.140	Requests for Reconsideration.

**17.39.005      Intent of Chapter**

(Added by Ordinance No. 180037, effective April 28, 2006.) It is the intent of the City to provide needed sewer service to all dischargers who are meeting the outlined objectives of this Chapter. This Chapter provides the structure under which the service will be provided for discharges so that the City's conveyance, management and disposal systems and local receiving streams are protected. Provisions within this chapter will apply to the legally defined municipal separate storm sewer systems as well as all other public drainage systems (not including those sanitary systems as defined in 17.34) that convey, manage or dispose of stormwater flows or are a part of the BES stormwater utility.

**17.39.010      Declaration of Policy.**

(Amended by Ordinance No. 180037, effective April 28, 2006.) It is the policy of the City of Portland to provide the planning, engineering and administration necessary to develop and manage stormwater sewer system facilities that are adequate for the transportation and discharge to receiving streams of stormwater runoff from within the City and to operate the storm sewer system in a manner which protects public health and the environment. In carrying out this policy, the objectives of this Chapter are:

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- A.** To prevent pollutants from entering the separate storm sewer system which may reduce the water quality of the receiving stream or which may violate applicable water quality standards;
- B.** To locate and eliminate illegal connections to the storm sewer system and storm drains;
- C.** To improve the quality of the City's stormwater discharge to the receiving stream;
- D.** To ensure worker health and safety;
- E.** To ensure that all dischargers to the City's municipal separate storm sewer systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows comply with local, state and federal laws and regulations and that sanctions for failure to comply are imposed.
- F.** To provide for and promote the health safety and welfare of the general public.

#### **17.39.020 Definitions.**

(Amended by Ordinance No. 180037, effective April 28, 2006.) For purposes of Chapter 17.39, and adopted rules thereunder, the following terms shall have the following definitions:

- A. "Batch Discharge":** Batch discharge shall mean the controlled discharge of a discrete, intermittent, and contained volume of discharge.
- B. "City of Portland":** City or City of Portland shall mean the municipality of Portland, Oregon, a municipal corporation of the State of Oregon, acting through the City Council or any Board, Committee, body, official or person to whom the Council shall have lawfully delegated the power to act for or on behalf of the City. Unless specifically designated in this Chapter or the rules adopted hereunder, whereon action by the City is explicitly required or implied herein, it shall be understood to mean action by the Director of Environmental Services of Portland, Oregon or his or her duly authorized representative or agent.
- C. "Clean Water Act (CWA)":** The Clean Water Act is the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et. seq.).
- D. "Director of Environmental Services":** The Director of Environmental Services is the Director of the Bureau of Environmental Services of the City of Portland, Oregon or his or her duly authorized representative.

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- E. “Discharge”:** A discharge is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching or placing of any material so that such material enters the sewer system.
- F. “Discharger”:** A discharger is any person or business entity that discharges to the City’s separate storm sewer systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows..
- G. “Illicit Connection”:** Any piped or other connection to a City facility made not in compliance with a valid City permit.
- H. “Illicit Discharge”:** An illicit discharge is any discharge to the City’s separate storm sewer system that is not composed entirely of stormwater or the non-stormwater discharges identified in 17.39.030.C.
- I. “Interference”:** Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the normal operation of the City’s separate storm sewer system or causes a violation of any requirement of the City’s NPDES Stormwater Discharge Permit (including an increase in the magnitude or duration of a violation) or any increase in cost due to damage to the system or requirements for specialized treatment of stormwater caused by such a discharge.
- J. “NPDES Industrial Stormwater Discharge General Permit (1200 series)”:** An NPDES General Stormwater Discharge Permit is a permit issued by the Oregon Department of Environmental Quality authorizing a permittee to discharge stormwater to the public waters in accordance with limitations.
- K. “Person”:** Person shall mean any individual company, enterprise, partnership, corporation, association, government agency, society or group; and the singular term shall include the plural.
- L. “Pollutant”:** A pollutant is any substance discharged into the sewer system which is prohibited or limited by the provisions of Chapter 17.39 of the City Code or by the provisions of any rules adopted thereunder.
- M. “Process Wastewater”:** Process wastewater is any water used in an industrial or commercial process that, as a result of that process, contains or mobilizes pollutants. Such pollutants may be liquid, solid or gaseous substances or combinations thereof, resulting from or used in connection with any process of industrial manufacturing, commercial food processing, business, agriculture, trade or research including but not limited to the development, recovery or processing of natural resources and leachates from landfills and other disposal sites. Process wastewater shall also include discharges, spills or leaks from all coupling areas

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where connections are made between holding tanks and transport vehicles for dischargers with tank farms.

- N. “Representative Sample”:** A sample collected by grab, composite or other agreed on means that reflects the quality of discharge runoff for a specific area or entire site. This sample is collected to assure compliance with permit or authorization pollution control limits.
- O. “Separate Storm Sewer System”:** A storm sewer system comprised of conveyance or system of conveyances (including roads with drainage ditches, human made channels, groundwater related disposal systems, stormwater management facilities or storm drains) which is;
1. Owned or operated by a city, county, district or other public body (created pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under state law, such as a sewer district, flood control district or drainage district or similar entity that discharges to waters of the United States;
  2. Designed or used for collecting and conveying stormwater;
  3. Not a combined sewer; and
  4. Not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.
- P. “Significant Materials”:** The term significant materials includes but is not limited to: raw materials, fuels, materials such as solvents, detergents and plastic pellets; finished materials such as metallic products, raw materials used in food processing or production; hazardous substances designated under ORS 465.200 (16); any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.
- Q. “Stormwater”:** The term stormwater shall mean rainwater runoff, snowmelt runoff and surface runoff and drainage.
- R. “Stormwater Management Facility”:** The overall culmination of techniques used to reduce pollutants from, detain, and/or retain, and dispose of (provide a destination for) stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish goals of reducing combined sewer overflows or basement sewer backups, or to fit within the capacity of the existing infrastructure.

- S. “Toxic Chemical”:** A toxic chemical is any chemical listed as toxic under Section 307(a)(1) of the Clean Water Act or Section 313 of Title III of SARA.
- T. “Toxic Concentration”:** A toxic concentration is a concentration for a known chemical or mix of chemicals published on a state or federal pollutant database or registry that is lethal to aquatic life as measured by a significant difference in the lethal concentration between the control and 100 percent effluent in an acute bioassay. BES may require additional testing to establish toxic concentrations for chemicals and mixtures without peer reviewed toxicology standards.

**17.39.025 Authority of the Director of Environmental Services to Adopt Rules.**

- A.** For purposes of the functions described in Charter section 11-303, the City Engineer may delegate his or her authority to perform those functions to the Director of Environmental Services (Director). This delegation may be accomplished by filing a written notice of delegation with the City Auditor and approval of the delegation by resolution of the City Council. Upon approval of the delegation by the City Council, the Director shall be responsible for performing the delegated functions, and the City Engineer shall not be responsible for supervising or approving actions of the Director of Environmental Services pursuant to the delegated authority. This delegation shall remain in effect until modified by resolution of the City Council.
- B.** The Director is hereby authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.
- C.** Adoption of Rules.
  - 1.** Upon the recommendation of the Director of Environmental Services, the Bureau of Environmental Services may adopt rules pertaining to matters within the scope of this Chapter.
  - 2.** Any rules adopted pursuant to this Section shall require a public review process. Not less than ten or more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include place, time and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
  - 3.** During the public review process, a designee of the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If substantial

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modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the office of the Director of Environmental Services .

4. Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

#### **17.39.030 General Discharge Prohibitions.**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A. It is unlawful to discharge into the City's municipal separated storm sewer systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows except in compliance with this Chapter and the rules adopted hereunder.
- B. Prohibited discharges. It is unlawful to discharge or cause to be discharged directly or indirectly into the City storm sewer system any of the following:
  1. Any discharge having a visible sheen;
  2. Any discharge having a pH of less than 6.0 Standard Units (S.U.) or greater than 9.0 S.U., unless the divergence from these limits can be proven to occur from source rainfall pH fluctuations;
  3. Any discharge that contains toxic chemicals in toxic concentrations;
  4. Any refuse, rubbish, garbage, discarded or abandoned objects, articles, or accumulations or discharge that contains visible floating solids;
  5. Any discharge that causes or may cause visible discoloration (including, but not limited to, dyes and inks) of the receiving waters;
  6. Any heat discharge that causes damage to any element of the City's municipal separate storm sewer systems other public drainage systems that convey, manage or dispose of stormwater flows;

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7. Any discharge that causes or may cause interference or damage to the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows;
  8. Any discharge that causes or may cause a nuisance or a hazard to the City's stormwater system, City personnel or the receiving waters.
  9. Any batch discharges without written permission from the Director of Environmental Services. Batch discharges shall comply with all other requirements of this Chapter and rules adopted hereunder;
  10. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the sewer system, or waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius (using test methods prescribed at 40 CFR 261.21), or discharges which cause the atmosphere in any portion of the sewer system to reach a concentration of 10% or more of the Lower Explosive Limit (LEL);
  11. Any process wastewater, unless it meets at least one of the provisions of section 17.39.030.C.;
  12. Any substance that causes the City to violate the terms of its Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) or Municipal Underground Injections Control (UIC) permits or instream water quality standard set by the State of Oregon.
- C.** The following discharges are allowed outright unless a site-specific determination is made that the ongoing discharge is harmful using the criteria in B, above:
1. A discharge authorized by, and in full compliance with, an NPDES or other state water related discharge permit;
  2. A discharge or flow resulting from an emergency situation such as a water line break or fire fighting activities by a government fire department. Any repairs made after the period of emergency has ceased must comply with all regulations of this code;
  3. A discharge or flow from personal residential based activities such as car washing, lawn watering, or landscape irrigation;
  4. A discharge from a building related system such as footing / foundation drains, crawl space pumps, or air conditioning condensation that is

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unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

5. A discharge or flow from naturalized areas such as diverted stream flows, natural springs, riparian habitat areas, wetlands, or other uncontaminated pumped or infiltrating storm water;
6. A discharge from rising groundwater flows, infiltration, inflow or other uncontaminated pumped or infiltrating groundwater;
7. Other discharge that is deemed by the Director to be de minimus or otherwise adequately controlled through other pollution control measures or agreements, such as water line flushing, reservoir and tank draining.

#### **17.39.040 Discharge Limitations.**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A. It is unlawful for a discharger to discharge to the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose or stormwater flows in excess of the limitations established in the discharger's NPDES discharge permit, a discharge authorization or in violation of the prohibited discharges in Section 17.39.030. The Director may establish specific discharge limitations under separate rules to meet the objectives of this Chapter.
- B. Notwithstanding prior acceptance to the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose or stormwater flows under this Chapter, if the Director finds that a discharge from a particular industrial occupancy or class of occupancies is in violation of 17.39.030, the Director may limit the characteristics or volume of the discharge accepted under this Chapter or may terminate acceptance. Notice of termination or limitation shall be given in writing to the occupant of the property involved or by posting such notice on the property involved and shall specify the date when the limitation or termination is to become effective. It is unlawful for any person to discharge or permit the discharge of stormwater in violation of this notice.

#### **17.39.045 Control of Illicit Discharges**

(Added by Ordinance No. 180037, effective April 28, 2006.)

- A. Notifications. Property owners are responsible for notifying the appropriate regulatory agencies under the following conditions:
  1. Illicit Connections. Within seventy-two hours after discovering an illicit connection, owners shall notify the Bureau of Environmental Services of the Illicit Connection. The applicant will negotiate an appropriate time



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frame with BES for submittal of a permit application with the City's Plumbing Division to correct the illicit connection.

- 2.** Spills. Any person becoming aware of spills or uncontrolled discharge substances prohibited under Section 17.39.030 directly or indirectly into the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows, or any component thereof, or onto driveways, sidewalks, parking lots or other areas draining to public stormwater management facilities or right-of-way; shall:

- a.** Immediately upon discovery report such discharge by phone to BES and DEQ and to any other authorities required under other local, state or federal laws or regulations. Reports shall include:

- (1)** A description of the material discharged; and
- (2)** The estimated amount of material discharged; and
- (3)** The estimated discharge point into the City sewer; and
- (4)** Steps being taken to immediately cease and control the spill as well as eliminate and prevent recurrence of the discharge; and
- (5)** Contact information, including phone number, of a responsible party who owns or has control over any spilled or released material who may be contacted for additional information.

- 3.** Non-stormwater discharges allowed under 17.39.030.C need not be reported.

- B.** Impact Assessment, Control and Clean Up. The discharger shall take all necessary steps to ensure the discovery, containment and clean up of any materials release to the City systems described in A.2. above as soon as possible after discovery. The discharger shall take all reasonable steps to minimize any adverse impact to the City sewer system, treatment facilities or any waters of the state, including such activities as accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. If the discharger is absent, the property owner shall be responsible for compliance with this section.

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#### **17.39.050 Stormwater System Discharge Permits.**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A.** The City may require the following permits prior to allowing discharges to the City's separate storm sewer system:
  - 1.** An NPDES storm water discharge permit for facilities listed under OAR 340-041-0007 and the federal Standard Industrial Class codes associated with the Clean Water Act.
  - 2.** Other facilities with discharges that trigger the prohibitions of 17.39.030 on their sites may be required to obtain a City of Portland Discharge Permit or Authorization for their discharge.
- B.** Existing and New Source Dischargers.
  - 1.** Industrial NPDES Stormwater Discharge Permits
    - a.** Any discharger with a discharge to the separate storm sewer system may be required to submit an application for an NPDES stormwater permit to DEQ. The City may act as a DEQ authorized representative in accepting permit applications for submittal to DEQ.
    - b.** Dischargers who are required to obtain an NPDES stormwater permit and who continue to discharge without a permit during the permit application process, shall comply with the requirements of this Chapter and the rules adopted hereunder.
    - c.** A new source discharge facility shall obtain an NPDES stormwater permit before discharging to the separate storm sewer system, if required. At his or her discretion, the Director may require dischargers who are not required to obtain an NPDES stormwater permit to obtain a stormwater discharge permit from the City, if a discharge presents a threat to the system or the receiving waters.
  - 2.** Discharge Authorizations
    - a.** Any new source identified or constructed within the City of Portland shall undergo a Source Control review and may be required to implement certain site controls as required by administrative rule. Education and technical assistance materials may be provided to assist dischargers.

- b.** Sites under an authorization will be required to track compliance efforts and make those records available to City inspectors.

**17.39.060 Inspection and Sampling**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

**A. Inspection**

- 1.** Authorized City representatives may inspect the facilities of any discharger to any City sewer or drainage system to determine compliance with the requirements of this Chapter. The discharger shall allow the City or an authorized representative to enter upon the premises of the discharger for the purposes of inspection, sampling, photographic documentation or record examination and copying. The City shall also have the right to install on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.
- 2.** Conditions for entry.
  - a.** The authorized City representative shall present appropriate credentials at the time of entry.
  - b.** The purpose of the entry shall be for inspection, observation, measurement, sampling, testing, photographic documentation, or record examination and copying in accordance with the provisions of this Chapter.
  - c.** Any entry shall be made at reasonable times during normal operating hours unless an emergency situation exists as determined by the Director.
  - d.** The City shall comply with all regular safety and sanitary requirements of the facility or site to be inspected. The discharger shall provide the City with any facility or site-specific safety requirements.

**B. Sampling.**

- 1.** Samples collected for compliance monitoring shall be representative of the discharge and shall comply with the requirements specified in the individual site permit or authorization. Sampling locations for each point of discharge are required by the NPDES stormwater permit or may be

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required by a Discharge Authorization. The sampling and testing shall be in accordance with 40 CFR Part 136.

2. Samples taken by City personnel for the purpose of determining compliance with the requirements of this Chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.
3. Sampling manhole or access. The Director may require a stormwater discharger to install and maintain at the discharger's expense a suitable manhole or sampling facility at the discharger's facility or other suitable monitoring access to allow observation, sampling and measurement of all discharges into City separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows. The manhole shall be constructed in accordance with plans approved by the Director and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to City representatives at all times.

#### **17.39.070 NPDES Stormwater Permit Reporting Requirements.**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

##### **A. Periodic Compliance Reports.**

1. Any facility that discharges to the City's stormwater system may be required to submit reports to the City. Monitoring reports may include evaluations of site conditions, visual observations of discharges, discharge sampling results, summary of operational and maintenance activities, or other information as requested by the Director. The City may accept monitoring reports required by state mandated industrial NPDES permits to meet City reporting requirements.
2. The Director may require reporting by dischargers of stormwater runoff to the City municipal separate stormwater systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows, where an NPDES stormwater permit is not required, to provide information to the City. This information may include any data necessary to characterize the stormwater discharge.

##### **B. Fraud and False Statements.** Any reports required by this Chapter or rules adopted hereunder and any other documents required by the City to be submitted or maintained by the Discharger shall be subject to the enforcement provisions of this Chapter and any other applicable local and State laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be

subject to the provisions of 18 U.S. Code Section 1001 relating to fraud and false statements and the provisions of Section 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials.

- C. Notification of Violation. A stormwater discharger shall report noncompliance with permit conditions to the City within 24 hours of becoming aware of noncompliance.

**17.39.080 Stormwater Pollution Control Plan (SWPCP).**

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A. A discharger to the City of Portland's system may be required to prepare a Storm Water Pollution Control Plan (SWPCP). If a SWPCP is developed for other purposes, for example an NPDES permit, it may be submitted to fulfill these requirements. Minimum requirements for the content of the SWPCP are contained in the appropriate permit and/or in the Stormwater Discharge Administrative Rules.
- B. Dischargers are required to eliminate or control direct or indirect connections or entry points that could allow spills or uncontrolled discharges of hazardous or toxic substances or substances prohibited under Section 17.39.030 to enter the City's system. As a condition of continued authorization to discharge to the City storm sewer system, the Director may require a discharger to:
1. Install or modify equipment or make other necessary changes to prevent such discharges, and
  2. Submit a schedule of compliance to the Director for approval to achieve timely completion of the required actions and specifying a method for assessment and adaptive management of the Plan. Violation of the schedule without an extension of time by the Director is a violation of this Chapter.
- C. All permittees shall be required to comply with the terms and maintenance conditions specified in their SWPCP and the appropriate permit or authorization.

**17.39.090 Accidental Spill Prevention and Control.**

(Amended by Ordinance No. 180037, effective April 28, 2006.) Accidental Spill Prevention Plans. Dischargers who are not required to obtain an NPDES stormwater permit but who handle, store or use hazardous or toxic substances or substances prohibited under 17.39.030 on their sites may be required to prepare and submit to the Director an Accidental Spill Prevention Plan, according to the requirements set out in rules adopted pursuant to this Chapter, within 60 days of notification by the Director. If an Accidental Spill Prevention and Control or similar plan is required by other law or

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regulation, that plan will satisfy this requirement. The Accidental Spill Prevention and Control Plan may be combined with or stand as part of the SWPCP required by 17.39.080.

#### **17.39.100 Records Retention.**

(Amended by Ordinance No. 180037, effective April 28, 2006.) All dischargers subject to this Chapter shall maintain and preserve for no fewer than 5 years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analysis made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

#### **17.39.110 Enforcement.**

(Amended by Ordinance No. 180037, effective April 28, 2006.) Dischargers that fail to comply with the requirements of this Chapter and the rules adopted hereunder may be subject to enforcement actions by the Director of Environmental Services.

- A. Violations.** BES may use escalating enforcement to obtain compliance with a rule promulgated pursuant to this Chapter, or Discharge Authorization. Notice of violation may be given orally or in writing to a responsible party.
  - 1.** A violation shall have occurred when any requirement of this Chapter or rules adopted hereunder has not been met, or when any condition of a permit or agreement issued under the authority of this Chapter or the rules adopted hereunder is not met.
  - 2.** Each day a violation occurs or continues shall be considered a separate violation.
  - 3.** For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation except as provided elsewhere in this Chapter or the rules adopted hereunder.
  - 4.** Oral notice may be provided to alleged violators to clearly state the provisions of this Chapter or associated administrative rules that have been violated and discuss potential remedies for the violations. Continued non-compliance, shall result in escalating enforcement as described in section 17.39.110.B.
- B. Enforcement Mechanisms.** If BES determines that a violation has occurred or is imminent, BES may offer technical assistance and education to the responsible

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party to correct or prevent the violation. In enforcing any of the requirements of this Chapter of the rules adopted hereunder, the Director of Environmental Services, or a duly authorized representative, may:

1. Provide written notice of violation and correction notice.
  2. Post a Stop Work order,
  3. Require Permit, Authorization and/or new system connection to control a discharge
  4. Require Administrative BES Review
  5. Institute civil actions or notify appropriate authorities of possible criminal violations as set out in rules adopted under this Chapter;
  6. Take other action as the Director of Environmental Services in the exercise of his or her discretion, deems appropriate.
- C.** Voluntary Compliance Agreement. In lieu of escalating enforcement, BES and the discharger may enter into a voluntary compliance agreement to correct the violation. Such agreements will include specific action to be taken by the responsible party to correct the noncompliance on a schedule specified by the agreement.
- D.** Civil Penalties. Violations of this Chapter or rules adopted hereunder may result in the assessment of civil penalties in amount up to \$5000 per day per violation. All civil penalties shall be deposited with the City Treasurer. Failure to pay a civil penalty within 30 days following a final determination regarding the penalty is grounds for termination of the permittee's discharge. Civil penalties may be appealed to the City's Code Hearings Officer. Penalties shall accrue interest and other charges until the penalty is paid in full.
- E.** Permit or Authorization Termination or Prevention of a Discharge.
1. Notwithstanding any other provision of this Chapter, the Director of Environmental Services may terminate a City-issued discharge permit or authorization or otherwise prevent a discharge into the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows if:
    - a. The discharge or threatened discharge presents or may present an endangerment to human health or the environment, or threatens to interfere with the operation of the City's municipal separate storm

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sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows; or

- b.** The NPDES stormwater permit City stormwater discharge permit or authorization was obtained by misrepresentation of any material fact or lack of full disclosure; or
  - c.** The discharger violates any requirement of this Chapter or its discharge permit or authorization; or
  - d.** Such action is directed by a court of competent jurisdiction.
- 2.** Notice of termination or prevention of discharge or permit revocation shall be provided to the discharger or posted on the subject property prior to terminating or preventing discharge.
  - a.** In situations that do not represent an imminent danger to human health or the environment or an imminent threat of interference to the municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows, the notice shall be in writing, shall contain the reasons for the termination or prevention of discharge, the effective date, duration and the name, address and telephone number of a City contact, shall be signed by the Director, and shall be received at the business address of the discharger no fewer than 30 days prior to the effective date.
  - b.** In situations where there is an imminent endangerment to human health, the environment or imminent threat of interference with the operations of the separate storm sewer system, the Director may immediately terminate an existing discharge or prevent a new discharge from commencing after providing informal notice to the discharger or after posting such notice on the subject property. Informal notice may be verbal or written and shall include the effective date and time and a brief description of the reason. Within 3 working days following the informal notice, a written formal notice as described in 17.39.100 D.2.a. shall be provided to the discharger.
- 3.** The Director shall reinstate stormwater discharge privileges upon clear and convincing proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of endangerment or interference as set forth in this Chapter.



**F. Cost Recovery.**

1. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with violations of this Chapter, including but not limited to the costs of administration, investigation, sampling and monitoring, legal and enforcement activities, damage to or contamination of the separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows or are part of the BES stormwater utility. BES may recover costs associated with remediation of a violation, contracts and health studies, and any fines and civil penalties assessed to the City that result from activities not in compliance with this Chapter or rules adopted hereunder. Liens may be imposed on the property or properties in accordance with the provisions of Chapter 22.06
2. All such costs shall be documented by the City and shall be served upon the discharger by certified or registered mail, return receipt requested. Such documentation shall itemize the costs the Director has determined are attributable to the violations.
3. Such costs are due and payable to the City of Portland Sewage Disposal Fund upon the receipt of the letter documenting such costs. All such costs shall be paid to the City Treasurer. Nonpayment or dispute regarding the amount shall be referred for appropriate action to the City Attorney. The City Attorney may initiate appropriate action against the discharger to recover costs under this Section.
4. The Director of Environmental Services may terminate a discharge for nonpayment of costs after 30 days notice to the discharger.

**G. Nuisance Abatement.** In cases of imminent danger to human health, property or the environment and continued non-compliance with City Code, BES may take corrective action on the site to remedy the imminent danger. BES may take whatever actions are necessary to remedy the violation and remove the threat to public health and safety. Any person responsible for pollutant discharge into any natural waters or stormwater systems, who fails to correct any prohibited condition or discontinue any prohibited activity, must pay the expenses incurred by the City in carrying out the nuisance abatement, including any expenses incurred in testing, measuring, sampling, collecting, removing, containing, treating, and disposing of the pollutant materials. All costs for such work shall be the sole responsibility of the violator and may be recovered in conformance with the BES cost recovery policy.

## **TITLE 17**

### **PUBLIC IMPROVEMENTS**

- H.** City not liable. Nothing in this Chapter shall be construed to confer liability on the City for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this Chapter.

**17.39.120 Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

**17.39.130 Severability.**

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

**17.39.140 Requests for Reconsideration.**

A discharger may request from the Director of Environmental Services to reconsider any determination made under this Chapter if there is reason to believe that sufficient data or information is available to support a different determination. Any request for reconsideration shall be accompanied by the data and the information that the discharger used as a basis for the request. The Director of Environmental Services may then revise the initial determination based upon the submitted request.

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

FIGURE 2 - (Section 17.24.020)

(Amended by Ordinance Nos. 160042, 166696, 167861, 168944,  
170200, 171243, 172288 , 175205 and 180189, effective July 1, 2006.)

Permit For	Unit Fee	Minimum Each Permit
(1) Placement of bus shelter or rest station with no advertising use		No charge
(2) Community, parade or block party street closures		No charge
(3) Seasonal or parade decorations		No charge
(4) Placement of public litter receptacle		No charge
(5) Street uses established by the City Engineer and City Council to be of civic benefit and non-commercial in nature		No charge
(6) Construction or reconstruction of sidewalks and driveways	\$.28/sq. ft.	\$30.00
(7) Construction or reconstruction of curb	\$.38/lin. ft.	\$30.00
(8) Excavation for the construction, reconstruction, repair or abandonment of:		
(a) a main line, duct, conduit, subway, property service, lateral, etc. (Sewer connection more than 100 feet in length shall be deemed a public improvement under permit.)	\$.98/lin. ft.	\$98.00
(b) property service or lateral if not constructed in conjunction with (a) above and plan review not required.	\$54.00	\$54.00

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

FIGURE 2 CONTINUED - (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(9) Excavation for construction, reconstruction, repair or abandonment of:		
(a) utility vault or manhole chamber,		\$391.00
(b) underground storage tank		\$551.00/tank
(c) miscellaneous utility excavations	\$.98/sq. ft.	\$ 98.00
(10) Placement, replacement, relocation or removal of a pole or private street light	\$33.00	\$ 33.00
(11) Drilling a test hole	\$98.00	\$ 98.00
(12) Temporary closure of any street or portion of a street	\$103.00	\$103.00
(13) Material blasting		\$181.00
(14) House and building moving:		
(a) Non-refundable permit application, investigation fee and issuance fee		\$185.00
(b) Inspection fee Full Cost incurred by the City for inspection and oversight of moving operations.		
(15) Advertising benches:		
(a) Permit		\$ 20.00
(b) Annual Permit Renewal Fee		\$ 20.00
(c) Fee for bench removed by City for non-compliance with City Code -- Full cost incurred by the City for removal and storage of Bench.		

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

FIGURE 2 CONTINUED - (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(16) Bike Racks		
(a) Permit	\$30.00	\$ 30.00
(b) Fee for bike rack removed by City for non-compliance with City Code -- Full cost incurred by the city for removal and storage of the rack.		
(17) Mail Boxes (private, fore 1 and 2 family residence)	\$30.00	\$ 30.00
(18) Sewer connection fee (effective 7-1-06) connection to an existing lateral, or extension of lateral from sewer main to property line; sewer or lateral extension more than 100 feet in length shall be deemed a public improvement under permit	\$150.00	\$ 150.00
(19) Building Plan Review		
(a) One or two family residential structure. Fee comprised of: \$73.00 review fee \$44.00 surcharge for turn around	\$117.00	\$117.00
(b) Structures auxiliary to a one or two family residential dwelling unit submitted on a separate application. Fee comprised of: \$73.00 review fee \$44.00 surcharge for turn around	\$117.00	\$117.00
(c) Commercial buildings (any structure other than those listed in a and b above). Fee comprised of: \$117.00 review fee \$79.00 surcharge for turn around	\$196.00	\$196.00
(20) Any other excavation, construction, reconstruction, repair, removal, abandon-ment, placement or use of the street area (For portable signs, see Title 32 Signs and Related Regulations.)		\$181.00

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

FIGURE 2 CONTINUED (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(21) Penalty fee. If work in the street area is commenced without first securing the proper permit, the fee shall be double that prescribed above, unless the City Engineer determines that it is not reasonably possible to obtain the permit before commencing such work. Payment of the permit fee, however, shall in no way relieve or excuse any permittee from any other penalties imposed on such violations.		
(22) Sewer tap fees.		
(a) Mainline Sewer and Manhole tap (all materials provided by contractor)	\$ 277.00/tap	\$277.00
(b) Wye and Tee installations (all materials provided by contractor)	\$ 541.00/ installation	\$541.00
(c) City inspection of insert-a-tee done by permittee	\$ 75.00	\$ 75.00
		<u>Deposit*</u>
(23) Application fee deposit for streets proposed for rename 10 and under City blocks:		\$ 500.00
Application fee deposit for streets proposed for rename over 10 City blocks:		\$1,000.00

\*Auditor shall return any unused portion of deposit to applicant.

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

**SEWER USER SERVICE CHARGES AND RATES**

FIGURE 3 - (Section 17.36.010)

(Replaced by Ordinance No.  
180189, effective July 1, 2006.)

	Effective Date July 1, 2006
<b>RESIDENTIAL DWELLINGS</b>	
<b>SEWER SERVICE</b>	Rate Per 100 Cubic Feet of Water Consumption
Sanitary Sewage Volume Rate	\$5.63
	Monthly Charge Per Account
Standard Account Service	\$3.58
Sewer or Stormwater Only Account Service	\$3.30
	Rate Per 1,000 Square Feet Per month
Impervious Area	\$7.01
Low Income Discount Eligible Customers Only	Discount Per Month \$18.74
<b>COMMERCIAL &amp; INDUSTRIAL</b>	Flat Charge Per Bill
Standard Account Service	\$11.51
Sewer Only Account Service	\$10.16
	Flat Charge Per Special Meter per Bill
Special Meter Charge	\$23.12
	Rate Per 100 Cubic Feet of Water Consumption
Sanitary Sewage Volume Rate	\$5.730
	Rate Per 100 Cubic Feet of Water Discharged
Clean Water discharged to a storm sewer not connected to a combined sewer	\$0.626
Publicly-Owned Drinking Fountain Volume Rate	2.900
<b>INDUSTRIAL EXTRA-STRENGTH RATES</b>	Rate Per Pound
Biochemical Oxygen Demand	\$0.480
Suspended Solids	\$0.586
Allowable Concentrations	Milligrams Per Liter
Biochemical Oxygen Demand	300
Suspended Solids	350
Extra Strength Resample Rate	Rate Per Composite Sample \$214
<b>DRAINAGE SERVICE CHARGE</b>	Flat Charge Per Bill
Drainage Only Account Service	\$10.16
	Rate Per 1,000 Square Feet Per Month
Drainage Service	\$7.57





**FIGURE 5 - (Section 17.36.020)**

(Replaced by Ordinance No. 180189, effective July 1, 2006.)

<b>SEWAGE SYSTEM CONNECTION CHARGES</b>	
<b>Effective on July 1, 2006</b>	
<b>SANITARY SYSTEM DEVELOPMENT CHARGE</b>	
Per Equivalent Dwelling Unit	\$2,995.00
<b>LINE CHARGE</b>	
Per Square Foot	\$0.772
<b>BRANCH CHARGE</b>	
Per branch used	\$2,136.00
For Wye or Tee only	\$207.00
<b>STORMWATER SYSTEM DEVELOPMENT CHARGE</b>	
Class of Structure	Charge
Single or two-family home	\$585.00
Tri-plex	\$676.00
Four-plex	\$927.00
Commercial and multiple family dwellings with 5 or more units	
Rate per 1,000 square feet of impervious area	\$121.00
Rate per linear foot of frontage	\$3.87
Rate per daily vehicle trip	\$2.01



**TITLE 17**  
**PUBLIC IMPROVEMENTS**

**FIGURE 6 - Chapter 17.102 -**  
(Replaced by Ordinance No. 180193, effective July 1, 2006.)

<b>Residential Solid Waste &amp; Recycling Rates</b> <b>Effective July 1, 2006</b>				
<b>Single Family Residential Service Level</b>	<b>Monthly Rate, Curbside Pickup</b>	<b>Per Unit or Per Pickup</b>	<b>Non-Curb Surcharge</b>	<b>Excess Distance</b>
<b>Weekly Collection of Garbage &amp; Recycling, Every Other Week Yard Debris</b>				
20-gallon Can	17.90		3.00	1.00
32-gallon Can	20.60		3.00	1.00
32-gallon Rollcart	21.95			
60-gallon Rollcart	26.65			
90-gallon Rollcart	31.05			
1.0 Cubic Yard Container	67.25			
1.5 Cubic Yard Container	92.40			
2.0 Cubic Yard Container	117.45			
<b>Once a Month Collection of Garbage, Weekly Collection of Recycling and Every Other Week Yard Debris</b>				
32-gallon Can	12.05		.75	.25
32-gallon Rollcart	13.15			
<b>Special Services</b>				
Recycling Only, Weekly Collection	4.95			
On Call Yard Debris Only (32-gallon Can, Bag or Bundle)		4.50		
On Call Garbage Only (32-gallon Can)		7.00	.75	.25
Yard Debris Rollcart (One-Year Subscription Required)				
60-gallon rollcart	3.90			
90-gallon rollcart	5.40			
<b>Clean Up Containers</b>				
One 1.0 Cubic Yard		69.30		
One 1.5 Cubic Yard		75.95		
One 2.0 Cubic Yard		82.60		

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

Single Family Residential Service Level	Monthly Rate, Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
<b>Miscellaneous Rates</b>				
Yard Debris, Extra Can, Bag or Bundle		2.00		
Garbage, Extra Can or Bag		4.75	.75	.25
Special Pickup or Call Back for Garbage or Yard Debris		7.50		
Rollcart Delivery		11.00		
Tires up to 18" on rim		4.75		
Tires up to 18" off rim		2.00		
<b>Terrain Surcharge (see figure 6-1)</b>				
Weekly Solid Waste (single can)	3.45			
Weekly Solid Waste (multiple cans/rollcarts)	3.60			
Monthly Solid Waste	2.00			
Recycling Only	1.10			
On Call Service	.50			
On Call Yard Debris Only	.50			
<b>Weekly Collection of Garbage &amp; Recycling, Every Other Week Yard Debris (Multiple Cans/Rollcarts)</b>				
32-gallon Cans, Two	26.70		6.00	2.00
32-gallon Cans, Three	32.65		9.00	3.00
32-gallon Cans, Four	38.60		12.00	4.00
32-gallon Rollcarts, Two	29.45			
32-gallon Rollcarts, Three	36.85			
32-gallon Rollcarts, Four	44.55			
60-gallon Rollcarts, Two	38.80			
60-gallon Rollcarts, Three	51.40			
60-gallon Rollcarts, Four	63.95			
90-gallon Rollcarts, Two	47.05			
90-gallon Rollcarts, Three	63.05			
90-gallon Rollcarts, Four	79.10			

Residential Solid Waste and Recycling rates and charges include recycling services as outlined in City Administrative Rules. If the need for a type of service arises that is not now foreseen or specifically covered by this rate schedule, then the charge for such service shall be:

1. Uniform and nondiscriminatory between customers and collector;
2. Commensurate with the rates generally charged in the Portland Metropolitan Area
3. Subject to approval by the City of Portland, Office of Sustainable Development Director.

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

<b>Residential Curbside Monthly Rates - Small Multiplexes</b> <b>Effective July 1, 2006</b>			
<b>Weekly Collection for:</b>	<b>Duplex</b>	<b>Tri-plex</b>	<b>Four-plex</b>
<b>Single container service, where can/cart/container is shared by residents of 2, 3 or 4 units.</b>			
One shared 32 gallon rollcart	27.95	N/A	N/A
One shared 60 gallon rollcart	29.55	35.40	N/A
One shared 90 gallon rollcart	33.95	36.85	43.00
One shared 1 cu.yd. container	70.15	73.05	75.95
One shared 1.5 cu.yd. container	95.30	98.20	101.10
One shared 2 cu.yd. container	120.35	123.25	126.15
<b>Multiple containers. These rates apply where all cans/carts are placed together in a single location. Where unshared cans/carts are located separately, then each is considered a separate account, charged at single-family rate.</b>			
Two 32 gallon cans	29.60	33.70	N/A
Three 32 gallon cans	35.55	38.45	41.70
Four 32 gallon cans	41.50	44.40	47.30
Two 32 gallon carts	32.35	35.90	40.95
Three 32 gallon carts	39.75	42.65	45.55
Four 32 gallon carts	47.45	50.35	53.25
Two 60 gallon carts	41.70	44.60	47.50
Three 60 gallon carts	54.30	57.20	60.10
Four 60 gallon carts	66.85	69.75	72.65
Two 90 gallon carts	49.95	52.85	55.75
Three 90 gallon carts	65.95	68.85	71.75
Four 90 gallon carts	82.00	84.90	87.80

**Monthly Non-curbside Service:**     \$3.00 per can                      \$6.00 per rollcart  
**Monthly Excess Distance Charge:** \$1.00 per can                \$2.00 per rollcart  
**Recycling Labor Charge:**            \$2.90 per unit  
(after the first unit)

**Terrain Surcharge:**                      \$3.60 per account  
(for services within the territory  
designated on Figure 6-1)

**Yard Debris:**  
Extra Can, Bag or Bundle                \$2.00 each  
(accrued on a per account,  
rather than per unit basis)

## **TITLE 17**

### **PUBLIC IMPROVEMENTS**

**As used in Figure 6 the following terms have the meanings described below:**

"Excess distance" is applicable to any collection beyond seventy-five (75) feet from the curb. This charge is in addition to the "non-curb surcharge".

"Clean up containers" include hauler-provided containers which are provided as requested by the customer for occasional or temporary use.

"Multifamily" means any multidwelling building or a combination of buildings on a single tax lot in the residential franchise territory that contains 2-4 dwelling units.

"Non-curb surcharge" is the charge for collection service provided at a location more distant than curbside.

"Terrain differential" is applicable to services within the territory designated on Figure 6-1.

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

**FIGURE 8 (Section 17.36.065)**  
(Replaced by Ordinance No. 180189,  
effective July 1, 2006.)

**SEWER FEES**  
**Building Plan Review Fees**

		<b>Unit Fee</b>	<b>Minimum Each Permit</b>
<b>Type of Review</b>			
A.	One or two family residential structures or each dwelling unit of a row house development	\$128	\$128
	Revisions/recheck fees to residential permits	\$63	
B.	Structures auxiliary to or interior modifications of one or two family residential dwelling units submitted on a separate application	\$63	\$63
C.	Tenant improvements in and additions to commercial buildings	\$128	\$128
D.	Commercial buildings (any structure other than those listed in A, B, and C above)	\$256	\$256
	Revisions/recheck fees to commercial plans	\$128	
E.	Private stormwater facilities for development that does not include structures (such as private streets and parking lots)		
	For impervious areas up to 5,000 square feet	\$128	\$128
	For impervious areas over 5,000 square feet	\$256	\$256
	Hourly rate for complex plan review by agreement with applicant	\$57	
F.	Additional Charge for plans reviewed by BES-Source Control		
	Partial Review Fee (reviews less than 30 minutes)	\$28	
	Standard Review Fee (reviews greater than 30 minutes but less than 1.5 hours)	\$84	
	Complex Review Fee (reviews greater than 1.5 hours; recheck fees do not apply, and total time is tracked and assessed per permit)	\$57/hour	
	Recheck Fee (Incomplete corrections/revisions were made and an additional checksheet is generated)	\$18.00 per checksheet	
G.	Fee for Major Projects Group (as assigned by Bureau of Development Services)	\$20,000	

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

**FIGURE 8 CONTINUED (Section 17.36.065)**

**Land Use Review Fees**

<b>Type of Review</b>	<b>Fee</b>
Review by BES	\$123
Charge for additional review by:	
BES-Planning	\$61
BES-Source Control	\$121
E-zone Reviews	
Residential Only	\$50
Protection Zone	\$50
Type 2 Residential in e-zones	\$50
Greenway - Residential	\$50
Design review/Residential w/ 2 or more units in e-zones	\$50
Parking areas under 10,000 sq feet in e-zones	\$50

**INDUSTRIAL WASTE DISCHARGE PERMIT FEES**

<b>Point Range</b>	<b>Annual Fee</b>
>125	\$7,759
75-124	\$4,034
50-74	\$2,793
25-49	\$1,873
1-24	\$981
Categorical Non-discharger	\$0



**Figure 14 – Hourly Labor Rates for Engineering and  
Superintendence Services for Public Sewer Improvements  
(Section 17.32.150)**

(Added by Ordinance No. 179274; Amended by Ordinance No. 180189,  
effective July 1, 2006.)

The Bureau of Environmental Services shall apply the following hourly rates to calculate the labor costs associated with engineering and superintendence services provided for public sewer improvement projects. Labor costs shall be the product of actual recorded hours of service times the appropriate hourly rate set forth in Figure 14. The Bureau shall adopt administrative rules setting forth the criteria for applying standard and overtime labor rates.

Engineering Services Division	Standard Rate	Overtime Rate
Development Engineering	\$68	\$78
Construction Services	\$48	\$64
Inspection	\$57	\$64
Other (all Engineers)	\$74	\$86

The Bureau shall calculate all other costs of engineering and superintendence services based on administrative rules adopted by the Director.



- B.** An applicant for a tree cutting permit may appeal denial of the permit by filing a written notice of intent to appeal, along with a filing fee in the amount of \$100.00, within fourteen days of the date of denial.
- C.** The appeal shall be heard by the Urban Forestry Commission (UFC), who shall hold a public hearing on the appeal. The City shall send written notice of the hearing to the applicant, the appellant if different from the applicant, and to the recognized Neighborhood Coalition for the area in which the subject property is located, at least ten days in advance of the hearing. Appeal hearings may be scheduled as part of the UFC's regular meeting agenda, or at any special meeting called by the UFC for that purpose. Appeals may be heard either by the full Commission or by a subcommittee delegated by the full Commission. Appeals shall be heard not later than the first regular monthly meeting of the UFC after the expiration of the ten days required for notice to the Neighborhood Coalition, and in no event later than sixty days after the filing of the notice of intent to appeal, except that the applicant may request a hearing at a later time.

**20.42.130 Evidence of Violation.**

- A.** If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is 38" or more in circumference shall be considered prima facie evidence of a violation of this chapter.
- B.** Removal of the stump of a tree cut without a tree cutting permit prior to the determination provided in subsection 1 of this section is a violation of this chapter.
- C.** Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.
- D.** As soon as a violation is determined, the Urban Forester shall notify the property owner in writing regarding the mitigation requirements of Section 20.42.100 of this code. Within thirty (30) days of the date of mailing of this notice, the property owner shall submit a tree cutting application in accordance with Section 20.42.060 and enter into a mitigation plan approved by the Urban Forester. The application fee will be \$70.00.

**20.42.140 Criminal Penalties.**

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding \$1,000.00 or shall be imprisoned for a term not exceeding 6 months, or shall be punished by both such fine and imprisonment.

**TITLE 20**  
**PARKS & RECREATION**

**20.42.150 Civil Penalties.**

Any person who cuts any tree in violation of this chapter, or who breaches any condition of a permit granted under this chapter, or who violates any other provision of this chapter shall be subject to a civil penalty of \$1,000 for any such violation. The unlawful cutting of each individual tree shall be a separate violation hereunder. Failure to comply with a condition of approval or of a mitigation plan shall be a separate violation each day the failure to comply continues.

**20.42.160 Nuisances.**

Cutting a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings.

**20.42.170 Institution of Legal Proceedings.**

Upon request of the Urban Forester, or direction from Council, the City Attorney, acting in the name of the City, may institute and maintain an action in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this Chapter.

**20.42.180 Remedies Cumulative.**

The rights, remedies and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

**20.42.190 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

**Chapter 20.44**

**NONRESIDENT PARTICIPATION  
FEES**

(Added by Ord. No. 141732; repealed  
by 158454, May 1, 1986.)

## **TITLE 21 WATER**

### **Chapter 21.04**

#### **DEFINITIONS**

21.04.010	Administrator.
21.04.020	Applicant.
21.04.030	Backflow Assembly Installation Requirements.
21.04.040	Backflow Prevention Assembly.
21.04.050	Billing Period.
21.04.060	Bureau.
21.04.070	Chief Engineer.
21.04.080	Commissioner-In-Charge.
21.04.090	Customer.
21.04.100	Distribution Mains.
21.04.100	Main Extension.
21.04.110	Outside City Distributor.
21.04.120	Premises.
21.04.130	Rates.
21.04.140	Service Branch.
21.04.150	Service Connection.
21.04.160	Service Charge (Customer Charge).
21.04.170	Standby Service Charge.
21.04.190	Volume Rates.

### **Chapter 21.08**

#### **EXTENSION OF WATER MAINS**

21.08.010	Location of Mains.
21.08.020	Distribution Main Extensions Inside City.
21.08.030	Fair Share Reimbursement.
21.08.040	Extending Distribution Mains Outside the City.
21.08.050	Adequate Mains Before Street Improvement.
21.08.060	Installation of Adequate Distribution Mains Inside the City.
21.08.070	Council Authorization for Laying Water Mains.

### **Chapter 21.12**

#### **WATER SERVICES**

21.12.010	Service to Property Adjacent to Water Main.
21.12.020	Size of Service Connection.
21.12.030	Application for Installation or Removal of Water Service.
21.12.040	Cancellation of Application for Service.
21.12.050	Service Branch Installation and Removal.
21.12.060	New Service Where Change in Size or Relocation is Desired.
21.12.070	Separate Service.
21.12.080	Service to Property Partially Outside City.
21.12.090	Permit for Temporary Service.

21.12.100	Annual Fire Hydrant Permit.
21.12.110	Installation of Service Pipes from the Main to the Property Line.
21.12.120	Connections to the Water Service.
21.12.130	Service and Maintenance Responsibility.
21.12.140	Water Pressure at Service.
21.12.150	Damage through Pipes and Fixtures.
21.12.160	Bureau Authority to Disconnect a Customer Due to Potential Damage to Water System or To Another Customer's Facility.
21.12.170	Use of Private Water and City Water.
21.12.180	Disconnection of Service When Charges Have Not Been Paid.
21.12.190	Reactivation of Abandoned Service.
21.12.200	Leaking or Unused Services.
21.12.210	Master Metering of More Than One Water Service.
21.12.220	Fire Protection Service.
21.12.230	Permit and Report Required to Do Plumbing Work.
21.12.240	Service Location Change.
21.12.250	Location of Meters Inside City.
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**Chapter 21.04**

**DEFINITIONS**

(New Title substituted by Ordinance No.  
173433, effective June 2, 1999.)

**Sections:**

21.04.010	Administrator.
21.04.020	Applicant.
21.04.030	Backflow Assembly Installation Requirements.
21.04.040	Backflow Prevention Assembly.
21.04.050	Billing Period.
21.04.060	Bureau.
21.04.070	Chief Engineer.
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21.04.090	Customer.
21.04.100	Distribution Mains.
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21.04.120	Premises.
21.04.130	Rates.
21.04.140	Service Branch.
21.04.150	Service Connection.
21.04.160	Service Charge (Customer Charge).
21.04.170	Standby Service Charge.
21.04.190	Volume Rates.

**21.04.010 Administrator.**

For the purposes of this Code, Administrator refers to the person in charge of the Bureau of Water Works, or his or her designee.

**21.04.020 Applicant.**

The person, persons, association, corporation, or governmental agency applying for water service.

**21.04.030 Backflow Assembly Installation Requirements.**

(Amended by Ordinance No. 180120, effective June 9, 2006.) Standards developed by the Bureau, consistent with the administrative rules of the State of Oregon, which guide the approval of backflow prevention assembly installation.

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### **WATER**

#### **21.04.040 Backflow Prevention Assembly.**

(Amended by Ordinance No. 180120, effective June 9, 2006.) An approved assembly which prevents water that has been delivered to a customer's premises from flowing back into the City water distribution system (premise isolation) or from reversal of flow within premise piping (point of hazard isolation).

#### **21.04.050 Billing Period.**

The time between two consecutive meter reading dates or such other time used for billing purposes.

#### **21.04.060 Bureau.**

The Bureau of Water Works (or Water Bureau), being the official agency of the City of Portland charged with responsibility of furnishing water supply to the City and administering the sale of water outside the City.

#### **21.04.070 Chief Engineer.**

The Chief Engineer is a Licensed Professional Engineer in charge of the Bureau engineering staff. The Chief Engineer is responsible for establishing, maintaining, and enforcing engineering and technical standards for design and construction of the water system.

#### **21.04.080 Commissioner-In-Charge.**

The elected member of the Portland City Council appointed by the Mayor to supervise and control the affairs and property of the Bureau, as authorized in Chapter 2 of The Charter of the City of Portland.

#### **21.04.090 Customer.**

Any person, persons, association, corporation, or governmental agency supplied or entitled to be supplied with water service by the Bureau in accordance with established rates and charges.

#### **21.04.100 Distribution Mains.**

Water pipelines located in streets, public ways, or private rights of way or easements, exclusive of service connections, which are used to convey water to the general public for customer service and fire protection.

#### **21.04.110 Main Extension.**

The extension of water distribution mains beyond previously existing facilities.

#### **21.04.120 Outside City Distributor.**

Any water district, city, water company, association, or other agency supplying water furnished by the City of Portland to customers outside the Portland city limits.

**21.04.130 Premises.**

Integrated land area including improvements thereon undivided by public thoroughfares and under single or common ownership where all parts of the premises are operated under the same management.

**21.04.140 Rates.**

The rates or amounts fixed by the annual water rate ordinance of the Portland City Council to be charged for water service supplied by the Bureau to its customers.

**21.04.150 Service Branch.**

An unused service pipe from the distribution main to the future meter location.

**21.04.160 Service Connection.**

The pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and to the property line. Where the water service meter is on private property, service connection is the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and the angle meter coupling on service connections of 1 inch or less and through the downstream meter valve on service connections of more than 1 inch.

**21.04.170 Service Charge (Customer Charge).**

The daily fixed charge based on meter size. The charge, under special conditions, such as fire line service, shall be based on the size of the service connection.

**21.04.180 Standby Service Charge.**

(Repealed by Ordinance No. 179978, effective April 7, 2006.)

**21.04.190 System Development Charge.**

A charge imposed upon each new service connection and on increases in the size of old connections within the City limits.

**21.04.200 Volume Rates.**

A variable charge which appears on the water bill based on the amount of water used per 100 cubic feet, or fraction thereof.

## **TITLE 21 WATER**

### **Chapter 21.08**

#### **EXTENSION OF WATER MAINS**

##### **Sections:**

- 21.08.010 Location of Mains.
- 21.08.020 Distribution Main Extensions Inside City.
- 21.08.030 Fair Share Reimbursement.
- 21.08.040 Extending Distribution Mains Outside the City.
- 21.08.050 Adequate Mains Before Street Improvement.
- 21.08.060 Installation of Adequate Distribution Mains Inside the City.
- 21.08.070 Council Authorization for Laying Water Mains.

##### **21.08.010 Location of Mains.**

Water mains are to be installed within public right-of-ways. The Chief Engineer and the Administrator may authorize construction of a public main within a private tract of land dedicated and utilized as a private street. The City shall be granted an access easement of sufficient width, as determined by the Chief Engineer. The easement agreement shall be of a form approved by the Chief Engineer, and it shall allow 24-hour unobstructed access to operate and maintain the public water system within the private street. The Chief Engineer and the Administrator shall determine the necessity to cross private land with a public main.

Water main extensions shall be installed a minimum of 5 feet past the closest property line of the parcel to be served.

The applicant is obligated to pay for the cost of the water main extension that will provide adequate flow to the site, as determined by the Chief Engineer. The Bureau will charge the applicant for the required size of main extension and for the least expensive route for the main to reach the desired site. The Bureau retains the right to use a larger main or an alternative route for the main, and the Bureau shall pay for all costs in excess of that required to meet the requirements of the applicant.

##### **21.08.020 Distribution Main Extensions Inside City.**

An applicant for a new water main or a main extension shall pay the full cost of the water main or the main extension, except for the purposes of improving an inadequate main as noted in Section 21.08.060 "Installation of Adequate Distribution Mains Inside the City." Bureau staff will prepare an estimated cost prior to construction.

The Bureau shall accept a deposit of 20% of the estimated cost for preliminary engineering work, the balance due prior to actual construction. If the actual cost of the main or main extension and the laying thereof is greater than the estimated cost, the person or persons applying for the installation of the main or main extension shall pay the difference to the Bureau. Payment shall be deposited to the Water Operating Fund and transferred to the Water Construction Fund. If the actual cost is less than the estimated

cost, the excess shall be refunded to the person or persons who have paid for such main or main extension. In determining actual costs, allowance shall be made for overhead expenses in accordance with the provisions of the City's finance regulations, as found in City Code. Determination of amounts to be paid or refunded shall be made by the Administrator, subject to appeal to the City Council, and the decision of the Council shall be final.

When the petitioner requests a set price for each installation the Bureau may establish a price based on the estimated cost. In no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

In all cases the size of mains and main extensions and the specifications for laying the same shall be determined by the Chief Engineer, and water mains and main extensions within the City shall be installed solely by the City, except as otherwise provided herein and shall be the property of the City.

Water mains may be installed in private streets subject to prior approval of the Administrator and Chief Engineer and subject to all conditions contained in this Title. Costs of all such mains and appurtenances in private streets shall be borne by the applicant. The developer of a new residential subdivision within the City may petition the Administrator for permission to construct water mains and appurtenances within the limits of the subdivision.

**21.08.030 Fair Share Reimbursement.**

An applicant who pays for all or a portion of a new main may recover some of the cost of installation from other applicants who seek service from that main. To qualify for reimbursement, the main must be within the City of Portland, it must have been installed within 10 years of the date of application for service, and the property for which service is sought must not have been owned by the party who paid for the main.

When reimbursement is warranted, the Bureau will collect a pro rata share of the cost of the main installation and make payment to the individual who paid for the main. Payment shall be based on the initial cost of construction, divided by the total length of the main, in feet. That per-foot cost will then be multiplied by the frontage length of the service applicant's property, in feet, times 50 % [(cost of construction divided by total length) X frontage X 0.50 = payment]. The payment shall be reduced for depreciation at the rate of 2 1/2 % per year, computed from the date of the main installation to the date of application for service. If the original applicant for the main did not pay the entire cost of installation, then the Bureau will reimburse that party in direct proportion to the percentage he or she paid towards the initial cost.

**21.08.040 Extending Distribution Mains Outside the City**

Any person desiring a main extension outside the City may make written application for construction of a water main. The Chief Engineer and the Administrator may approve of the main extension if it does not unreasonably impair water supply or pressure to existing services, whether inside or outside the City, and cannot reasonably be served through any other supplier.

## **TITLE 21**

### **WATER**

The Chief Engineer and the Administrator shall determine if the water main extension is to be designed and constructed by the City, or if permission is to be granted for private design and construction of the main. If privately constructed, the work shall conform to Water Bureau specifications. Upon Bureau inspection and acceptance of the new water system, the Bureau shall make connection to the existing water system. After acceptance by the City, the water main extension shall become the property of the City.

If the Bureau is to lay the main extension, the applicant shall pay to the Bureau the estimated cost thereof prior to construction. The cost includes the cost of any bond or other security required by any subdivision of government having jurisdiction over the location of the main extension. If the actual cost, including overhead expenses computed in accordance with the provisions of the finance regulations of City Code exceeds the amount prepaid, the applicant shall pay the difference to the Bureau. If the actual cost computed as herein prescribed is less than the amount prepaid by the applicant, the difference shall be refunded. When the owner or agent requests a set price for such installation, the Bureau shall establish a price based on the estimated cost and in no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

The City shall not be responsible for any change or enlargement of the main or main extension outside the City, and shall not be responsible for any portion of the cost of relaying or changing the main or main extension because of subsequent improvement of any public work.

Application for connection of property outside the City to City water main or main extension shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacies, whether attributable to prior or future connections or extensions, and shall be deemed a covenant that the applicant will comply with all provisions of this Title and the rules and regulations of the Bureau and must have prior approval of the Portland Metropolitan Area Local Government Boundary Commission.

#### **21.08.050 Adequate Mains Before Street Improvement.**

The Chief Engineer and the Administrator may require that adequate water mains be installed in accordance with the provisions of this Title prior to street improvement.

#### **21.08.060 Installation of Adequate Distribution Mains Inside the City.**

If a petition for a single new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the applicant may wait until the main is enlarged by the City. If petitioner wants the main enlarged sooner than the City's timetable the petitioner may request that the City adjust the timetable and replace the main without delay. The Administrator together with the Chief Engineer will review this request. If the main replacement request is confirmed the petitioner shall pay a portion of the cost of enlarging the main. The Bureau will pay all remaining costs. The portion of

the main paid by the City is sixty-five percent (65%) unless that figure is changed by the annual water rate ordinance. All requirements of Section 21.08.030 "Fair Share Reimbursement" will apply except that the full cost of the main will not be charged to the petitioner.

**21.08.070 Council Authorization for Laying Water Mains.**

The Council or its administrative officers may cause to be laid or installed at City expense, whatever pipelines, extensions, enlargements at the time of initial main installation or subsequently, interconnections, pumps, tanks, reservoirs, dams, works, and appurtenances which are found by the Administrator and the Commissioner-In-Charge to be necessary, advantageous, or convenient. This shall not be deemed to confer any right or privilege upon any person or premises to have a water main laid at sole City expense. The portion of the cost of any main and the laying thereof installed to serve residential premises or area only, and laid after August 1, 1957, which is in excess of the cost of a 6 inch ductile iron main and the laying thereof, shall be deemed allocable to water supply. Such allocation shall be paid from the Water Construction Fund at City expense except where the Fire Bureau requires larger flows for fire protection requirements, those costs shall be at the applicant's expense.

**Chapter 21.12**

**WATER SERVICES**

**Sections:**

- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.040 Cancellation of Application for Service.
- 21.12.050 Service Branch Installation and Removal.
- 21.12.060 New Service Where Change in Size or Relocation is Desired.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside City.
- 21.12.090 Permit for Temporary Service.
- 21.12.100 Annual Fire Hydrant Permit.
- 21.12.110 Installation of Service Pipes from the Main to the Property Line.
- 21.12.120 Connections to the Water Service.
- 21.12.130 Service and Maintenance Responsibility.
- 21.12.140 Water Pressure at Service.
- 21.12.150 Damage through Pipes and Fixtures.
- 21.12.160 Bureau Authority to Disconnect a Customer Due to Potential Damage to Water System or To Another Customer's Facility.

## **TITLE 21 WATER**

- 21.12.170 Use of Private Water and City Water.
- 21.12.180 Disconnection of Service When Charges Have Not Been Paid.
- 21.12.190 Reactivation of Abandoned Service.
- 21.12.200 Leaking or Unused Services.
- 21.12.210 Master Metering of More Than One Water Service.
- 21.12.220 Fire Protection Service.
- 21.12.230 Permit and Report Required to Do Plumbing Work.
- 21.12.240 Service Location Change.
- 21.12.250 Location of Meters Inside City.
- 21.12.260 Water Service in Basements within the Public Right-of-Way.
- 21.12.270 Ownership of Meters.
- 21.12.280 Damaged Meters Owned by the City.
- 21.12.290 Meter Area and Access To Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.

### **21.12.010 Service to Property Adjacent to Water Main.**

Property within the City and adjacent to a City water main may be served subject to the provisions of this Code, and the annual water rate ordinance.

To obtain water service, the service connection must be along the frontage of the property to be served and be adjacent to a public or private street in which there is a public water main. With the exceptions noted in this section, water service shall not be provided by means of an easement. With the approval of the Chief Engineer, water service may be provided from a main within an existing easement. The service must be within the easement and must be readily accessible for maintenance and meter reading. The Chief Engineer and the Administrator may approve of a water service within an easement across a separate parcel of land if the parcel the applicant desires to serve has no frontage along a public right-of-way. The applicant must provide a copy of the recorded easement at the time of application for service.

If application is made for service from a water main less than 6 inches in diameter, the connection shall be deemed temporary unless such main was designated as a permanent main, however in any case, such connection shall not entitle the person or premises to have said main replaced with a larger main at City expense. The application for service from a 4-inch main or smaller shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacy, whether attributable to prior or future connections or extensions. The application shall be deemed a covenant that the applicant will comply with all the provisions of this Title and the rules and regulations of the Bureau.

Property outside the City, but adjacent to a City main, may be served with the approval of the Chief Engineer and the Administrator, subject to all the provisions of this section. This service shall be a special contract service and not provided by the City as a common utility service, as described in Section 21.28.020 "Water Supply to Premises Outside the City of Portland." The quantity of water supplied by this service may be reduced or the



service entirely discontinued at any time when the Portland City Council finds such action necessary in order to provide sufficient service to the inhabitants within the City limits. The City shall provide at least 60 days' notice in writing before service is discontinued. Notice delivered at the premises and at the last known address of the owner or applicant shall be sufficient. The owner may discontinue service by notifying the Bureau at least one day prior to having the service discontinued, but shall be responsible for all water charges at the premises until the Bureau receives the notice in writing.

**21.12.020      Size of Service Connection.**

Whenever an application for water service is received, the Administrator or the Chief Engineer shall have authority to reject such application if in the judgment of the Chief Engineer, the service and meter size applied for is expected to be less than or greater than the size necessary for estimated use by the premises of the applicant. In such event, the Administrator or the Chief Engineer shall specify the appropriate size of service line and size and type of meter. The service size as determined by the Chief Engineer shall not be a warranty of sufficiency for pressure or volume of water to be afforded the premises. No service connection less than 3/4-inch in size shall be installed. The installation of any required backflow prevention assembly may cause the pressure and or volume of water to be less than the distribution system is able to supply through a specific service. It is the responsibility of the applicant to demonstrate that he or she has calculated the effect of installing required backflow prevention assemblies.

**21.12.030      Application for Installation or Removal of Water Service.**

The owner or authorized agent shall make written application for permits to connect with or disconnect premises from the City water system on forms provided by the Bureau in which the applicant shall specify the location and the use for which the service is required, and shall agree to abide by the rules and regulations of the Bureau.

The applicant for all services 1 inch and larger shall submit the water flow requirements at the time of request. Applicants for smaller services shall provide water flow requirements when requested. The applicant for water service to commercial or industrial development shall submit a site utility plan at the time of the request that indicates the size and type of service required and the distance of the service to the nearest property line.

An application for a permit to connect premises with the City water system for service to a new building or structure shall not be accepted for filing unless a building permit has been issued for such building or structure as provided in the building regulations of the City. No permit shall be issued unless the conditions set forth in this Title relating to main extensions have been met, if applicable. Any permit issued to connect premises with the City water main shall not entitle the permittee to a connection to the main until it is laid adjacent to the premises of the owner. Acceptance of fee for the permit shall not waive any of the conditions set forth in this Title nor grant specific right of connection. Any service connection made outside the City limits must receive prior approval of the Portland Metropolitan Area Government Boundary Commission.

## **TITLE 21**

### **WATER**

#### **21.12.040 Cancellation of Application for Service.**

An applicant may request in writing that an application for service be canceled up to the time that the service is installed. The Bureau will refund the application fee, except for any portion of the fee needed to cover Bureau costs for partial processing of the application or for actual work done on partial installation. The Bureau shall retain costs for any work already performed plus a 15 % fee for handling and overhead as a service charge. A service that has not been installed within 6 months of the date of application, at the direction of the applicant, shall be canceled and the fee less the accrued costs shall be returned to the applicant.

#### **21.12.050 Service Branch Installation and Removal.**

Service branches may be installed by the Bureau, or by a developer with the prior written approval of the Administrator or Chief Engineer, when the Administrator or Chief Engineer determines that such installation will benefit the City. See Section 21.16.160 "Service Installation Fees." If an application is not made for service within 5 years of branch installation, the Bureau may disconnect the service branch at the main. If service is requested after 5 years from date of installation, and has not previously been removed, the Water Bureau shall determine the condition of the service branch. The applicant shall pay for the cost of renewal of the service branch, if required.

#### **21.12.060 New Service Where Change in Size or Relocation is Desired.**

In the event a service of a smaller or larger size is desired and the Chief Engineer concurs that the requested size is appropriate, a new service will be installed and the charge will be as provided in the annual rate ordinance. The old service will be removed without charge.

If the Bureau has identified a service as being defective, a new service of the same or smaller size may be substituted at no charge to the applicant at the time the defective service is being replaced provided there is written authorization. However, if application for a larger service is received, the applicant will pay the difference between the two sizes, and credit for the System Development Charge (see Section 21.16.170 "System Development Charge") will be applied for cost of the meter for the service being removed as herein provided. If service is relocated or changed in size, proper backflow protection must be installed as outlined in the "Backflow Assembly Installation Requirements." The cost of backflow protection shall be the responsibility of the property owner.

#### **21.12.070 Separate Service.**

Unless otherwise provided in this section, a separate service shall be required to supply water to each separate parcel of land and to each house or building under separate ownership upon the same parcel. A parcel is considered separate when partitioned by a different ownership, street, or public way.

Unless otherwise provided hereunder, a separate service shall be required for each house or building even if under one ownership and on the same lot or parcel of land. A single

service may be provided for multiple units under single ownership. A single service may be approved by the Administrator for multiple units which are individually owned when there is a contract with the Bureau specifying who shall be responsible for all water bills and charges. Otherwise, multiple units which are individually owned must have a separate service to each unit.

The Bureau may limit the number of houses or buildings or the area of land under one ownership to be supplied by one service connection or meter.

Two or more houses or buildings under one ownership and on the same lot or parcel of land may be supplied through a single service meter, if approved by the Administrator. If the property on which the houses or buildings are located is divided by sale, a separate water service shall be obtained for each ownership prior to the sale.

Notwithstanding terms to the contrary in this section, a property owner may request, and the Administrator may authorize, continuation of water service, through existing lines, to the owners of property divided by sale, if the divided parcels will continue to share use of existing water lines and mains, as they did prior to the sale and which were in compliance with the provisions of Title 21 at the time of the sale. Authorization will not be granted if there is a change in size or location of any of the existing water services.

In addition, the party requesting exemption from the standard requirement, described above, must provide the Administrator with a document that has been recorded, the purpose of which is to authorize all users of the common lines and mains to access those lines as necessary, for installation, maintenance and repair of the common system, said rights to run with the land.

The service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made. When property provided with a service is subdivided, the service connection shall be considered as supplying the parcel of land which it directly enters. See Section 21.12.010 "Service to Property Adjacent to Water Main" for allowed location of water service.

**21.12.080 Service to Property Partially Outside City.**

Where service is requested for a property partially inside and partially outside of the City limits, service may be provided if the principal structure is on the portion of the property inside the City limits, and within the urban growth boundary of the City. Should other structures be in said portion of the property outside the City, the Bureau may provide service through separate services and meters and shall charge rates in accordance with outside City service. Such services shall be installed at the expense of the owner of the premises.

**21.12.090 Permit for Temporary Service.**

(Amended by Ordinance 180120, effective June 9, 2006.) The Water Bureau may issue a permit for a temporary water service to a site that has no long-term need of a permanent water service. Use of a temporary service shall not exceed one (1) year from the date of installation if it is a conventional metered service and ninety (90) days if supply is from a fire hydrant. The permittee desiring temporary service shall make application to the

## **TITLE 21 WATER**

Water Bureau and shall declare the intended purpose of the service and shall specify the location of the service, the length of time needed, the volume of water required and the peak flow rate anticipated.

If temporary service is allowed, the Water Bureau will install a service at the expense of the permittee, or allow the temporary use of a fire hydrant as a source of supply. If the Water Bureau installs a temporary service, the permittee shall utilize it as if it were a normal permanent service. If supply is from a fire hydrant, the permittee must continuously follow the established rules and regulations governing the use of a fire hydrant, as detailed in Section 21.24.020 "Fire Hydrants", as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. The permittee must meter or accurately gauge usage of water from a fire hydrant and report that usage to the Water Bureau. The permittee must not use water from another fire hydrant than specified in the permit without prior written approval of the Water Bureau. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose.

All temporary water services are required to have a minimum of a double check valve assembly installed for backflow protection. The backflow assembly must be installed at the service connection to the property. All costs associated with backflow prevention assemblies will be the responsibility of the owner or applicant.

### **21.12.100 Annual Fire Hydrant Permit.**

The Water Bureau may, upon application, issue a permit for the use of fire hydrants as a source of water for commercial enterprises or governmental agencies that have continuous need of water at various locations throughout the City. Sufficient need must be shown to preclude obtaining water from a single permanent service. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose. Annual fire hydrant permits are renewed for the calendar year, beginning in January. The cost for an annual permit not issued in January shall be prorated. The cost for an annual permit is set in the annual water rate ordinance.

The permittee, and all employees who obtain water from fire hydrants, must continuously follow the rules and regulations governing the use of fire hydrants, as detailed in Section 21.24.020 "Fire Hydrants," as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. All water trucks used by the permittee must be inspected for proper backflow protection equipment every three (3) years by a Water Bureau Water Quality Inspector.

### **21.12.110 Installation of Service Pipes from the Main to the Property Line.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau shall perform all work for installation of a water service within the existing public right-of-way or within an easement except as detailed in Section 21.12.130 "Service Maintenance Responsibility." The Chief Engineer and the Administrator may allow a developer to install all or part of a water service in a subdivision currently under construction. No work by others shall occur on a water service if the Water Bureau has

accepted the main for operation and maintenance. Installation and maintenance of the water system on private property is regulated by Title 25, Plumbing Regulations, as administered by the Bureau of Development Services. Responsibilities for maintaining the water service are found in Section 21.12.130 "Service and Maintenance Responsibility."

**21.12.120 Connections to the Water Service.**

No connections to the water service shall be made by the customer or his or her agent between the main and the property line if in a public street, or the easement line if in a private street or an easement. No hose connections for domestic use shall be allowed within the public or private street where the hose connections are accessible to the public.

**21.12.130 Service and Maintenance Responsibility.**

This section clarifies whether it is the responsibility of the Bureau or the customer to maintain, repair, or replace sections of the water supply system. Responsibilities for installation are found in Section 21.12.110 "Installation of Service Pipes from the Main to the Property Line."

**A.** For domestic and irrigation services:

- 1.** If the connection is 1 inch or smaller, the Bureau is responsible for that section that is through the meter and the angle meter coupling. The customer is responsible for that portion downstream from the angle meter coupling.
- 2.** If the connection is larger than 1 inch, the Bureau is responsible for that section that is through the meter and the meter valve. The customer is responsible for that portion downstream from the meter valve.

**B.** For fire service, the Bureau is responsible for that section that is from the main through a valve between the curb and property line. The customer is responsible for the that portion downstream from the valve between the curb and property line. The customer is responsible for the repair of any facilities within the public right-of-way that are damaged as a part of his or her maintenance or repair work.

When a service pipe at the proper grade is damaged or destroyed by contractors or others in the performance of street work or where service pipes are damaged by electrolysis, the person, contractor, or company responsible for such damage or destruction shall be billed by the Bureau of Water Works for the cost of repairing or replacing such pipes on the basis of the cost plus overhead, as provided in the finance regulations of Title 5 of the City Code.

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#### **21.12.140 Water Pressure at Service.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau's goal is to provide water pressure to the property line in the range of 40 pounds per square inch (psi) to 110 psi. The State of Oregon Health Division rules dictate that a water service must provide a minimum of 20 psi at the meter. Pumps, elevated reservoirs and tanks and pressure reducing valves are utilized to provide pressure in the range of 40 psi to 110 psi where possible or practical. The Bureau of Development Services, Plumbing Division, through Title 25 of the City Code, regulates pressure on private property and requires a pressure reducing device for on-site domestic water systems that receive water at greater than 80 psi.

If the pressure to the service is within the range of 20 psi to 40 psi, the customer may choose to install a booster pump system on the premise to improve the working of the private plumbing system. The customer is responsible for the installation, operation and maintenance of any pressure boosting system. The addition of a booster pump will require an appropriate backflow prevention assembly be installed on the water service, on private property, and directly adjacent to the property line.

The Water Bureau does not guarantee that water can be provided continuously at a particular pressure or rate of flow. Varying demands on the system and the requirement to change operations affect the flow and pressure available to the service.

#### **21.12.150 Damage through Pipes and Fixtures.**

The Bureau of Water Works shall in no case be liable for damages occasioned by water running from open or faulty fixtures or pipes installed by the customer or on the customer's property.

#### **21.12.160 Bureau Authority to Disconnect a Customer Due to Potential Damage to Water System or To Another Customer's Facility.**

The Bureau may disconnect a customer if it determines that operation of his or her system or facilities is causing pressure surges and/or creating other hazards that are detrimental to operating the City water system or the water system or facilities of another customer.

If the Bureau determines that such operations present a significant hazard, the customer may be disconnected without prior notice. The Bureau will notify the customer of the disconnection as soon as is reasonably possible and explain the necessity of the action taken. Before the water service is reconnected, the customer must provide the Bureau assurance that changes have been made that will preclude a recurrence of the hazardous condition.

Where a hazard exists, but potential damage is not judged to be imminent, the Bureau shall give the customer prior notice of the intent to disconnect. The Bureau shall state the reason for the disconnection, and offer an opportunity to be heard on why the customer's operation is not detrimental or hazardous.

**21.12.170 Use of Private Water and City Water.**

Owners of buildings desiring to use both the City water supply and a supply of water other than that furnished by the Bureau may obtain water service only upon the following conditions. An approved backflow prevention assembly must be installed on the service connection to the premises as outlined in the Bureau's "Backflow Assembly Installation Requirements." If water from a supply other than that provided by the Bureau is found without proper backflow protection the City water supply to the premises shall be immediately shut off with or without notice. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection, or potential cross connection has been completely and permanently eliminated or that an approved backflow prevention assembly commensurate to the degree of hazard has been installed on the service connection to the premises, and the assembly has been inspected, tested, and registered with the Bureau.

**21.12.180 Disconnection of Service When Charges Have Not Been Paid.**

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Bureau may disconnect a water service at the meter when monthly charges are not paid. If a monthly service charge is not paid for a period of one (1) year, the Bureau will consider the service abandoned and may disconnect the service at the main. The Bureau may disconnect a leaking service at the main sooner than 1 year if payment has not been made.

**21.12.190 Reactivation of Abandoned Service.**

(Amended by Ordinance No. 179978 and 180120, effective June 9, 2006.) A customer may apply to the Bureau to reactivate an abandoned service where the meter has not been removed pursuant to Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid." Existing pipe and connections may be used if the Bureau determines them to be in sound condition and adequate for the intended use. The Bureau may require installation of a backflow prevention assembly on reactivated services.

The customer shall pay for replacement of the existing piping and/or connection if the piping and/or connection is unfit for use and standby charges have not been continuously paid. The customer shall pay the full installation fee if the service is desired at a different location than existing or if they desire a service that requires a larger pipe and connection. The customer must pay any charge required to reinstall a meter on the service.

**21.12.200 Leaking or Unused Services.**

Where there is a leak within the public right-of-way or within a Water Bureau easement between the main and the meter of a domestic service, or between the main and the valve behind the curb of a fire service, the Bureau shall make all repairs free of charge. However, if the leak is on a service for which the service charge, standby charge, or other charges are not being paid, the Bureau will cut out the service at the main. Where a water service pipe has been disconnected from the main, the owner of the premises previously serviced shall obtain a new permit and pay for a new service connection whenever a water service is desired. Services replaced because of leaks shall be renewed

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in the same size as the service removed, subject to the provisions which allow a customer to request a change of service size (see Section 21.12.060 "New Service Where Change in Size or Relocation is Desired.") The Water Bureau may require the installation of an approved backflow prevention assembly when this new service is approved.

#### **21.12.210 Master Metering of More Than One Water Service.**

At the Administrator's sole discretion, the Bureau may permit the master metering of more than one water service. In such case, the owners or occupants of the premises served shall designate one of their number who shall, through written agreement with the Bureau, be responsible for the payment of all water charges and the acceptance of service of all water related notices. This person shall be liable for all water related charges until the agreement is terminated or an agreement is established with another party. In the event payment for water charges is not made in full when due, the Bureau may terminate the service pursuant to normal procedures, in spite of the tender of partial payment by any other owner or occupant of the premises so served.

#### **21.12.220 Fire Protection Service.**

(Amended by Ordinance No. 180120, effective June 9, 2006.) Water through a fire service shall be used only to extinguish a fire on the inside and the outside of the structure(s) that it serves and to test the fire system. A fire service is specifically not to be used for domestic, maintenance, or irrigation purposes.

The Bureau shall install and maintain a meter for a fire service of less than 2 inch. A fire service 2 inch and larger that supplies only a fire system shall be equipped with a detector metering device that is part of the backflow prevention assembly. This Assembly shall be installed and maintained by the customer. In addition, the Bureau shall install and maintain a metering device on a fire service that has private on-site fire hydrants, hose systems or other appurtenances that would allow the unauthorized use of water through the fire system for purposes other than to extinguish a fire. A service that supplies water for multiple needs, such as for domestic use and for fire suppression, shall be fully metered and shall comply with the requirements of Section 21.12.030 "Application for Installation or Removal of Water Service."

Backflow protection which complies with Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection" is required on all fire services. All costs associated with providing backflow protection are the responsibility of the property owner.

To avoid unauthorized use of a fire protection system the Bureau will require the owner to install an approved full-flow meter under the following conditions:

- A.** The existing detector metering device registers use of water for purposes other than to extinguish a fire or to test the system, or;
- B.** Connections have been added to a system provided with a detector meter or detector double check valve assembly.



When full-flow metering is required because of unauthorized use, the Bureau shall charge the customer for installing the meter, the meter vault, and shall assess a system development charge based on the size of the service. The Bureau policy for additional charges for unauthorized use of water from a fire protection system is established in Section 21.16.200 "Charges for Unauthorized Use of Fire Protection Services."

**21.12.230 Permit and Report Required to Do Plumbing Work.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) It is unlawful for any plumber or other person to make connections, installations, replacements, extensions, or repairs to any City water service pipe, or to connect one service pipe with another service pipe, or extend a pipe from one building to another building, or to turn water on or off at any premises without having first obtained permission in writing from the Administrator or Chief Engineer. Such changes may require the installation of an approved backflow prevention assembly, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." After the issuance of a permit to a plumber or other person authorized by the plumbing inspector to do plumbing work, the permittee shall make a report in writing to the Plumbing Division of the Bureau of Development Services of all connections, attachments, and extensions made in accordance with the permit within 3 days after completion of work.

**21.12.240 Service Location Change.**

When the service connection of any premises does not come from the main in front of the premises, the Bureau shall, when a main is laid in front of said premises, after notifying the owner or tenant thereof, provide a service connection to the new main without charge and at the same time, cut the old service connection. The property owner shall be responsible for the building connection to the new service. When services are relocated the Bureau may require installation of backflow protection, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection."

**21.12.250 Location of Meters Inside City.**

Within the City, the water meter shall be located in or adjacent to street area where the Bureau fixes such location, except where a City water main is already located in an easement upon private property. For service within easements the Bureau may allow location of a water meter on or adjacent to such existing line, if necessary easements for the meter installation are offered to and accepted by the City.

**21.12.260 Water Service in Basements within the Public Right-of-Way.**

A metered water service installed within a building's basement that extends into the public right-of-way must be enclosed to prevent damage to the building and its contents. The owner of the property served, at the owner's expense, shall fabricate and install a waterproof vault that encloses the entire water service from the wall penetration to the backside of the meter assembly. The vault shall be installed so that the meter can be read and serviced from the sidewalk area above. The vault shall be designed and installed to

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support the meter assembly and the full weight of water that may fill the vault. The vault shall have a gravity drain to the storm sewer. At the owner's expense, the Water Bureau shall furnish a frame and cover for the meter vault, which will be installed by the owner. The vault shall be constructed of material that resists corrosion or be protected by a corrosion resistant coating. The owner shall maintain the vault to keep it free of corrosion and in a clean condition. The owner shall provide a penetration through the outside basement wall for installation of the service and shall seal the opening after installation of the pipe. The owner shall seal all openings of the vault except those leading to the sidewalk area.

Except in cases of new services, the owner of the property together with affected lessees, if any, as an alternative to compliance with this Section, may execute for the benefit of the City an agreement, in a form satisfactory to the City Attorney, (1) waiving any claim for damages for personal injury or property damage against the City and its officers, agents, and employees arising out of non-compliance with the requirements of this Section and (2) defending and holding harmless the City and its officers, agents, and employees against any claim by any person for damages for personal injury or property damage arising out of non-compliance with the requirements of this Section.

#### **21.12.270      Ownership of Meters.**

(Amended by Ordinance No. 180120, effective June 9, 2006.) All new services will have meters provided and installed by the Bureau; except sewer meters, commercial, domestic and irrigation submeters, and as provided for fire protection in Section 21.12.220 "Fire Protection Service." The cost of the meters plus installation shall be charged to the customer requesting the new service. The new meters shall be owned by the Bureau. The Bureau shall assume all repair, maintenance, and future replacement responsibilities for the new meters. Where private meters exist, that are used by the Water Bureau for billing purposes, the Bureau shall perform all future repair, maintenance, and replacement work at no charge to the owners. If the private meter is determined to be obsolete, the Bureau shall replace the privately owned meter with a new Bureau-owned meter at no charge to the owner. The Bureau shall assume all responsibility for the cost of future meter repair or replacement. As outside areas are annexed to the City, privately owned meters shall be repaired or replaced on an as-needed basis with new Bureau-owned meters at no expense to the owner. All annexed services will be required to meet the backflow protection requirements, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." All costs of adding backflow protection shall be the responsibility of the property owner.

#### **21.12.280      Damaged Meters Owned by the City.**

Whenever a meter owned by the City is damaged by hot water or damaged by the carelessness or negligence of the owner or occupant of the premises, or others, the Bureau will repair the meter and charge the bill against the property served or to the person or persons responsible for the damage. The cost of the repairs shall be as prescribed in the annual water rate ordinance.

**21.12.290 Meter Area and Access To Be Clear.**

Bureau personnel must have access to read and maintain water meters. It is unlawful to block meter access. It is unlawful for any person to store or maintain any goods, merchandise, material, or refuse, or install equipment over, under, or within 6-feet of any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau. It is unlawful to park a motor vehicle over, upon, or in such a manner as to prevent access to any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau regardless of whether such Bureau property is located on public or private property. Whenever it is necessary to enter a building to read the meter or work on the water connections, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the entrance of the building to the meter. Shrubs and landscaping shall not obstruct reading of the meter. Any obstructions may be trimmed or removed by the Bureau, and the owner or occupant and the premises may be charged as prescribed in the finance regulations, Title 5 of the Portland City Code.

**21.12.300 Shut Off Because of Defective Installation of Meters.**

Whenever water meters inside the City are found by the Bureau to be without adequate support, or with defective plumbing, or without shut-off equipment necessary to permit meter tests by the Bureau, or where through earth movements or subsidence, pipe bends, or connections have become faulty or are not tight, then the Bureau shall notify the owner to remedy the condition within 10 days from the date of notification. Where the notice has been given specifying the repairs or alterations to be done, then if the repairs or alterations are not completed within the time allowed, the water service shall be shut off until the repairs or alterations are completed. The Administrator may allow additional time for completion of repairs or alterations for extenuating circumstances.

**21.12.310 Authority for Testing and Repairing Meters.**

The Bureau may test and/or repair any meter on services supplied directly or indirectly by the Bureau at any time without application from the property owner and for this purpose may upon notice temporarily shut off the water. If a meter which is larger than 1 inch on City lines requires repairs, the Bureau shall give notice to the property owner or user and immediately place said meter in good working order. If the meter is not repairable due to wear, obsolescence or parts that are not available, the Bureau will replace the meter in accord with Section 21.12.270 "Ownership of Meters."

**21.12.320 Contamination of the City Water Supply and Requirements for Backflow Protection.**

(Amended by Ordinance No. 180120, effective June 9, 2006.) It is unlawful for the owner of property or the user of City water to introduce or permit the introduction of pollution or contamination of any kind into the City water supply system.

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- A.** Authority to Require Backflow Protection. Oregon State Administrative Rules Chapter 333 (OAR 333) require water suppliers to "undertake programs for controlling, and eliminating cross-connections." These programs are for the purpose of preventing pollution and contamination resulting from inadequate backflow protection. These State regulations apply to "Community Water Systems" which include the City of Portland's water system. Through this section the Bureau adopts by reference OAR 333. The Bureau's detailed requirements are found in the document entitled "Backflow Assembly Installation Requirements" and is available from the Bureau. Backflow prevention assemblies are approved for use in Oregon by the State of Oregon (see "Approved Backflow Prevention Assembly List" available from the Bureau and the State of Oregon). As required by OAR 333, the Bureau shall require an approved backflow prevention assembly when the Bureau determines that: a complete physical separation from the City water system is not practicable or necessary; adequate inspection for cross-connection cannot be readily made; or there exists a possibility of backflow contamination resulting from special conditions, use, or equipment. The Bureau may require an approved backflow prevention assembly to be installed for new construction, where buildings or structures are remodeled, or where tenant improvements are made.
- B.** Requirements for Testing Assemblies and Maintaining Backflow Protection. All assemblies must be tested immediately after installation or if the assembly is moved or repaired. Assemblies must also be tested at least once a year, on a schedule to be determined by the Bureau, or more frequently as determined necessary by the Bureau to provide adequate backflow protection. Tests shall be performed by a tester who is certified by the State of Oregon. Copies of the test results shall be provided to the water user or the owner of the premises and to the Bureau. Backflow prevention assemblies which are not functioning properly shall be repaired promptly and retested or replaced. The water user or owner of the assembly will be responsible for all associated costs of repair, testing and replacement.
- C.** Authority to Deny or Discontinue Service When Backflow Protection is Inadequate. As required by OAR 333, where the Bureau has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, the Bureau shall deny or discontinue service. The Bureau shall also deny or discontinue service to a premise whenever an assembly is found to be malfunctioning or is not being properly maintained, tested, or repaired. Service shall not be provided or reestablished until adequate and approved backflow protection is installed and/or tested, or the cause of the hazard is otherwise eliminated.

**Chapter 21.16**

**RATES AND CHARGES**

**Sections:**

21.16.010	Annual Water Rates.
21.16.020	Annual Statement To Be Filed.
21.16.030	Water Charged to Premises User.
21.12.040	Delinquent Water Bills.
21.16.050	Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.
21.16.060	Responsibility for Water Charges When Property Changes Ownership.
21.16.070	Collection and Work Orders.
21.16.080	Dates and Places of Payment.
21.16.090	Deposit and Application.
21.16.100	Deposit of Money Received.
21.16.110	Bureau May Contract for Collection of Revenues.
21.16.120	Collections, Adjustments and Refunds.
21.16.130	Adjustments on Account of Leaks.
21.16.140	Authority to Estimate Bills.
21.16.150	Testing Meters.
21.16.160	Service Installation Fees.
21.16.170	System Development Charge.
21.16.180	Standby Service Charge.
21.16.190	Charges for Water Used to Extinguish a Fire.
21.16.200	Charges for Unauthorized Use of Fire Protection Service.
21.16.210	Billing and Collection of Sewer User Charges.
21.16.220	Billing and Collection for Others by Contract.

**21.16.010      Annual Water Rates.**

The Portland City Council approves and sets water rates for each fiscal year that will provide an estimated income to equal expenses and debt service relating to water bonds. (Section 11-105 of the Portland City Charter). The Bureau prepares the proposed annual water rate ordinance and the City Attorney reviews the ordinance. The Bureau files the ordinance with the Auditor not later than May 20 of each year.

**21.16.020      Annual Statement To Be Filed.**

An annual detailed statement of its income and expenditures shall be made and signed by the Administrator and shall be filed with the Auditor, who shall preserve the same among the files of his or her office. This annual report shall include a statement of the financial condition and pertinent engineering data of the Bureau of Water Works.

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#### **21.16.030 Water Charged to Premises User.**

All charges for furnishing water within the City and also to premises outside the City served directly by the Bureau shall be chargeable to the user of said water at that premises (or any former premises where water was supplied). If the premises are not in use the daily fixed charges shall be the responsibility of the owner. A property owner or his or her agent may become obligated for charges for furnishing such water to the user by accepting responsibility for payment thereof or by agreement with the Bureau. Where a user or property owner has a delinquent bill for one premises, said delinquency shall be a charge against said user or property owner (for water obtained) at any of his or her other premises served by the Bureau.

#### **21.16.040 Delinquent Water Bills.**

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Director of the Revenue Bureau or his or her designated representative shall have the authority to shut off water service to any customer when any charge to that customer has not been paid within 10 days after that charge is due and payable.

Before water service is shut off the Revenue Bureau shall give written notice to the service address provided by the water user as well as to the mailing address of the property owner or the party who has agreed with the Bureau to accept responsibility for payment. Such notice shall state the anticipated date when the water will be shut off, as well as informing the customer of his or her right to request an administrative review, and the procedure for requesting the review, to challenge the shut off.

It is the obligation of the water user or responsible party to ensure that the Revenue Bureau has the most current and accurate address for the user or responsible party. There is no obligation on the part of the Bureau to determine if the address provided is the best or the most current address.

Once service is shut off, water shall not again be provided until all outstanding obligations for water provided to that user shall have been paid, or arrangements for payments have been made with the Revenue Bureau, including additional charges as established in the annual water rate ordinance.

The Revenue Bureau Director or designated representative may, but is not obligated to, allow for continuation of water service for a specified period of time prior to payment of outstanding charges if it is determined that the lack of water will endanger health or cause substantial hardship. The continuation of water service may also be allowed when the delinquent customer is willing to enter into a payment arrangement satisfactory to the Director for payment of all of that customer's delinquent amounts. However, if the charges are not paid as agreed, then the water may again be shut off and not turned on again until the outstanding charges are paid in full or arrangements for payments are made with the Bureau.

The Revenue Bureau Director or designated representative may institute legal proceedings and contract with third parties for the collection of delinquent water bills and charges. The Director or representative may require that a deposit be made with the Bureau to ensure payment of future water bills and charges.

**21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.**

Either a property owner or a renter may notify the Bureau of the date to open or close an account for a renter. The Bureau will honor the first date on which the request was received to open or close the account. The Bureau will change this date if agreed to by all other affected parties. The Bureau will not mediate a dispute between landlord and renter regarding the dates when billing responsibility changes.

The Bureau bills all water service charges daily, regardless of whether the property is occupied or vacant. The property owner is responsible for all water charges while a property is vacant and no renter has accepted responsibility for water charges. If neither the renter nor the owner notify the Bureau that a renter has left tenancy, and the Bureau determines by a visit to the property that the property is vacant, water charges shall commence on that date to be applied to the owner.

**21.16.060 Responsibility for Water Charges When Property Changes Ownership.**

When a property is sold, the seller is responsible for all water charges until the date the buyer is entitled to possession. If there is a dispute between the seller and the buyer about the date of possession, the Bureau will use Multnomah County taxation records to verify the legal recording date.

**21.16.070 Collection and Work Orders.**

All payments and refunds shall be made by the Finance and Support Services section of the Bureau. The Finance and Support Services section shall assure that charges and credits are posted to customer accounts. Work orders for main extensions, service connections, and meter installations for which a deposit or charges are or may be made under this Title, shall be established by the Engineering Services section of the Bureau.

**21.16.080 Dates and Places of Payment.**

(Amended by Ordinance No. 179978, effective April 7, 2006.) Charges for water use shall be computed, and bills mailed, on a schedule determined by the Director of the Revenue Bureau. The billing schedule shall be kept on file by the Bureau. The water bill, with a due date, will be payable at either the Bureau or at authorized locations established by written agreement with the Director.

**21.16.090 Deposit and Application.**

An application, deposit, or both, for water service may be required from all new customers, customers shut off for nonpayment, or those customers with unsatisfactory credit moving within the Bureau's jurisdiction. Unsatisfactory credit is defined as not meeting credit and collection industry standards or by the Administrator. Failure to provide either the application, deposit, or both within the due date specified by the Water Bureau may result in discontinuance of service.

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#### **21.16.100 Deposit of Money Received.**

All monies collected or received by the Bureau of Water Works for the use and consumption of water or otherwise shall be deposited with the bank designated by the Treasurer of the City. The Treasurer shall keep the same separate and apart from the other funds of the City in funds to be known as the Water Fund and the Water Construction Fund, and pay it out only on checks signed by the Mayor, countersigned by the Auditor, and not otherwise.

#### **21.16.110 Bureau May Contract for Collection of Revenues.**

The Commissioner-In-Charge of the Bureau and the Auditor are hereby authorized to enter into contracts for periods not to exceed 5 years with such persons or corporations as may be selected by the Administrator for the collection of water revenue for the City. The contracts shall provide for compensation for collection and may cover certain expenses related to revenue collection. The contracts shall require that a bond be furnished by the collection agent or the City, at the City's option, the premium for such bond may be paid for by the City. The bond shall be conditioned upon the performance of such contract, and shall be in such form as may be satisfactory to the Administrator and the City Attorney.

#### **21.16.120 Collections, Adjustments and Refunds.**

(Amended by Ordinance No. 179978, effective April 7, 2006.) Water bills shall be computed monthly, bimonthly or quarterly and billed by the Utilities Customer Services Division of the Revenue Bureau.

All payments shall be made to, and refunds made by, the Utilities Customer Services Division of the Revenue Bureau. The Utilities Customer Services Division shall ensure that charges and credits are posted to customer accounts.

The Director of the Revenue Bureau or his or her designated representative may make adjustments, pay refunds or waive fees and charges where it is deemed necessary for the proper conduct of the business of the Bureau. A full explanation of the reason for an adjustment or refund must be filed with the Bureau records and available upon request. Refunds are to be made to the party who made the payment. Upon written request, the Bureau shall provide the customer with a written explanation detailing the circumstances of the error and the calculation of any adjustment or refund.

When the Bureau determines that a customer has been charged too much for water services, the refund shall be based on the date the error first occurred or as best determined from available records. If the date cannot be verified, the Bureau will estimate the amount of the refund based on a period not to exceed three years. The Bureau will make reasonable efforts to issue refunds due to customers who no longer have an account.

When the Bureau determines that a customer has not been charged enough, the Bureau will adjust the bill based on the date the error first occurred, the date the current customer became responsible for the bill, or three years, whichever is less. If a current customer has not been billed because the Bureau was not notified of his or her responsibility for payment, the Bureau will adjust the bill on the date the customer became responsible for



the bill. If the date cannot be verified, the Bureau will estimate the bill covering a period not to exceed six months. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

Adjustments and accruals shall be in the form of credits or additional charges. Credits shall be payable to, and charges shall be payable by, the customer of record during the time the error existed.

**21.16.130 Adjustments on Account of Leaks.**

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Director of the Revenue Bureau or his or her designated representative may make adjustments to water use charges where a leak exists in the water system on the customer's side of the meter. The customer must make reasonable efforts to locate the leak and initiate repairs within 30 days after the leak was detected and have repairs completed within 90 days of notification.

**21.16.140 Authority to Estimate Bills.**

When a meter fails to register accurately, the Bureau shall charge for water based on the historic usage of water at the premises. Adjustments to the estimated bill may be made consistent with the provisions of 21.16.120 "Adjustments and Refunds."

**21.16.150 Testing Meters.**

When any water customer makes a complaint that the bill for any particular period is excessive, the Bureau will, upon request, have such meter reread and the service inspected for leaks. Should the customer then desire that the meter be tested, he or she shall make a deposit as prescribed in the annual water rate ordinance to cover the cost of making the test. Should the meter upon testing show a registration in excess of 3 % in favor of the Bureau, the amount deposited will be refunded and the Bureau shall make an adjustment for the estimated excess consumption on the bill immediately preceding and/or the current bill. The excess registration on the reading for the previous and/or current billing period shall be credited to the account. Where no error is found exceeding 3 % in favor of the Bureau, the amount deposited will be retained to cover the expense of such test.

**21.16.160 Service Installation Fees.**

The fees for installing and/or activating water service up to and including 1-inch in size shall be as provided in the annual water rate ordinance and shall be paid prior to service installation.

The fees for installing services greater than 1-inch shall be based on the Bureau's costs plus overhead, as provided in the finance regulations, Title 5 of the Code of the City of Portland. The applicant may choose to pay either a set price based on the Bureau's estimate or the actual cost of the installation. If the applicant accepts the Bureau's estimate as the set price these costs must be paid before the Bureau will perform the work. After a set price has been established, the Bureau will not refund or adjust installation charges unless changes in installation or location are requested by the

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applicant.

If the applicant chooses to pay the actual costs plus overhead he or she shall submit a deposit equal to the estimated cost before the Bureau will begin the work. When the estimated cost differs from the actual for labor, materials, and overhead the deficit shall be charged to the applicant or any excess payment shall be returned to the applicant.

In addition to the service installation fees, an applicant for new service must pay the System Development Charge, as described in Section 21.16.170 "System Development Charge" and as set in the annual water rate ordinance. If the service branch has been installed by a developer as allowed in section 21.12.110 "Installation of Service Pipes from the Main to the Property Line," the applicant will be charged for only the applicable system development charge and any charge for service activation as set in the annual water rate ordinance.

#### **21.16.170 System Development Charge.**

A customer requesting a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service").

#### **21.16.180 Standby Service Charge**

After July 1, 1999 a customer may elect to pay a standby service charge when water service is not currently needed, but will be needed in the future. The intent of standby service is for premises for which water will not be used for at least 1 year. If the customer elects standby service, the Bureau may remove the meter or physically disconnect the service at the property line. A customer must request standby service in writing from the Bureau. To reactivate the full water service, the customer must make payment to the Bureau for reactivation, as well as for any water use recorded on the meter during the period of standby service (see Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid"). The standby service charge shall be established in the annual water rate ordinance.

#### **21.16.190 Charges for Water Used through a Fire Protection Service.**

No charge shall be made for water used to extinguish a fire. Except as otherwise noted in this section, a customer may use water from the City to test the fire protection system. Water used to pressure test a fire protection system will be registered on detector check metered firelines, or estimated on unmetered firelines. Flow testing a fire protection system requires that the Bureau install a metering device on the service to register the water used.

Water used for testing a service for fire protection shall be charged at the commodity rates prescribed in the Water Rate Ordinance, as annually adopted by the City Council. Sewer charges will normally not be assessed for water used to test a fire protection

system. Testing that results in a volume of water that is determined to have a measurable impact on the sewer system may subject that service to a sewer charge.

Testing of a fire service may not be conducted in a manner that will degrade the public water system. Flow testing through a fire service shall not reduce the pressure in the main less than 50% of maximum static pressure and shall in no case reduce the pressure below 30 lbs per sq. in. In this regard, prior to testing large flows, the customer shall consult with the Bureau to determine limits of flow and to develop methods that may mitigate any detrimental effects on the public water system. Repeated testing of a fire service that violates a Bureau-approved testing program or affects the average daily water system conditions by more than allowable will result in a reclassification of the type of service and the collection of a System Development Charge.

**21.16.200 Charges for Unauthorized Use of Fire Protection Service.**

A fire service is to be used to extinguish a fire, and is specifically not to be used for domestic, maintenance, or irrigation purposes. (See Section 21.12.220 "Fire Protection Service.")

There are progressively increasing charges for unauthorized use of water supplied through firelines. There is a commodity charge of three times the normal rate for water for the first unauthorized use, and ten times the normal rate for all later unauthorized uses. If unauthorized use continues, the Bureau will install a full-flow meter and bill the customer for the full costs of the meter as well as System Development Charges. These policies and procedures are further detailed in the annual water rate ordinance.

**21.16.210 Billing and Collection of Sewer User Charges.**

The annual fee for billing and collecting sewer user charges by the Bureau shall be on a basis of agreement between the Commissioner-In-Charge of sewage disposal and the Commissioner-In-Charge of the Bureau of Water Works, and as approved annually by the City Council in the budget cycle.

**21.16.220 Billing and Collection for Others by Contract.**

The Bureau may bill and collect for user fees and services provided by other public and private entities as established by contracts approved by City Council. All revenue collected for other entities will be deposited in separate accounts.

**Chapter 21.20**

**TURNING ON OR SHUTTING OFF**

**Sections:**

- 21.20.010 Application To Turn On Water.
- 21.20.020 Temporary Shut Off.

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- 21.20.030      Unlawful To Turn On Water Without Authority.
- 21.20.040      Charges for Service Pipes Connected Without Permit.
- 21.20.050      Authority To Shut Off Service.

### **21.20.010      Application To Turn On Water.**

Applications to turn on water must be signed by the owner and agent of the property involved and must be filed with the Bureau before they become effective.

### **21.20.020      Temporary Shut Off.**

(Amended by Ordinance No. 179978, effective April 7, 2006.) An owner, agent, or tenant may request by telephone, in writing, or in person that the Bureau temporarily discontinue water service. Fire protection service may only be discontinued upon written request of the owner or authorized agent and approved by the Fire Bureau. Daily service charges will continue during temporary shut off.

### **21.20.030      Unlawful To Turn On Water Without Authority**

It is unlawful to use or permit use of City water through a service that has been shut off. Should the water be turned on without authority from the Bureau, the Bureau may stop water service either by shutting off the water at the main, by removing the meter, or by any other appropriate method.

The charge for removing the meter and the charge for replacing the meter shall be in accordance with the annual water rate ordinance. The charge for stopping water service by any other method and the charge for subsequent restoring of the water service, shall be as provided in the Title of the City Code which addresses finance regulations. All such charges shall be charged to the user and when the delinquent user occupies the premises, water shall not again be furnished to the premises until the charges are paid.

### **21.20.040      Charges for Service Pipes Connected Without Permit.**

When premises or additional premises are connected without the application prescribed in Section 21.20.010 "Application to Turn On Water." the premises may be charged as prescribed in the annual schedule of water rates and the service may be shut off by order of the Administrator. In case water shall be turned off as provided in this Section, the same shall not be turned on again until all rates and charges against the premises have been paid in full.

### **21.20.050      Authority To Shut Off Service.**

The Bureau reserves the right at any time, without notice, to shut off the water supply for repairs, extensions, nonpayment of bill and charges or any other reason. The Bureau shall not be responsible for any damage, such as the bursting of boilers, the breaking of any pipes or fixtures, stoppage, or interruption of water supply, or any other damage resulting from the shutting off of the water.

**Chapter 21.24**

**RULES AND REGULATIONS**

**Sections:**

- 21.24.010      Animals Prohibited on Watershed or City Property.
- 21.24.020      Fire Hydrants.
- 21.24.030      Water for Naval Vessels in Harbor.
- 21.24.040      Access to Premises for Inspection.
- 21.24.050      Unlawful to Damage, Alter, or Tamper with Water Property.
- 21.24.060      Emergency Loan of Materials.
- 21.24.070      Impairment of Service to Other Customers.

**21.24.010      Animals Prohibited on Watershed or City Property.**

It is unlawful for any person to permit domestic animals to run at large on any lands owned by the City, situated in Multnomah County, or in Clackamas County, used by the City in connection with the headworks of the Bureau of Water Works or in lands owned by the City within the area of the National Forest Reserve, which lands are used in connection with the Bureau of Water Works of the City.

**21.24.020      Fire Hydrants.**

It is unlawful for any person to operate, alter, change, remove, disconnect, connect with, or interfere in any manner with any fire hydrant owned or used by the City without first obtaining written permission from the Bureau. Penalties for unauthorized use of a fire hydrant are set in the annual water rate ordinance. The provisions of this Section shall not apply to the Bureau of Fire of the City.

Public fire hydrants are available for use of the Fire Department in the suppression of fire within the City. No other use of public hydrants shall be allowed except as provided in this Section and in Section 21.12.090 "Permit for Temporary Service," and 21.12.100 "Annual Fire Hydrant Permit." The Bureau may permit short-term use of specified hydrants for activities such as tree spraying, street cleaning, ditch settling, building demolition, and related uses at the discretion of the Administrator, however, in each instance, a permit is required. A Temporary Permit will be issued by the Bureau for a period not to exceed 90 days, and an Annual Permit shall be issued for one year. Upon application the permittee will present a Chapman type (slow closing) gate valve to the Bureau to be tagged with a valid permit listing applicant's name, expiration date, and authorized locations. The permittee will be responsible for compliance with all city, state, and federal rules, regulations, and guidelines regarding the proper use and disposal of water. Rates and charges for usage will be specified in the annual water rate ordinance. Backflow protection will be required on all potential hazards to the public water supply as determined by the Administrator or Chief Engineer.

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All fire hydrants connected to the Bureau's water system within the City and within the public right-of-way or an approved easement are the responsibility of the Bureau for installation and maintenance. Any hydrant connected to the system outside the City will be installed at the petitioner's expense, but will be maintained by the Bureau. The petitioner will be required to pay all expenses for additional hydrant installations to meet requirements of the Fire Bureau and in all instances the Chief Engineer will have final review. The Bureau may elect to allow a contractor to install to Bureau standards, fire hydrants as part of his or her Subdivision under Section 21.08.020 "Distribution Main Extensions Inside the City." The developer will install these hydrants at his or her expense and transfer ownership to the Bureau at such time as the main and appurtenances are accepted by the Bureau to become part of the City system.

#### **21.24.030 Water for Naval Vessels in Harbor.**

(Amended by Ordinance No. 180120, effective June 9, 2006.) The Bureau is authorized to furnish water to any visiting naval war vessel of the United States or to any visiting naval war vessel of any foreign country entering the harbor in the City, without payment. All such connections shall require an approved backflow prevention assembly.

#### **21.24.040 Access to Premises for Inspection.**

To the full extent permitted by law, employees of the Bureau shall have free access, at proper hours of the day, to all parts of buildings and premises for the purpose of inspecting the condition of the water pipes and plumbing fixtures to determine whether cross-connections or other structural or sanitary hazards exist, and the manner in which the water is being used. Whenever the owner of any premise supplied by the Bureau restrains authorized City employees from making such necessary inspections or refuses access therefor, water service may be refused or discontinued.

#### **21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.**

It is unlawful for any person, without authority from the Bureau, to willfully damage, connect to, operate, alter, or otherwise tamper with any City water main, service, meter, meter box, hydrant, valve, or any other facility owned or operated by the Bureau.

#### **21.24.060 Emergency Loan of Materials.**

The Administrator may approve emergency loan of operating materials and equipment on a temporary basis to other governmental agencies, including water districts and municipalities, at their expense upon their written request, if such loan does not adversely affect the operation of the Bureau.

#### **21.24.070 Impairment of Service to Other Customers.**

Where the use of water is intermittent or where such use produces extreme volume or fluctuations that may impair service to other customers, the Bureau may require that the customer provide, at his or her own expense, suitable equipment to reasonably limit fluctuations in use and pressures caused by the customer's equipment or operations.

**Chapter 21.28**

**DISTRIBUTION OF WATER OUTSIDE THE CITY**

**Sections:**

- 21.28.010 Service Outside City.
- 21.28.020 Water Supply to Premises Outside the City of Portland.
- 21.28.030 Water Supply to Distributors by Contract.
- 21.28.040 Information To Be Furnished by Distributors.
- 21.28.050 Resale of Water Prohibited.
- 21.28.060 Local Storage Required.
- 21.28.070 Other Applicable Provisions.
- 21.28.080 Suspension of Service.

**21.28.010 Service Outside City.**

The Bureau may furnish water to places, individuals, water companies, cities, and water districts outside the City boundaries and may charge rates fixed by the Council in the annual water rate ordinance. Subject to the provisions of Section 21.12.010 "Service to Property Adjacent to Water Main" and Section 21.12.270 "Ownership of Meters," the customer must purchase a water service and meter of approved size and design, which shall be located where required by the City.

All service provided outside the City will be required to install a minimum of a double check valve assembly for backflow protection. The assembly shall be installed at the point of connection to the outside user of water. All associated costs of installation are the responsibility of the property owner or user.

**21.28.020 Water Supply to Premises Outside the City of Portland.**

Each individual applicant for a water supply outside of the City shall make application to the Bureau of Water Works upon a form containing the following agreement:

"Application is hereby made for water service at the premises known as ..... outside the City of Portland, Oregon.

"It is understood and agreed that if this service be allowed, the undersigned owner and/or occupant of the premises referred to herein shall pay the rate prescribed by City ordinance from time to time for service at that location; that this service shall be a special contract service and not provided by the City as a common utility service; that the quantity of water supplied by this service may be reduced or the service entirely discontinued at any time when the Council of said City finds such action necessary in order to provide sufficient service to the inhabitants within the limits of said City, that at least 60 days' notice in writing shall be given by the City before such discontinuance may be put into effect; that notice delivered at the premises or at the last known address of the

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owner or applicant shall be sufficient; that the undersigned owner may discontinue service without advance notice of more than 1 day, but shall be responsible for all water served to the premises by the City until notice in writing is given of such discontinuance."

#### **21.28.030 Water Supply to Distributors by Contract.**

When any outside distributor desires to purchase water from the Bureau, the Mayor and the Commissioner-In-Charge of the Bureau may enter into and execute contracts to supply water in accordance with the rates established by the Council and subject to all the provisions of the Charter and ordinances, and may include special terms and provisions found by the Commissioner-In-Charge to be reasonable and appropriate in the particular circumstances.

#### **21.28.040 Information To Be Furnished by Distributors.**

On or before July 31 of each year, all outside City distributors shall furnish to the Bureau information requested by the Administrator, including but not limited to:

- A.** A legal description or map of the distributor's service area, at a scale no smaller than 200 feet to the inch showing the boundaries of the area supplied or to be supplied by its distribution system, and in addition, a map or maps showing all existing mains and those proposed to be installed within the next 12 months, the location, capacity, and overflow elevation of all storage tanks and reservoirs, as well as connections to other sources of water supply, whether such supply is owned by the distributor or obtained from others.
- B.** The origin, capacity, usage, and quality of each alternate source of water supply.
- C.** A detailed list of the total number of new water service connections and locations segregated into the categories of single-family dwellings, duplexes, dwellings of three or more units, commercial, industrial, and private fire line services and the size of the meter for each service installed during the previous 12 months as of June 30.
- D.** A statement listing both the total active and inactive services supplied directly and indirectly by distributor through other distributors as of June 30.

All distributors shall furnish to the Administrator within 10 days after the end of each month a statement showing the number of cubic feet of water sold by each source.

#### **21.28.050 Resale of Water Prohibited.**

Outside City distributors shall sell no water to other distributors without prior written approval of the Administrator. Such sales shall be subject to such conditions as the Administrator may impose. In the event the distributor makes such sales without such approval, the City may make corresponding reductions in the amount of water supplied to



the distributor or may impose rate penalties as deemed appropriate by the Administrator of and the Commissioner-In-Charge.

**21.28.060 Local Storage Required.**

All outside City distributors must provide a minimum storage of 3 times average daily consumption of water. The water supply may be discontinued at any time for noncompliance with this Section.

**21.28.070 Other Applicable Provisions.**

The following sections and provisions of this title shall apply to all outside City distributors and individuals purchasing water from the Bureau:

- 21.08.040 Extending Distribution Mains Outside the City.
- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside the City.
- 21.12.270 Ownership of Meters.
- 21.12.280 Damaged Meters Owned by the City.
- 21.12.290 Meter Area and Access to Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.
- 21.16.010 Annual Water Rates.
- 21.16.030 Water Charged to Premises User.
- 21.16.110 Bureau May Contract for Collection of Revenues.
- 21.16.140 Authority to Estimate Bills.
- 21.16.180 Standby Service Charge.
- 21.20.050 Authority to Shut Off Service.
- 21.24.010 Animals Prohibited on Watershed or City Property.
- 21.24.060 Emergency Loan of Materials.

**21.28.080 Suspension of Service.**

The Bureau may suspend temporarily the delivery of water, for the purpose of making repairs or improvements to its system. During any emergency, the Bureau may apportion the available water supply among its customers in that manner which appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.

## **TITLE 21 WATER**

### **Chapter 21.32**

#### **WATER CONSERVATION MEASURES**

##### **Sections:**

- 21.32.010 Declaration of Policy.
- 21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.
- 21.32.030 Enforcement.
- 21.32.040 Outside City Distributor.
- 21.32.050 Authority of Commissioner-In-Charge to Terminate Rules.

##### **21.32.010 Declaration of Policy.**

It is the policy of the City of Portland to provide clean, healthful, and plentiful water to its residents. There may be circumstances beyond the City's control, however, including most particularly weather conditions and the effects of natural catastrophe or the actions of others on the City's water supply sources, that make it necessary to reduce the water regularly used by the City's residents and apportion among the City's residents a restricted supply of water. In those circumstances, the City intends that water be apportioned in a manner that is consistent with the City Charter and other relevant provisions of this Chapter 21 of the City Code, is determined by the Bureau to be equitable under the circumstances, and takes into account public health and safety.

##### **21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.**

###### **A. Authorization.**

1. When the Commissioner-In-Charge of the Bureau finds that a water shortage exists or is imminent or that any other emergency situation exists which threatens seriously to disrupt or diminish the municipal water supply, the Commissioner-In-Charge may authorize the Administrator to adopt rules, procedures, and forms to restrict water use in a manner that accomplishes the policy announced in this Subsection of the City Code and to otherwise implement the provisions of this Subsection.

###### **B. Procedure.**

1. Any rule to implement this Subsection or its amendment or recision, except as provided in Subsection B.3 below, shall be adopted pursuant to the public review process described in Subsection B.1.
  - a. Whenever the Administrator proposes to issue, rescind, or amend a rule, the Administrator shall first publish notice of such intent in a newspaper of general circulation in the Portland metropolitan area.

The notice shall include, at a minimum, the following: a statement of the time and place of any public meeting on any proposal; a statement of the purpose of the proposal; either the specific language of the proposal or a description of the proposal's contents; when language of the proposal is not included in the notice, the location at which copies of the full proposal may be read or obtained; the name of the person at the Bureau to whom questions about the proposal may be directed; and the announcement of the opportunity to provide written comments on the proposal to the Administrator within 30 days of the date the notice is published.

- b.** Forty-five days after publication of the notice, the Administrator shall hold a public meeting which shall record testimony and oral comments on any proposed rule(s). The Administrator may continue any such hearing to another date.
  - c.** After consideration of public comments and other relevant matters, the Administrator may issue the rules in final form. Notice of the issuance of the rules shall be given in a newspaper of general circulation in the same manner as the notice of a proposal to make, rescind, or amend rules.
- 2.** Unless otherwise stated in the rule, any rule shall become effective and enforceable upon issuance of the notice required in B.1.c above and shall be filed in the office of the Administrator.
- 3.** Notwithstanding Subsection B.1 above, an interim rule may be adopted without prior notice and without following the procedure of that Subsection upon a finding by the Administrator that failure to act promptly will result in serious prejudice to the public interest. Any rule adopted pursuant to this Subsection shall be effective for a period of not longer than 180 days.

**21.32.030 Enforcement.**

- A.** Customers who fail to comply with the requirements or prohibitions of this Chapter or rules adopted hereunder may be subject to enforcement actions by the Administrator.
- B.** Violations.
  - 1.** A violation shall have occurred when any requirement or prohibition of this Chapter or rules adopted hereunder has not been complied with.

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2. Each separate occasion on which a violation occurs shall be considered a separate violation. No more than one violation per prohibited use per day shall be issued.
- C. Enforcement mechanisms. In enforcing any of the requirements or prohibitions of this Subsection or rules adopted hereunder, the Administrator may:
1. Issue warning notices;
  2. Issue notices of violation and orders to comply;
  3. Institute an action before the Code Hearings Officer;
  4. Issue civil penalties, as set out in rules adopted under the authority of this Subsection; or
  5. Take such other action as the Administrator deems appropriate.
- D. Penalties. Violations of this Subsection or of rules adopted hereunder may be subject to the following penalties per violation:
1. Fine(s) up to \$500.
  2. Installation of a flow restrictor on the City side of the customer's water meter;
  3. Termination of water service.
- E. Appeal of enforcement action. Upon receipt of a notice of an enforcement action, a customer may appeal the Administrator's action within 30 days to the Code Hearings Officer in accordance with procedures set out in Chapter 22 of the Portland City Code; provided that such an appeal shall include a copy of the action that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Water Works.

### **21.32.040 Outside City Distributor.**

Notwithstanding Subsection 21.32.010 to 21.32.030, water curtailment for outside city distributors shall be instituted pursuant to wholesale contractual agreements.

### **21.32.050 Authority of Commissioner-In-Charge to Terminate Rules.**

When the Commissioner-In-Charge finds that the remaining water supply exceeds anticipated demand, and that the water shortage or any other emergency situation no longer exists or is imminent, the Commissioner-In-Charge may authorize the

Administrator to terminate rules, procedures, and forms that had been adopted to restrict water use.

**Chapter 21.35**

**WELLHEAD PROTECTION**

(Added by Ordinance No. 177668,  
effective July 1, 2003.)

**Sections:**

- 21.35.010 Establishment of Wellhead Protection Area.
- 21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.
- 21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.
- 21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.
- 21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.
- 21.35.060 Enforcement.
- 21.35.070 Inter-Agency Cooperation.
- 21.35.080 Building and Site Permit Review and Approval.
- 21.35.090 Rulemaking.

**21.35.010 Establishment of Wellhead Protection Area.**

The Bureau of Water Works is authorized to establish wellhead protection areas in order to regulate the storage, handling, use and transportation of materials that could contaminate groundwater. The Bureau of Water Works shall establish the boundaries of wellhead protection areas based on the best available information about the dynamics of the aquifers that existing and future wells tap, the time-of-travel of hazardous materials and other relevant factors. The Bureau shall publish a map of all designated wellhead protection areas, shall certify copies to other city bureaus, and shall make such maps available to the public upon request and otherwise take steps, in its discretion, to publicize the availability of the maps to residences and businesses within the wellhead protection area. The Bureau of Water Works may alter the boundaries of a wellhead protection area if the information on which existing boundaries are based changes. Proposed changes to a wellhead protection area shall be adopted by rulemaking as set forth in Section 21.35.090

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### **21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.**

- A.** The Bureau of Water Works shall have the authority to designate materials as hazardous and to require all persons or businesses possessing or using hazardous materials within the wellhead protection area to make annual reports to the Bureau concerning the types and quantity of hazardous materials stored, handled, used or transported, the storage and containment provisions for hazardous materials, and related information, including but not limited to a site plan indicating the location of hazardous materials manufactured, generated, stored or used, information indicating the location of drains, capacities of containment systems, drainage utility shut-off, and topographical information. If the Bureau of Water Works establishes reporting requirements, persons or businesses shall submit required information to the Bureau of Water Works in accordance with the schedule established in the Reference Manual. If another bureau is designated to receive reports on behalf of the Bureau of Water Works, and if it is deemed practical by both bureaus, reporting requirements and reports may be combined.
- B.** Failure to submit a complete report within the timeframe established in the Reference Manual constitutes a violating and shall be subject to enforcement pursuant to Section 21.35.050 of this Chapter.

### **21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.**

- A.** Initial standards for the storage, handling, use and transportation of hazardous materials are contained in the Well Field Wellhead Protection Program Reference Manual, adopted as administrative rules concurrently with this Code. The Bureau of Water Works shall have the authority hereafter to promulgate rules pursuant to Section 21.35.090 to set or amend standards, including the standards found within the Reference Manual, for the storage, handling, use and transportation of hazardous materials that may be used within the wellhead protection area. The Bureau's authority to set standards shall extend to designation of materials as hazardous to groundwater quality, to storage, handling use, transportation, and containment of such materials both inside and outside structures, including equipment or devices for preventing and controlling spills or releases of such materials beyond containment vessels. Rules adopted under this Section of the water code shall be compiled in the Reference Manual.
- B.** Upon the effective date of this Chapter, existing businesses and individuals not in compliance with the standards set pursuant to this Chapter of the Code, shall bring their operations into compliance with applicable standards in accordance with the schedule established in the Reference Manual.

- C.** Within 15 months of the program effective date, the Water Bureau shall collect information on the number of existing, non-conforming businesses that will be required to upgrade operations to comply with the requirements of Subsection 21.35.030 B. Data gathered by the Water Bureau shall include information on the specific scope and extent of improvements required pursuant to Subsection 21.35.030 B. and shall be collected during routine inspections performed by the Portland Fire Bureau.
- D.** The Water Bureau and Bureau of Environmental Services shall evaluate collected information, in consultation with affected business and property owners, and business organizations to determine if improvements required by Subsection 21.35.030 B. are protective of water quality within the Wellhead Protection Area and Columbia Slough watershed. The Water Bureau and Bureau of Environmental Services will report to Council the results of this evaluation before January 1, 2005.
- E.**
- 1.** Site plans or permits for projects to bring existing non-complying operations into compliance with the standards of this Chapter and the Reference Manual shall not be subject to additional review by Bureau of Environmental Services to address source control issues of the City Stormwater Management Manual (SWMM).
  - 2.** The exemption from Bureau of Environmental Services review in Subsection 21.35.030 E.1., shall not apply where a business or property owner cannot manage increased stormwater resulting from modifications required to comply with the wellhead protection requirements entirely on-site. If such drainage cannot be managed on-site and will drain to a City sewer, a City sewer easement, or a City right-of-way, the permit shall have a BES source control review to assess impact to the Columbia Slough which may result in additional source protection measures beyond the Reference Manual Best Management Practices to address the increases in stormwater drainage. The requirements of Subsection 21.35.030 E.2. shall remain in effect until January 1, 2005.  
Nothing in this provision shall exempt any site plan or permit from stormwater management requirements contained in sections of the Stormwater Management Manual that are not related to source control (source control requirements are currently contained in Chapter 4) or from future source control review criteria that may become required by state or federal law beyond the scope of requirements in the 2002 SWMM.  
Nothing in this provision shall exempt any person from the requirements of City Code Chapter 17.34 related to industrial wastewater discharges to the City's sewer system or from the requirements of the NPDES permit program.

## **TITLE 21 WATER**

### **21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.**

- A.** The Bureau of Water Works may conduct inspections of businesses that store, handle, use or transport hazardous materials to ascertain compliance with the standards of this Chapter, including but not limited to the types, quantities and locations of hazardous materials, primary and secondary containment facilities, and the existence of spill prevention and spill control equipment or devices. For purposes of exercising this authority, the Bureau shall adopt policy regarding the necessary qualifications for those who conduct inspections and the frequency, priority, and type of inspection of businesses based on, among other things, the degree of risk to water quality in the well field, history of violations, characteristics of the use, and the availability of budgeted funds and staff.
- B.** Inspections may be initiated as the result of a complaint or referral, at any time the Bureau has reason to believe there is a violation, or as defined by a routine schedule for compliance. Inspections and re-inspections will be used to determine if an operation is in compliance with this Chapter.
- C.** Inspections may involve a review of equipment, structures and operating practices; records or plan review; interviews with operators; and photo documentation. As such, businesses shall allow representatives of the Bureau, upon presentation of credentials, to:

  - 1.** Inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the provisions of this Chapter;
  - 2.** Enter the premises where hazardous materials are being managed, or where records may be kept under the provisions of this Chapter. The owner/operator must make necessary arrangements to allow access without delay; and
  - 3.** Have access to and copy, at reasonable times, any records that must be kept under the provisions of this Chapter.
- D.** If a business refuses or declines to allow an inspection or re-inspection under Subsections 21.35.040 C.1.-3., the Water Bureau may seek an administrative warrant from Multnomah County Circuit Court to conduct such inspection or re-inspection.
- E.** After inspection and upon finding that all standards of this Chapter have been met, the Bureau of Water Works shall issue a Certificate of Inspection to each business inspected under this Chapter, as provided in Section 21.31.050.



- F.** In the event an inspection reveals a violation of the standards of this Chapter that cannot be resolved or corrected during the course of the inspection, the Bureau of Water Works shall follow the procedures set forth under Section 21.35.060, as applicable.
- G.** The Water Bureau may enter into interagency agreements with the Fire Bureau or other city bureaus, or contract with other governments or private parties, to conduct inspections inside the Portland city limits. Subject to Council approval, the Water Bureau may enter into contracts with private entities or intergovernmental agreements with other municipal corporations for inspections in those portions of the wellhead protection area outside the City of Portland boundaries.

**21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.**

- A.** A Certificate of Inspection shall be valid until a subsequent inspection or review or until it is revoked.
- B.** A Certificate of Inspection shall be kept on the premises at all times and be available for review by Bureau of Water Works personnel or other authorized City personnel.
- C.** A Certificate of Inspection shall contain the following information:
  - 1.** The address of the occupancy or facility, including exterior space utilized for storage, handling, use or transportation of hazardous materials;
  - 2.** The name and address of the person or business occupying the facility; and
  - 3.** A statement that the described occupancy complies with the applicable regulations and policies.
- D.** The issuance of a Certificate of Inspection does not suspend the applicability of any water regulations.
- E.** The Certificate of Inspection is issued to the business owner/operator for the existing use at the location specified in the Certificate. It is not transferable.

**21.35.060 Enforcement.**

- A.** Violations. It shall be a violation to store, handle, use or transport hazardous materials in a manner contrary to the standards set by the Bureau of Water Works.

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### **B. Warning Letter.**

- 1.** The Bureau may issue a Warning Letter that informs an individual or business of a violation, and the consequences of the violation or continued noncompliance. The letter may state the actions required to resolve the violation and may specify a reasonable time by which compliance is to be achieved.
- 2.** As part of a Warning Letter, and depending on the number or gravity of violation(s), the Bureau may require an individual or business to prepare and submit a Compliance Plan that establishes a reasonable timeframe for correcting the violation(s) or the implementation of alternative storage, handling, use, transportation, or containment practices that are capable of satisfying the standards of this Chapter. A Compliance Plan shall be subject to review and approval of the Bureau of Water Works, or a designated bureau.
- 3.** If an individual or business fails to take the steps necessary to come into compliance within the period specified in the Warning Letter, the Bureau may take further enforcement action pursuant to Subsection 21.35.060 C.

### **C. Orders to Cure Violations, Civil Liability, Nuisances.**

- 1.** If an individual or business fails to come into compliance in the time specified in a previously issued Warning Letter, or within a timeframe established in an approved Compliance Plan, the Bureau may issue an Order to Cure the violation and establish a final date for resolving the violation, after which Subsections 21.35.060 D. and E. may be invoked. Failure to comply with an Order to Cure shall be a violation of law.
- 2.** If the Water Bureau finds that there is an imminent danger of a release of hazardous materials into the environment resulting from the violation of standards governing the storage, handling, use and transportation of a hazardous material, the Bureau may declare that a nuisance exists and may issue, without prior notice, an Order to Cure requiring immediate action to be taken to halt any activity causing such imminent danger, and directing the individual or business to immediately take steps correct any conditions contributing to the danger.
- 3.** If the individual or business subject to an Order to Cure issued pursuant to this section does not comply with the Order, the Bureau may:
  - a.** Revoke a Certificate of Inspection;

- b.** Order the individual or business to cease the storage, handling, use or transportation of hazardous materials that are the subject of the violation until such time as the violation is corrected;
  - c.** Issue a Civil Penalty pursuant to Subsection 21.35.050 D.; or
  - d.** Undertake to correct any conditions contributing to the imminent danger of a release of hazardous materials into the environment. The costs of such action will be charged to the individual or business subject to such Order.
- 4.** The person or business subject to an Order to Cure issued under this Chapter may appeal said Order under Section 31.10.150 in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.10.150 I.
- 5.** Should hazardous material be released as a result of a violation, or as a result of a failure to correct a violation, the individual or business responsible for such spill shall be civilly liable for all costs incurred by the City associated with cleaning up such release and all costs of any other City action reasonably determined to be necessary by the City to contain, control or clean-up the release or to protect the well field from contamination.

**D. Civil Penalty.**

- 1.** In addition to any other fee or civil liability provided by law, the Bureau of Water may impose a civil penalty in an amount not to exceed \$500 per day or two times the re-inspection fee that would otherwise have been collected, whichever is greater, for each day a violation continues to exist against any individual or business who does not comply with the provisions of this chapter. Each failure to comply with a separate regulatory standard shall be deemed a separate violation.
- 2.** Any civil penalty imposed pursuant to this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Bureau of Water or designated bureau. The notice referred to in this Subsection shall be sent by registered or certified mail and shall include:

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- a.** A reference to the particular Sections of the Chapter or Code Section or Reference Manual involved;
        - b.** A short and plain statement of the matters asserted or charged;
        - c.** A statement of the amount of the penalty or penalties imposed; and
        - d.** A statement of the right of the person to request a hearing.
  - 3.** The owner or operator of a facility subject to this Section who is ordered to pay a civil penalty in accordance with this Section shall have the right to appeal the imposition of or amount of the penalty as provided by Section 31.10.150 of this Code in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.01.150 I.
- E.** Legal Action. The City may bring an action in a court of proper jurisdiction, including the Circuit Court of Multnomah County and the Federal District Court for the District of Oregon, to enforce any order to cure issued under this Chapter, collect any penalty assessed under this Chapter, or recover any costs incurred pursuant to Subsections 21.35.060 C.3. and 5.
- F.** Re-inspection Fees.
  - 1.** Any individual or business found in violation of law or any order under this Chapter and who fails to correct such violation or comply with such order within 30 days after receiving written notice from the Bureau of Water to do so, shall be charged and required to pay a re-inspection fee of:
    - a.** \$100 if violations remain uncorrected at the time of the first re-inspection,
    - b.** \$200 if violations remain uncorrected at the time of the second re-inspection,
    - c.** \$400 for the third and subsequent re-inspections if violations remain uncorrected at that time.
  - 2.** Re-inspection fees shall be in addition to any fees established by Council or the Water Bureau by rulemaking in the Well Field Wellhead Protection Program Reference Manual. Any person or business so charged a re-

inspection fee that believes that the charges are inappropriate may appeal such charges pursuant to City Code Section 31.10.150 in the same manner that an order of the Fire Marshal may be appealed. If the Water Bureau enforces this chapter through interagency agreement with the Fire Bureau or another bureau, the fees charged by that bureau shall be in lieu of the fees described in this paragraph.

**21.35.070 Inter-Agency Cooperation.**

The Bureau of Water Works may enter into inter-agency agreements with the Fire Bureau or other City bureaus to inspect premises, issue Certificates of Inspections, enforce standards, or otherwise administer this Wellhead Protection Code. If inter-agency agreements are made to enforce standards, and if circumstances make it practical, the Certificates of Inspection issued under this chapter shall be combined with any certificates of inspection or equivalent issued by the bureau enforcing this chapter.

**21.35.080 Building and Site Permit Review and Approval.**

No City building permit or other permit for site alterations, construction, building alterations, repairs, or other work involving or affecting the storage, handling, use, transportation, or containment of hazardous materials may be issued without the prior review and approval of the Bureau of Water Works. The Bureau of Water Works may approve any such permits only upon a finding that the activity proposed conforms with this Chapter and rules promulgated under this Chapter. Such plan review shall be conducted pursuant to City of Portland rules and practices for development review.

**21.35.090 Rulemaking.**

The Bureau of Water Works shall issue rules pursuant to authority granted in this chapter subject to the following process:

- A.** Whenever the Administrator proposes to issue, rescind, or amend a rule or rules, the Administrator shall first publish notice of such intent in a newspaper of general circulation in the Portland metropolitan area. The notice shall include, at a minimum, the following:
  - 1.** A statement of the time and place of any public meeting on any proposal;
  - 2.** A statement of the purpose of the proposal;
  - 3.** Either the specific language of the proposal or a description of the proposal's contents;
  - 4.** When language of the proposal is not included in the notice, the location at which copies of the full proposal may be read or obtained;

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- 5.** The name of the person at the Bureau to whom questions about the proposal may be directed; and
  - 6.** The announcement of the opportunity to provide written comments on the proposal to the Administrator within 30 days of the date the notice is published.
- B.** Forty-five days after publication of the notice, the Administrator shall hold a public meeting that shall record testimony and oral comments on any proposed rule(s). The Administrator may continue any such hearing to another date.
- C.** After consideration of public comments and other relevant matters, the Administrator may issue the rules in final form. Notice of the issuance of the rules shall be given in a newspaper of general circulation in the same manner as the notice of a proposal to make, rescind, or amend rules.
- D.** Unless otherwise stated in the rule, any rule shall become effective and enforceable upon issuance of the notice required in Subsection 21.35.090 C. above and shall be filed in the Office of the City Auditor as well as in the office of the Water Bureau Administrator.
- E.** Notwithstanding Subsections 21.35.090 A. - D. above, an interim rule may be adopted without prior notice and without following the procedure of those Subsections upon a finding by the Administrator that failure to act promptly will result in serious prejudice to the public interest. Any rule adopted pursuant to this Subsection shall be effective for a period of not longer than 180 days.

## **TITLE 31 FIRE REGULATIONS**

### **Chapter 31.10      ADMINISTRATION**

- 31.10.010 Title.
- 31.10.020 Purpose and Scope.
- 31.10.030 Definitions.
- 31.10.040 Organization.
- 31.10.050 Authority.
- 31.10.060 Authority to Require Address Change.
- 31.10.070 Citations.
- 31.10.080 Appeals.
- 31.10.090 Remedies.
- 31.10.110 Waivers and Adjustments.
- 31.10.120 Collections.
- 31.10.130 Rewards.
- 31.10.140 Request for Records.

### **Chapter 31.20      GENERAL REQUIREMENTS**

- 31.20.010 Authority at Fires or Other Emergencies.
- 31.20.020 Eliminating Fire Hazards.
- 31.20.030 Violator Assumes Costs.
- 31.20.040 Fire Marshal Authorized to Abate Hazard and Assign Costs.
- 31.20.050 Fire Marshal Authorized to Require Building Alterations.
- 31.20.060 Unsafe Buildings.
- 31.20.070 Temporary Fire Watch.
- 31.20.080 Authority to Establish Fire Escape Maintenance and Removal Standards.
- 31.20.090 Authority to Require Key Boxes and Charge Installation Fee
- 31.20.100 Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.
- 31.20.110 Certificates of Fitness.
- 31.20.120 Use of Helicopters.

### **Chapter 31.30      DEVELOPMENT AND CONSTRUCTION REQUIREMENTS**

- 31.30.010 Fire Chief Authorized to Establish Access Standards.
- 31.30.020 Removal of On-Street Parking.
- 31.30.030 Fire Chief Authorized to Require Water Supply.
- 31.30.040 Permits and Fees Required.
- 31.30.050 Additional Permit Requirements.
- 31.30.060 Special Inspections.
- 31.30.070 Expiration of Plan Review.

**Chapter 31.40****SPECIAL USE PERMITS**

- 31.40.010 Permits and Fees Required.
- 31.40.020 Activities Requiring Temporary Permits.
- 31.40.030 Applications.
- 31.40.040 Inspection of Permitted Work.
- 31.40.050 Revocation and Suspension of Permits.
- 31.40.060 General Requirements for Explosives, Blasting Agents, Pyrotechnics and Fireworks.
- 31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.
- 31.40.080 Additional Requirements for Blasting Activities.

**Chapter 31.50****BUILDING INSPECTIONS**

- 31.50.010 Purpose and Scope.
- 31.50.020 Organization.
- 31.50.030 Process.
- 31.50.040 Administrative Warrants.
- 31.50.050 Fees Authorized.



**Chapter 31.10**

**ADMINISTRATION**

(New Title substituted by Ordinance  
No. 180276, effective June 28, 2006.)

**Sections:**

- 31.10.010 Title.
- 31.10.020 Purpose and Scope.
- 31.10.030 Definitions.
- 31.10.040 Organization.
- 31.10.050 Authority.
- 31.10.060 Authority to Require Address Change.
- 31.10.070 Citations.
- 31.10.080 Appeals.
- 31.10.090 Remedies.
- 31.10.110 Waivers and Adjustments.
- 31.10.120 Collections.
- 31.10.130 Rewards.
- 31.10.140 Request for Records.

**31.10.010 Title.**

The authority established in this Title shall be known as the “Fire Regulations” and may be so cited and pleaded and is referred to herein as “this Title.”

**31.10.020 Purpose and Scope.**

- A.** This Title shall be deemed an exercise of the police powers of the City for the preservation and protection of the public health, peace, safety and welfare, and all of its provisions shall be liberally construed for that purpose.
- B.** This Title establishes regulations affecting or relating to structures, premises, processes, and safeguards regarding:
  - 1.** The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
  - 2.** Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
  - 3.** Fire hazards in the structure or on the premises from occupancy or operations;

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### **FIRE REGULATIONS**

- 4.** Matters related to the construction, extension, repair, alteration or removal of fire suppression, fire alarm systems and hazardous material storage, dispensing and use.
- C.** The provisions of this Title shall apply equally to both public and private property, and shall be binding upon public officers and employees and all other persons except as may be otherwise specifically provided herein.
- D.** This Title shall be applicable in addition to the measures of fire prevention as set forth in the laws and regulations of the State of Oregon and the United States. The provisions of this Title, insofar as they are substantially the same as existing titles and/or ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

#### **31.10.030 Definitions.**

- A.** “Building” is any structure used or intended for supporting or sheltering any use or occupancy.
- B.** “Certificate of Fitness” means a written statement issued by the Fire Marshal certifying that the person to whom the certificate is issued has passed an examination as to his or her qualifications to perform the specifically identified work and that he or she has authority to perform such work during the term specified.
- C.** “Commercial Building” means any structure, tank or yard that is subject to regulation under applicable fire codes. It includes any temporary structure or vehicle that is used for commercial purposes and is not moved for 60 days. It includes occupancies on public and private property as well as on all other types of ownership. It does not include one and two-family residential structures.
- D.** “Entity” includes a corporation, foreign corporation, nonprofit corporation, profit and nonprofit unincorporated association, business trust, estate, partnership, trust, sole proprietorship, individual, two or more persons having a joint or common economic interest, any state, the United States and any foreign government.
- E.** “Fee Schedule” means a listing of fees, penalties, discounts and other payments payable to the City of Portland for services or other requirements set forth in this Title, which is adopted by City Council.
- F.** “Fire Bureau” shall mean the Bureau of Fire, Rescue and Emergency Services.

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- G.** “Fire Code” means the Oregon Fire Code, 2004 edition, with City of Portland Amendments.
- H.** “Fire hazard” means any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or which may obstruct, delay, hinder or interfere with the operations of the Fire Bureau or the egress of occupants in the event of fire.
- I.** "Fire Regulations" means the statutes and administrative rules adopted by the State of Oregon and the Portland City Code adopted by the Council and the policies adopted under the authority granted under this Chapter to the Fire Marshal which are for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.
- J.** “Key box”, also know as a “lock box”, is a secure metal box used to hold keys for a specific site, to provide Fire Bureau personnel access to that site.
- K.** “Occupancy” means the activity in a building or on property outside a building where services or housing are provided or commodities are bought, sold, handled, manufactured or stored. A single business entity with multiple uses or activities in a building as defined by the Oregon Structure Specialty Code is considered one occupancy. Any structure, yard or group of tanks outside a building such as tank farms, moorage and outside storage are considered one occupancy. The definition includes individual businesses within a multiple occupancy commercial building but it does not include individual dwelling units within a multiple residential building. The Oregon Structure Specialty Code shall define classification of all buildings and structures as to use and occupancy.
- L.** “Owner/occupant” means the owner, operator, occupant or entity legally responsible for a premise or the delivery of services or housing, or the buying, selling, handling, manufacture or storage of commodities, and/or the condition of the building.
- M.** “Periodic Inspection” means an inspection performed periodically by a member of the Fire Bureau for the purpose of determining that the entire occupancy is in compliance with the requirements of fire regulations. A “periodic inspection” is also known as a “regular inspection” by the Fire Bureau. It does not include specific requests for inspection.

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### **FIRE REGULATIONS**

- N.** “Permit” means a written permission of the Fire Marshal issued pursuant to the provisions of this Title.
- O.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Webster’s Third New International Dictionary of the English Language, Unabridged, copyright 1985, shall be considered as providing ordinary accepted meanings.

#### **31.10.040 Organization.**

- A.** The Fire Bureau shall administer the provisions of this Title unless otherwise specified in this Title.
- B.** The Fire Chief shall be responsible for all fire prevention efforts in the City and for enforcing the provisions of this Title or any subsequent amendments to the same.
- C.** The personnel of the Fire Prevention Division shall consist of a Fire Marshal and as many Deputy Fire Chiefs, Fire Captains, Senior Fire Inspectors, Fire Inspectors and other employees as may be allowed and provided by the Fire Chief and City Council. Such personnel may act to enforce provisions of this Title as assigned by the Fire Marshal. The Fire Marshal shall report directly to the Fire Chief.
- D.** There shall be, in the Fire Prevention Division of the Fire Bureau, a section designated as the “Fire and Arson Investigation Unit”, which shall be considered a law enforcement unit of the City of Portland. Personnel assigned to this unit shall be designated peace officers, for fire and life safety purposes including determining the cause of fires, for detecting arson, and for enforcing this Code and any other codes, rules or regulations incorporated therein. This unit shall be charged with the enforcement of the criminal laws of the State of Oregon relating to the crimes of arson, reckless burning, insurance fraud, and other related crimes.

#### **31.10.050 Authority.**

- A.** Rules and Regulations. The Fire Marshal, with the approval of the Fire Chief, is authorized to make and enforce such rules, regulations and policies for the prevention and control of fires and fire hazards, as may be necessary to carry out the intent of this Title.
- B.** Adoption of Oregon State Statutes. In order to obtain an exempt jurisdiction status from the State Fire Marshal, in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this title by reference the following

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provisions of the Oregon Revised Statutes: 162.225, 162.235, 162.375, 476.005, 476.010, 476.150 through 476.290, 476.380, 476.715, 478.960, 479.015 through 479.170, 479.190, 479.195, 479.210 through 479.300, 479.990(6), and all of ORS 480 except 480.350, 480.355, 480.375(2), 480.432 through 480.440.

Where reference is made to the State Fire Marshal in the Oregon Revised Statutes in this Title, the term "City Fire Marshal" shall be substituted for it.

- C.** Adoption of Oregon State Administrative Rules, Fire Marshal Chapter 837. In order to obtain an exemption in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this Title by reference the following administrative rules adopted by the State Fire Marshal:

1. OAR 837 - Division 12, Public Display of Fireworks in Oregon
2. OAR 837 - Division 20, Flammable and Combustible Liquids
3. OAR 837 - Division 30, Liquefied Petroleum Gas, Sections 837-30-030 and 035
4. OAR 837 - Division 41, Exitway Protection
5. OAR 837 - Division 43, Fire Protection Regulations Relating to Existing Group Care Facilities
6. OAR 837 - Division 44, "No Smoking" Signs in Public Elevators
7. OAR 837 - Division 45, Smoke Detectors

Where reference is made in this Title to the State Fire Marshal in the Oregon State Fire Marshal Administrative Rules, the term "City Fire Marshal" shall be substituted for it.

- D.** Oregon Residential Specialty Code. In order to allow alternative methods of fire protection for the development of one and two family dwellings, the City hereby adopts and incorporates into this Title by reference Oregon Administrative Rule 918-480-0100.

- E.** Adoption of Oregon Fire Code, 2004 Edition. In addition to the provisions of this Title, and as a supplement thereto, in order to regulate those conditions hazardous to life and property from fire or explosion that are not specifically addressed by this Title, the City hereby adopts the 2004 Edition of the Oregon Fire Code with amendments as shown in Ordinance 180276, Attachment B, adopted June 28,

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- F.** Standards of the National Fire Protection Association. When requested by a building owner, the Fire Marshal may use criteria from an edition of a National Fire Protection Association Standard that is more current than adopted by Chapter 45 of the 2004 Oregon Fire Code.
- G.** Adoption of National Fire Code, Volumes 1 through 9, 2004 Edition. Unless specifically provided for in other titles of the Code, where requirements of this Title do not provide necessary regulation or are not fully detailed with regard to processes, methods, specifications, equipment testing and maintenance, standards of design, performance and installation and other pertinent criteria, the City adopts Volumes 1 through 9 of the 2004 Edition of the National Fire Codes as published by the National Fire Protection Association.

#### **31.10.060 Authority to Require Address Change.**

The Fire Marshal is authorized to require a property address change when, in the opinion of the Fire Marshal, the existing address may delay emergency response by emergency service providers.

#### **31.10.070 Citations.**

- A.** Authority Established.

If, after investigation, the Fire Marshal determines that a violation of this Title has occurred, and that the person, entity or owner/occupant committing the violation knew or should have known that the action was in violation of this Title, a citation may be issued to the person, entity or owner/occupant committing the violation. Citable violations include, but are not limited to:

1. Failure to obtain a permit
2. Failure to adhere to permit conditions
3. Failure to adhere to assigned occupant load limit in assembly occupancy
4. Exit blocked, obstructed
5. Exit corridor or aisle obstructed or width reduced
6. "Exit" sign missing or not working
7. Fire extinguisher missing, discharged or wrong type

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8. Firefighting appliance blocked, obstructed or otherwise rendered unusable
  9. Fire alarm device or fire extinguishing system blocked, obstructed or otherwise rendered unusable
  10. Failure to use, maintain, store or secure propane bottle as required by this Title
  11. Performing work that requires a Certificate of Fitness without a valid certificate
  12. Assigning an employee to perform work that requires a Certificate of Fitness without a valid certificate
  13. Parking on a posted fire access road
  14. Blocking or obstructing any fire hydrant or fire department connection
  15. Conducting mobile fueling operation in violation of Fire Code regulations
  16. Possession or use of illegal fireworks
  17. Storage of illegal fireworks
  18. Illegal commercial fireworks display
  19. Illegal occupancy in violation of International Building Code
  20. Burning in violation of Fire Code
  21. Repetitive false alarms in dwellings equipped with fire, smoke and/or water flow detection systems.
  22. Violations that would constitute or contribute to an immediate and/or imminent hazard to life and property
- B.** Each day a person, owner or occupant violates or fails to comply with a provision of this chapter may be considered a separate violation for which a citation may be issued.
- C.** Fines Authorized. Citations shall result in monetary fines as set forth in Fee Schedule adopted by City Council. Fines may escalate for two or more occurrences of the same or similar violations by the same person, owner or occupant within a four-year period. The Fire Marshal may suspend 1/2 of any

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citation fine, providing the person, owner or occupant cited agrees in writing to immediately cease and/or abate the violation. If the person, owner or occupant is found to be in violation of the same or similar violation within a four year period, the original fine may be reinstated and shall be in addition to any other fine authorized by this title.

**D.** Citation Process. Citation shall be delivered as would reasonably be expected to provide notice, including in person, by certified mail or posted conspicuously on property. Citation shall include:

1. Name and address of person, owner or occupant being cited
2. A description of the property where the violation occurred
3. Date(s) of the violation
4. Reference to the particular code(s) violated
5. A statement explaining actions required of person, owner or occupant being cited
6. A statement of applicable monetary penalty, and
7. A statement of the right to appeal the citation

#### **31.10.080 Appeals.**

**A.** Standing for Appeals. The following persons, owners or occupants, herein called appellants, may submit an appeal as described in this Title:

1. Any person, owner or occupant who has been ordered by the Fire Marshal to incur any expense under any provision of this Title;
2. Any person, owner or occupant who has been cited by the Fire Marshal for violation of any provision of this Title:
3. Any person, owner or occupant whose application for a permit or approval under this Title has been refused by the Fire Marshal;
4. Any person, owner or occupant whose special case is not specifically covered by this Title.

**B.** Board of Appeals. The Fire Code Board of Appeals, having been established, is hereby continued.



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1. The Board shall consist of three members, and an alternate for each member. Each member and alternate shall serve a term of three years. The Mayor shall appoint and may remove any member or alternate from the Board at any time.
2. Board members and alternates must by experience and training in building construction, building operations or fire protection systems, be qualified to pass on the provisions of this Title as they affect the interest of the City as a whole. No two members or alternates shall be engaged in the same business, profession or occupation. No member or alternate shall be an officer, official or employee of the City.
3. No member or alternate shall hear or act on a matter in which he or she has any interest, direct or indirect, pecuniary or otherwise. In the event of such an interest, the member's alternate shall hear and determine the matter.
4. The Board annually shall elect a Chairman from among the three members of the Board. Meetings of the Board shall be held at the call of the Chairman, who shall call meetings at the Fire Marshal's request.

**C. Appeal Procedure.**

1. Appellant shall serve written notice of appeal on the Fire Marshal no more than ten days after the Fire Marshal's order or action. The notice of appeal shall be in such form as specified by the Fire Marshal, and shall be accompanied by appeal fee.
2. The Fire Marshal may approve, approve with conditions or deny the requested relief. The decision of the Fire Marshal, with a brief statement for its basis, shall be transmitted to the appellant in writing. If the appellant is not satisfied with the decision, the appellant may, within ten days after notice, serve written notice on the Fire Marshal requesting a hearing before the Fire Code Board of Appeals.
3. The Fire Marshal shall transmit copies of the notice of appeal to the Board of Appeals and to the Commissioner-in-Charge. Not less than 10 days prior to the date of the hearing, the Board shall mail notice of the date, time and place of the hearing to the appellant, by certified mail, return receipt requested.
4. After the hearing, the Board may by a majority vote, affirm, annul or modify the action of the Fire Marshal provided any modification of a strict

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application of this Title shall be made only on condition that a substantially equivalent degree of safety is provided and is generally conforming to national standards concerning fire prevention, fire safety measures and building construction requirements for safety. The decision of the Board interpreting the provisions of this Title may be by a majority vote of the Board. The Board shall deliver a certified copy of its decision to the appellant.

5. Where unquestionably and clearly, practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of this Title may result from the literal interpretation and enforcement thereof, the Board of Appeals may grant variances from this Title, in a specific case with such conditions and safeguards as the Board may determine, in harmony with the general purpose, intent and spirit of this Title, so that the public safety and welfare shall be secured and substantial justice shall be done. The grant of a variance shall be by unanimous vote of the Board.
6. The Board of Appeals shall submit to the Council on or before the first day of August of each year a report summarizing its decisions for the preceding fiscal year together with its recommendations for amendments to this Title.

#### **31.10.090 Remedies.**

In enforcing any of the requirements of this Title, the Fire Marshal may gain compliance by:

- A. Instituting a proceeding before the Code Hearings Officer as set out in Title 22 of the City Code; or
- B. Causing appropriate action to be instituted in a court of competent jurisdiction; or
- C. Taking such other action as the Fire Marshal, in the exercise of the Fire Marshal's discretion, deems appropriate.

#### **31.10.110 Waivers and Adjustments.**

- A. Commissioner-in-Charge of the Fire Bureau is authorized to waive any fees, fines and penalties in this Title based on guidelines established by the Commissioner. The authority to waive fees, fines and penalties based on the established guidelines may be delegated to the Fire Marshal.
- B. At the discretion of the supervisor in charge of customer accounts, account balances may be zeroed out if that balance represents only residual unpaid principal, interest or penalties.

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**31.10.120 Collections.**

- A. The City may bring legal action to collect any fee, fine, penalty or interest provided for in this Title and assessed by a Fire Bureau member.
- B. Accounts with amounts 84 days or more past due will be handled according to the collection policy established by the Fire Bureau; this may include use of a professional collection agency. Fees imposed by collection agency may be added onto the current fee liability of the account. Invoices returned by the U.S. Postal Service as “refused” or payments returned by a financial institution for insufficient funds will be considered delinquent and subject to immediate collection actions.

**31.10.130 Rewards.**

- A. Fund Authorized. The Fire Chief, in consultation with the Commissioner-in-Charge, is authorized to establish a reward fund to assist with investigations of violations of this Title. Such fund may include up to \$1000 of Bureau budget allocations as well as donations from individuals, businesses and non-profit organizations.
- B. Reward Fund Disbursements. The Fire Marshal may, in consultation with the Fire Chief and Commissioner-in-Charge:
  - 1. Contribute funds to other public agencies or non-profit organizations to facilitate the investigation of specific arson crimes;
  - 2. Offer and disburse rewards directly to individuals, except as limited by this Title, who have assisted with the investigation or prosecution of a violation of this Title.
- C. A reward under the provisions of this Code shall not be paid to any United States, State, County, or municipal officer or employee. Bounty hunters are not entitled to rewards under this Chapter.

**31.10.140 Request for Records.**

- A. Upon written application, under the Public Records Law, accompanied by the fee adopted by the City Council, the Fire Marshal may furnish copies of fire incident reports, non-confidential fire investigation reports, fire prevention inspection reports and other bureau-related information. If there is no copy on file, the fee will not be refunded.

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- B.** Nothing in this section shall be construed as applying to any City, County, State or Federal agency, or subdivision thereof, or any nationally recognized nonprofit agency engaged in the suppression or prevention of fire.

### **Chapter 31.20**

#### **GENERAL REQUIREMENTS**

##### **Sections:**

31.20.010	Authority at Fires or Other Emergencies.
31.20.020	Eliminating Fire Hazards.
31.20.030	Violator Assumes Costs.
31.20.040	Fire Marshal Authorized to Abate Hazard and Assign Costs.
31.20.050	Fire Marshal Authorized to Require Building Alterations.
31.20.060	Unsafe Buildings.
31.20.070	Temporary Fire Watch.
31.20.080	Authority to Establish Fire Escape Maintenance and Removal Standards.
31.20.090	Authority to Require Key Boxes and Charge Installation Fee
31.20.100	Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.
31.20.110	Certificates of Fitness.
31.20.120	Use of Helicopters.

##### **31.20.010 Authority at Fires or Other Emergencies.**

- A.** The Fire Marshal or any of his or her assistants, the Fire Chief, or any member of the Fire Bureau in charge of fire fighting at a fire, or the Chief of Police or any member of the Police Bureau in charge of police officers attending a fire, may immediately, summarily and without being required to give any notice whatsoever

- 1.** Cause the use and/or occupancy of all or any portion of a building or structure which is found to be in danger of fire resulting from the spread of an existing fire to be discontinued;
- 2.** Close said building or structure or part thereof during such period of danger;
- 3.** Prevent the use and occupancy thereof.

Such officer may use such force as he or she may find reasonably necessary to protect human life. It is unlawful for any person to refuse to leave such building,

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**FIRE REGULATIONS**

structure or portion thereof when ordered to vacate the same under authority of this Section.

- B.** The Fire Chief or the Fire Chief's authorized representatives shall be in charge of the scene of any emergency involving the saving of life and/or property from fire or other disaster, emergency medical services, hazardous materials incidents, or other emergency aid and shall have the power and authority to direct such operation as may be necessary in the reasonable performance of their duty.

**31.20.020 Eliminating Fire Hazard.**

Any owner/occupant, using or having charge or control of any premises, or any part of any premises, who creates or maintains a condition, or situation which constitutes a fire or life safety hazard, or who fails to promptly comply with the written notice of the Fire Bureau, shall be deemed guilty of violating this Title.

**31.20.030 Violator Assumes Costs.**

If a violation of this chapter results in or contributes to any emergency, including a fire, the violator may be civilly liable for the full cost of the emergency response as well as cleanup costs. The Commissioner-in-Charge of the Fire Bureau shall fix the amount of such expense. The amounts of all such charges assessed pursuant to this Section shall be paid to the City Treasurer, for deposit into the general fund of the City.

**31.20.040 Fire Marshal Authorized to Abate Hazard and Assign Costs.**

Where the Fire Marshal or Fire Bureau official in charge of the incident deems conditions exist that are deemed hazardous to life and property, except as limited by this Title, he/she is authorized to abate summarily such hazardous conditions that are in violation of this Title. Any costs associated with such summary abatement shall be charged against the property using the procedure provided for in City Code Chapter 22. The owner, occupant or other person in charge shall be immediately notified of the action taken and ordered by the Fire Marshal to secure the premises in full compliance with this Title.

**31.20.050 Fire Marshal Authorized to Require Building Alterations.**

Whenever the Fire Marshal finds that the means of egress from a building or portion thereof, or that the means of preventing the origin or spread of fire or of extinguishing fire in any building or portion thereof, are insufficient or inadequate, the Fire Marshal is hereby authorized and empowered to direct and require that any such building or portion thereof be rearranged, altered, or repaired to be sufficient and adequate in such respects.

**31.20.060 Unsafe Buildings.**

- A.** Notwithstanding the mandatory directives to the Fire Marshal contained in this subsection, the Fire Marshal may, in the exercise of his authority, and in lieu of ordering the vacation of such building or structure, impose alternative interim measures, including, but not limited to, the imposition of a fire watch as

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### **FIRE REGULATIONS**

established in this Title, when, in the opinion of the Fire Marshal, such interim measures will reduce such hazard so that it is no longer imminently dangerous so that persons may temporarily occupy such building or structure until such hazard has been abated.

- B.** The owner, the owner's agent, or the occupant shall reimburse the City for any expenditures used in precautionary measures under this Section; or such expenditures shall be included as an additional item and be spread as an assessment against the property.
- C.** If a building or structure used for low income multi-family housing is found to be imminently dangerous, as set forth in this Title, the Fire Marshal shall not cause the use and/or occupancy of the building or structure to be discontinued immediately, but shall report the matter to the Commissioner-In-Charge who shall report the matter to the Council for consideration of rehabilitation and repair by the City, provided that the Fire Marshal, in the exercise of his discretion, finds that interim measures, including but not limited to a fire watch, will reduce the hazard so that it is no longer imminently dangerous.

#### **31.20.070 Temporary Fire Watch.**

- A.** In order to avoid relocating persons from, or the vacation of, any structure, place of business or place of habitation that is imminently dangerous, as described in this Title, the Fire Marshal or senior fire officer may, if he determines that a reasonable level of fire and life safety can be obtained, order the owner/occupant to provide either a licensed, bonded security agency or an employee or volunteers, approved by the Fire Bureau, to perform as a fire watch, making periodic patrols, as designated by the Fire Bureau, as a condition of allowing continued occupancy. If such patrols are not available or cannot be established as ordered by the Fire Marshal or senior fire officer, or if owner/occupant is unavailable, or if owner/occupant does not comply with such orders of the Fire Bureau, then the Fire Marshal or senior fire officer may:
  - 1.** Order off duty Fire Bureau personnel back to duty to provide the fire watch patrol, or
  - 2.** Contract with a licensed, bonded security company to provide such service
- B.** The owner /occupant shall be responsible for paying all costs incurred by the Fire Bureau to the City Treasurer, who will reimburse the Fire Bureau's budget for this expense. If such costs are not paid within 30 days of billing, an assessment shall be made by ordinance and entered in the docket of City liens. Such entry shall constitute a lien upon the property and collected in all respects as provided for in this Title, and shall bear interest at the rate of 9 percent per year from 10 days

after the date of entry into the lien docket.

**31.20.080 Authority to Establish Fire Escape Maintenance and Removal Standards.**

The Fire Marshal is authorized to develop and enforce standards for the maintenance and removal of fire escapes in accordance with provisions of ORS Chapter 479.

**31.20.090 Authority to Require Key Boxes and Charge Installation Fee.**

The Fire Marshal is authorized to require the installation of a key box in or on a building or area when access to or within the building or area may be difficult for firefighting purposes. The Fire Marshal may charge a fee for installation of a key box, regardless of whether the installation is mandatory or voluntary.

**31.20.100 Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.**

The owners of five-story apartment buildings of Type V-1 hour construction approved under City Code Section 24.95 shall be responsible for assuring that the fire and life-safety systems required by the City Code Section 24 are maintained in an operable condition at all times. Unless otherwise required by the Fire Chief, approved persons shall conduct quarterly tests of such systems. A written record shall be maintained and be available to the inspection authority.

**31.20.110 Certificates of Fitness.**

- A.** A Certificate of Fitness shall first be obtained from the Fire Marshal before doing any of the following:

  - 1.** Automatic sprinkler system installation, alteration, testing, service or repair;
  - 2.** Fire extinguisher refilling, service or repair;
  - 3.** Fixed fire extinguishing systems installation, alteration, testing, service or repair;
  - 4.** Privately owned fire mains or hydrant systems installation, alteration, testing, service or repair;
  - 5.** Commercial cooking hood and duct system cleaning.
- B.** When an applicant has successfully passed an examination administered by the Fire Marshal, and upon receipt of the first annual fee as specified in the fee scheduled adopted by City Council, the Fire Marshal shall issue a Certificate of Fitness to the applicant. The Fire Marshal shall issue subsequent annual Certificates of Fitness on payment of an annual fee unless reexamination is required.

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### **FIRE REGULATIONS**

- C.** Each Certificate of Fitness issued shall remain valid and in effect for one year from the date of issue unless suspended or revoked for due cause by the Fire Marshal. The certificate shall not be transferable.
- D.** It is unlawful for any person firm or corporation to assign an employee or other person to perform any of the activities regulated by this Chapter unless such employee or person is certified, or working under an on-site supervisor who is certified.
- E.** Whenever the Fire Marshal determines after investigation that any person holding a Certificate of Fitness as provided herein has performed work so as to create a hazard to life or property, the Fire Marshal is authorized and empowered to suspend or revoke the Certificate of Fitness. Notice shall be given of the suspension or revocation and the reasons for the suspension or revocation shall be identified in the notice.
- F.** The Fire Marshal may issue a citation to firms or corporations in violation of this Chapter.
- G.** Any person, firm or corporation so affected may appeal such suspension, revocation or citation as provided in this Title.
- H.** Once a Certificate of Fitness has been revoked, an applicant shall reapply, successfully test and pay fees for a new Certificate before performing work on equipment requiring a Certificate. The Fire Marshal may delay issuance of new Certificate for up to 90 days following revocation.

#### **31.20.120 Use of Helicopters.**

Notwithstanding any other provisions of this Code, the Fire Bureau may use and land helicopters any place within the City, subject to Federal and State regulations for the purpose of training Fire Bureau personnel and helicopter operators in fire suppression techniques and disaster relief procedures and for the purpose of conducting disaster relief drills subject to the consent of the property owner or in the case of City property, the director of the affected bureau.



**Chapter 31.30**

**DEVELOPMENT AND CONSTRUCTION REQUIREMENTS**

**Sections:**

- 31.30.010 Fire Chief Authorized to Establish Access Standards.
- 31.30.020 Removal of On-Street Parking.
- 31.30.030 Fire Chief Authorized to Require Water Supply.
- 31.30.040 Permits and Fees Required.
- 31.30.050 Additional Permit Requirements.
- 31.30.060 Special Inspections.
- 31.30.070 Expiration of Plan Review.

**31.30.010 Fire Chief Authorized to Establish Access Standards.**

The Fire Chief shall prescribe standards for streets and roadways that provide access for fire department apparatus. Such standards shall apply to every building hereafter constructed. Standards shall prescribe minimum unobstructed width, turning radius, load capacity, clearance, grade and other criteria deemed necessary for apparatus access. Where practical the adopted standards shall be consistent with development standards for public and private streets.

- A. The Fire Chief may require an increase in minimum access widths where such width is not adequate for fire or rescue operations.
- B. Dead-end fire department access roads more than 300 feet in length shall include provisions for turning around fire department apparatus within 150 feet of the closed end.

**31.30.020 Removal of On Street Parking.**

- A. The Fire Chief shall have authority to designate any street, whether public or private, or portion of a street as “No Parking” where the street width is less than 32 feet and:
  - 1. The Chief determines that site-specific conditions such as roadway alignment impedes access of fire apparatus, or
  - 2. Actual emergency response experience clearly demonstrates that emergency vehicles cannot reasonably provide service.
- B. When required by the Chief the street shall be marked with permanent “No Parking” signs.

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#### **31.30.030 Fire Chief Authorized to Require Water Supply.**

The Fire Chief shall have authority to establish and enforce standards for water supply for fire protection. Where required by the Fire Chief, a minimum of two fire pumps independently driven shall be provided and sized for the sprinkler demand or standpipe demand, whichever is greater.

#### **31.30.040 Permits and Fees Required.**

- A.** It is unlawful for any person or entity to construct, install, alter, repair, move, demolish or change any fire protection system or equipment, or construct, install, alter, repair, move, demolish or change any equipment, piping or storage container used for flammable or combustible liquids, flammable gases or hazardous materials, for which a permit is required in this Title, without first obtaining such permit from the Fire Marshal. In instances where laws or regulations are enforced by other agencies, joint approval shall be obtained.
- B.** All permits issued under this Title shall be presumed to contain the provision that the applicant or the applicant's agents shall carry out the proposed activity in compliance with all the requirements of this Title and any other federal and State laws and City regulations, and other design guidelines as adopted by City Council that apply, whether specified or not, and in complete accordance with the approved plans and specifications.
- C.** A permit issued under this Title shall continue until revoked or for such a period of time as designated therein at the time of issuance. It shall not be transferable and any change in use, occupancy, operation or ownership shall require a new permit.
- D.** Work or activity without a Permit. Whenever any work for which a permit is required by this Title has commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Title nor from any penalty prescribed by law.
- E.** Work and Equipment Requiring Permits. Except in one and two-family dwellings, permits and associated fees are required:
  - 1.** To install, alter, repair or remove,

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**FIRE REGULATIONS**

- a.** Automatic sprinkler systems and standpipes or equipment pertaining thereto
  - b.** Fixed extinguishing systems or related equipment
  - c.** Fire alarm systems or equipment pertaining thereto
  - d.** Pre-manufactured paint spray booths or related equipment
  - e.** Private fire hydrants or related piping or devices
  - f.** Liquefied natural gases (LNG), liquefied petroleum gases (LPG) or compressed natural gas (CNG) of 100 gallon water capacity or more
- 2.** When cutting or welding is performed in restricted areas, including:
  - a.** Where the sprinkler system is impaired
  - b.** Where there exists the potential of an explosive atmosphere, such as locations where flammable gasses, liquids or vapors are present
  - c.** Areas with readily ignitable materials, such as storage of large quantities of bulk sulfur, baled paper, cotton, lint, dust or loose combustible materials
  - d.** On board ships at dock or ships under construction or repair
  - e.** At other locations as specified by the Fire Marshal
- 3.** To place and use roofing kettles on any surface above grade.
- 4.** To conduct a spraying or dipping operation using flammable or combustible liquids or the application of combustible powders regulated by the Fire Code.
- 5.** To install containers, piping and related equipment for the manufacture, storage, handling or use of compressed gases.
- 6.** To install, alter or remove tanks and related equipment used for storage, handling, transport or use of flammable or combustible liquids or hazardous materials as defined in the Fire Code.

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- a.** Exception: Fuel supply for portable generators outside of buildings, limited to 60 days on a single premises during a 12 month period.
- 7.** To install or alter permanent installations of equipment or piping in connection with the manufacture, storage, handling, use or sale of flammable or combustible liquids or hazardous materials.
- 8.** To remove, abandon, place temporarily out of service or otherwise dispose of any equipment or piping in connection with the manufacture, storage, handling or use of flammable or combustible liquids or hazardous materials.
- 9.** To change the type of contents stored in tank containing flammable or combustible liquids or hazardous materials to a material other than that for which the tank was designed and constructed.
- 10.** Heating Oil Tank Decommissioning. When requested by an owner for the purposes of documenting the decommissioning of a commercial or a one or two-family residential underground heating oil storage tank, a permit may be issued and an inspection made after payment of a fee in the amount specified in adopted Fee Schedule.

#### **F. Permit Applications.**

- 1.** Applications for permits shall be made by the owner or authorized agent to the Fire Prevention Division in such form and detail as prescribed by the Fire Bureau. The application shall be accompanied by:
  - a.** Sufficient plans, specifications, and engineering data to verify that the proposed activity or design complies with applicable codes, standards and regulations. When the applicant fails to provide adequate specifications and plan detail, the Fire Marshal may require additional information including all submittals to be prepared by an architect or engineer registered in the State of Oregon.
  - b.** Payment as set forth in Fee Schedule adopted by City Council.
  - c.** Exception: When the installation of a fire protection system is not required but is voluntarily installed, but not as an alternative to another requirement, the fees specified in the Fee Schedule shall be reduced by 50%.

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2. Any permit issued under this Title shall be personal to the party for whom it has been issued.

**G. Voiding, Revocation or Suspension of Permit.**

1. Any permit that purports to sanction a violation of this Title or any applicable law or regulations shall be void and any approval of plans and specifications in the issuance of such permit shall likewise be void.
2. After an administrative hearing by the Fire Marshal, any such permit may be suspended or revoked under the following conditions:
  - a. It is transferred or assigned to a party other than the party to whom the permit was issued;
  - b. It is used for a location other than that for which it was issued;
  - c. Approved plans, conditions or limitations set forth in the permit have been violated;
  - d. The permittee fails, refuses, or neglects to comply with any order or notice duly served under the provisions of this Title;
  - e. The permitted work was initiated without the owner's or other governmental agency's consent;
  - f. Work has not begun within 180 days of permit issuance;
  - g. Work, once commenced, has not progressed for a period of 90 days.
  - h. Payment for the permit has been returned or refused by the paying agent.
3. Any permit may be suspended for up to three business days without a hearing if the Fire Marshal finds that fire hazards exist or there has been any false statement, misrepresentation or omission as to a material fact, or change in condition from those stipulated in the application or plans upon which the permit was based. The permittee shall be given notice of the precise violations.

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4. A permittee whose permit has been revoked or suspended may appeal the action as provided in this Title. The permit shall remain valid, pending the decision of the Board of Appeals.

#### **31.30.050 Additional Permit Requirements.**

##### **A. Plan Review.**

Plans for construction, alteration, repair, or other work involving or affecting the fire and life safety features of any building regulated by the Fire Marshal shall be reviewed by representatives of the Fire Prevention Division prior to issuance of the building permit.

##### **B. Inspection of Permitted Work.**

All construction, work, or activity for which a permit is required shall be subject to inspection by the Fire Marshal. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Fire Marshal nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

##### **C. Inspection Requests.**

It shall be the duty of the person doing the work authorized by a permit to notify the Fire Marshal that such work is ready for inspection. The Fire Marshal may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing, by telephone, or by other means at the option of the Fire Marshal. Upon inspection the fire Marshal may require corrections. It shall be the duty of the permit applicant requesting an inspection to promptly comply with the written notice of corrections required by the Fire Marshal as a condition of the permit. A fee may be charged for re-inspections when the work is not ready for the requested inspection.

##### **D. Inspection Record Card.**

Work requiring a permit shall not be commenced until the permit holder or his agent shall post an inspection record card in a conspicuous place on the premises which allows the Fire Marshal to conveniently make the required entries regarding the work. This card shall be maintained as described until final approval of permitted work has been granted by the Fire Marshal.

**31.30.060 Special Inspections.**

When inspections are requested or required outside of normal working hours to verify compliance with approved plans or permits, an hourly fee shall be paid as set forth in fee schedule adopted by City Council, with a minimum charge of four hours.

**31.30.070 Expiration of Plan Review.**

Applications shall expire by limitation when no permit is issued within 180 days following the date of application due to incomplete information or failure to provide requested corrections. In such cases plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Fire Marshal. The Fire Marshal may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

**Chapter 31.40**

**SPECIAL USE PERMITS**

**Sections:**

- 31.40.010 Permits and Fees Required.
- 31.40.020 Activities Requiring Temporary Permits.
- 31.40.030 Applications.
- 31.40.040 Inspection of Permitted Work.
- 31.40.050 Revocation and Suspension of Permits.
- 31.40.060 General Requirements for Explosives, Blasting Agents, Pyrotechnics and Fireworks.
- 31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.
- 31.40.080 Additional Requirements for Blasting Activities.

**31.40.010 Permits and Fees Required.**

It is unlawful for any person or entity to use a building or premises or to engage in any activities for which a permit is required in this Title without first obtaining such permit from the Fire Marshal. In instances where laws or regulations are enforced by other agencies, joint approval shall be obtained.

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### **FIRE REGULATIONS**

All permits issued under this Title shall be presumed to contain the provision that the applicant or the applicant's agents shall carry out the proposed activity in compliance with all the requirements of this Title and any other Federal and State laws and City regulations, and other design guidelines as adopted by City Council that apply, whether specified or not, and in complete accordance with the approved plans and specifications.

A permit issued under this Title shall continue until revoked or for such a period of time as designated therein at the time of issuance. It shall not be transferable and any change in use, occupancy or operation shall require a new permit.

#### **31.40.020 Activities Requiring Temporary Permits.**

**A.** Temporary permits and associated fees are required for:

- 1.** Festivals, celebrations and special events of a temporary nature where occupant load of 500 or more people as calculated by the Fire Marshal, in assembly building without fixed seating
- 2.** Gatherings of 50 or more people for civic, social, recreational or religious functions in structures not approved for assembly use
- 3.** Use of tents or membrane structures with four sides, where 250 or more people may attend
- 4.** Gatherings of 50 or more people that are fenced on four sides
- 5.** Trade shows with gatherings of fewer than 500 people when, in the opinion of the Fire Marshal, conditions warrant additional safety precautions
- 6.** Display of four or more motorized vehicles in a building when not associated with a permitted event
- 7.** Theatrical firearms or use of blanks in a public assembly
- 8.** Storage or use of liquid propane (LP) gas in excess of 16 ounces when the Fire Marshal finds substantial protection and precautions have been provided
- 9.** Temporary use of LP gas within buildings in excess of the amounts allowed by this Title



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10. Storage or use of LP gas in outdoor markets with gatherings of 50 or more people
11. Use of lasers that require a Federal variance, in gatherings of 50 or more people
12. Pyrotechnic special effects, other than fireworks
13. Public fireworks display
14. Retail sales of fireworks
15. Blasting
16. Transportation of explosives

**B. Annual Permits.**

An annual permit and associated fee is required for permanent installation of 90 days or more of LP gas containers greater than 25 gallons WC or 100 lbs.

**31.40.030 Applications.**

- A. Applications for permits shall be made to the Fire Prevention Division in such form and detail as prescribed by the Fire Bureau. The application shall be accompanied by payment as set forth in Fee Schedule adopted by City Council. Applications for the permit and required plans shall be submitted for approval not less than two weeks prior to the event or the commencement of advance ticket sales, whichever occurs first. Applications submitted less than one week prior to the event shall be charged double the permit fee set forth in the Fee Schedule.
- B. The application for the permit shall state the name, address and telephone number of the owner or party legally occupying the building or premises on which the activity will be conducted. The application shall be accompanied by the written permission of the owner or legal occupant, signed by a person with authority to do so, authorizing the applicant to carry on the activity described in the application, in the building or on the premises described.
- C. When required by the Fire Marshal, sufficient plans, specifications, and engineering data must be submitted for the purpose of verifying that the proposed activity or design complies with applicable codes, standards and regulations. When the applicant fails to provide adequate specifications and plan detail, the

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Fire Marshal may require additional information including all submittals to be prepared by an architect or engineer registered in the State of Oregon.

- D.** The Fire Marshal may refuse to issue a permit if the applicant has unpaid fees for prior permits or unpaid citations.

#### **31.40.040 Inspection of Permitted Work.**

All activity for which a permit is required shall be subject to inspection by the Fire Marshal. An approved set of plans and the permit shall be kept at the event site. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Fire Marshal nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

#### **31.40.050 Revocation and Suspension of Permits.**

- A.** Any permit that sanctions a violation of this Title or any applicable law or regulations shall be void and any approval of plans and specifications in the issuance of such permit shall likewise be void.
- B.** Any permit issued under this Title may, after an administrative review by the Fire Marshal, be suspended or revoked under the following conditions:
- 1.** It is used by a person other than the person to whom the permit was issued;
  - 2.** It is used for a location other than that for which it was issued;
  - 3.** Approved plans, conditions or limitations set forth in the permit have been violated;
  - 4.** The permittee fails, refuses, or neglects to comply with any order or notice duly served under the provisions of this Title;
  - 5.** The permitted work was initiated without the owner's or other governmental agency's consent;
  - 6.** The Fire Marshal finds that a hazard other than that anticipated in the permit approval exists, or there has been a false statement, misrepresentation or omission as to a material fact, or a change in condition from that stipulated in the application or plans upon which the permit was based.
  - 7.** Payment for the permit has been returned or refused by the paying agent.

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- C.** The Fire Marshal may, as an alternative remedy, suspend the permit:
- 1.** For the first offense in any two-year period, revoke the permit for one day and/or performance, or until the condition is corrected;
  - 2.** For the second offense in any two-year period, revoke the permit for three days and/or performances, or until the condition is corrected;
  - 3.** For the third offense in any two-year period, revoke the permit for fifteen days and/or performances;
  - 4.** For the fourth and subsequent offenses in any two-year period, revoke the permit for 30 days and/or performances.
- D.** The City shall not be responsible for any losses arising from the permit suspension or revocation.

**31.40.060 General Requirements for Explosives, Pyrotechnics, Blasting Agents and Fireworks.**

- A.** The applicant shall follow all federal, state, county and city laws and regulations applicable to obtaining, owning, transporting, storing, handling and using explosive materials in addition to obtaining all blasting permits required and issued by the City. The Fire Marshal may adopt policies and procedures consistent with these regulations for the purpose of protecting the public, providing safety to life and property and to assure consistent practices in enforcement and administration of these requirements.
- B.** Shipments at Terminals.
- 1.** Carriers shall immediately notify the Fire Marshal when explosives, pyrotechnics, blasting agents or fireworks are delivered within the City. Carriers delivering such cargo at a waterfront terminal shall also notify the Harbor Master of such delivery.
  - 2.** Carriers of explosives, pyrotechnics, blasting agents or fireworks for delivery within the City shall immediately upon arrival at the destination notify the consignee or the consignee's agent of the arrival of the cargo. The consignee or the consignee's agent shall, within 24 hours after the arrival of the cargo in the City, move the cargo outside the City or to a storage facility within the City approved by the Fire Marshal. Upon a showing of extreme hardship and minimal risk of danger to life and property, the Fire Marshal may extend the 24 hour period. If, after

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### **FIRE REGULATIONS**

notification, the consignee or the consignee's agent does not move the cargo as specified above and within the time specified above, the carrier shall so notify the Fire Marshal, who shall instruct the carrier as to the disposition of the cargo.

3. No explosives, pyrotechnics, blasting agents or fireworks awaiting further shipment to destinations outside the City shall be held at a terminal within the City for more than 24 hours unless under direct order of the Fire Marshal.

#### **C. Transportation by Water.**

1. All explosives, blasting agents, fireworks and pyrotechnics transported from land to water or from water to land are subject to regulation under applicable provisions of this Chapter and Portland City Code 19 "Harbors" and shall be subject to supervision by the Harbor Master with regard to loading, unloading and handling on any waterfront facility in the City. The Harbor Master shall notify the Fire Marshal when any vessel having explosives, blasting agents, pyrotechnics or fireworks on board enters the City limits.
2. The party with legal custody shall provide adequate security of explosives, blasting agents, pyrotechnics and fireworks during the time that they are held at any waterfront facility.

#### **31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.**

- A. It is unlawful to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks or pyrotechnics within the City, except as specified by ORS 480.120. For the purpose of this Chapter, the Fire Marshal of the City is recognized as an ex-officio Deputy State Fire Marshal as provided by State statute.
- B. All permitted public fireworks displays may be supervised and controlled by the Fire Chief, acting by and through the Fire Marshal.
- C. Violations - The Fire Marshal is authorized to receive for storage or transfer explosives, blasting agents, pyrotechnics or fireworks obtained by law enforcement officers or others. The Fire Marshal shall confiscate, remove, or have removed at the owner's expense, all stocks of fireworks or other combustibles exposed for sale or held in stock in violation of this Title, and may destroy same, when the Fire Marshal finds such measures necessary for the preservation of the public safety.

**31.40.080 Additional Requirements for Blasting Activities.**

**A.** A blasting permit is required for every individual project requiring blasting. It shall be a violation of this Title for any person or entity to do any of the following without first obtaining a permit from the Fire Marshal.

1. be in possession of high explosive materials, as defined by the adopted fire code;
2. transport explosives;
3. conduct an operation or activity requiring the use of explosive materials; or
4. perform, order or supervise the loading and firing of high explosive materials for the purpose of blasting.

**B.** Certificate of Insurance.

The applicant shall provide a certificate of liability insurance to include X, C, U coverage in a form to be approved by the City:

1. In an amount not less than one million dollars (\$1,000,000), or
2. Such additional amount as may be reasonable under all of the circumstances then existing as determined by the Fire Marshal.

The certificate of insurance shall state on its face that the underlying liability insurance policy includes coverage for and indemnification of the City, its officers, agents (including any blasting consultant in the employ of the City, and any employees of such blasting agent) as additional insured, against any claims brought by owners of any property for loss or damage that resulted from such blasting and coverage to indemnify, hold harmless and defend the City, its officers, agents, and employees in and from any cost, attorney's fees or judgments arising in any way from the actions of the permittee as a result in whole or in part from the blasting. The certificate shall also state that the insurance company must give the City a minimum of 10 days' notice of cancellation of the required liability insurance coverage. Notice shall include notice to the Fire Marshal.

**C.** Additional Permissions.

1. A valid Certificate of Possession from the Bureau of Alcohol, Tobacco and Firearms must be obtained prior to issuance of a permit.

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2. High explosive materials shall not be transported, sold, given, delivered, or transferred to anyone in the City not in possession of a valid blasting permit.
3. Permits for blasting projects in a public right-of-way or adjacent to a public right-of-way when the blast may affect operation of the right-of-way shall not be issued unless approved by other City Bureaus or other public agencies as deemed appropriate by the Fire Marshal.

**D. City Assumes No Liability.**

By the passage of the ordinance codified in this chapter or the issuance of any permit under this chapter, the City assumes no responsibility for any damage caused by the person or entity blasting within the City.

#### **Chapter 31.50**

### **BUILDING INSPECTIONS**

**Sections:**

- |           |                          |
|-----------|--------------------------|
| 31.50.010 | Purpose and Scope.       |
| 31.50.020 | Organization.            |
| 31.50.030 | Process.                 |
| 31.50.040 | Administrative Warrants. |
| 31.50.050 | Fees Authorized.         |

**31.50.010 Purpose and Scope.**

The Fire Marshal shall establish a program for the periodic inspection of all occupancies of commercial buildings for compliance with the fire regulations. The Fire Marshal shall adopt a policy regarding the frequency, priority, and type of inspection of occupancies in commercial buildings subject to the availability of budgeted funds and staff. The Fire Marshal or the Fire Marshal's designees may, at all reasonable hours, enter into all buildings and upon all premises, except private residences, to conduct an inspection to determine if fire hazards exist.

**31.50.020 Organization.**

The Fire Marshal shall establish minimum qualifications of individuals performing inspections. Individuals may be members of the Fire Prevention Division, members of

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other Divisions within the Fire Bureau, members of other public agencies operating under an interagency agreement, or employees or individuals working under contract with the Fire Bureau.

**31.50.030 Process.**

- A.** Prior to a periodic inspection, each owner/occupant shall be sent a letter by first class mail, giving notice of the inspection and listing commonly found violations of fire regulations. Failure to correct the common violations listed in the letter shall result in an additional fee for each class of violation.
- B.** When a periodic inspection reveals a violation of fire regulations, the Fire Marshal shall so notify the owner/occupant and the owner/occupant shall be responsible for immediately abating the violation. Failure to abate the violation as prescribed by the Fire Marshal shall result in additional penalties as set forth in a fee schedule adopted by City Council.

**31.50.040 Administrative Warrants.**

Where entry for the purpose of periodic inspection or investigation has been sought and refused, or an inspection or investigation may, in the opinion of the Fire Marshal, be jeopardized without an inspection warrant, the Fire Marshal may seek and execute such warrant as allowed under the provision of ORS 476.160 through 476.170.

**31.50.050 Fees Authorized.**

- A.** There shall be an inspection fee payable by the building owner/occupant for all periodic inspections as well as inspections requested by the owner/occupant. The building owner will be billed in situations where the occupant shows the Fire Marshal a lease agreement or some other legal arrangement with the building owner which places the responsibility for fire inspection and the payment of fees on the building owner.
  - 1.** Exception: Inspections of primary and secondary schools and nonprofit hospitals buildings with an Oregon State Structural Code occupancy designation of I – 2 (Hospitals), shall be exempt from all fees except illegal occupancy, violation and reinspection fees.
- B.** Fees for periodic inspections, reinspections, violations and penalties shall be set forth in a fee schedule adopted by City Council. All fees shall be paid to the City Treasurer within 27 days of the invoice date and shall be considered delinquent after that date. A penalty shall be assessed if a person fails to pay the fee when due.

