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PUBLIC ORDER AND POLICE

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Chapter 14A.10

DEFINITIONS

(New Title replaced by Ordinance
No. 176585, effective July 5, 2002.)

Sections:

14A.10.010 Definitions.

14A.10.010 Definitions.

The following definitions apply throughout Title 14 in its entirety, except as otherwise provided:

- A.** Alcohol, Alcoholic Beverage, and/or Alcoholic Liquor: any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.
- B.** Bicycle: any type of vehicle that is designed:
 - 1.** To be operated on the ground or surface on one or more wheels;
 - 2.** To have a seat or saddle for use of the rider; and
 - 3.** To be propelled exclusively by human power.

This definition does not include wheelchairs or similar types of conveyances.

- C.** Chief of Police: the Commanding Officer of the police force empowered to direct the police work of the City, or lawfully appointed subordinate of the Chief of Police acting under the Chief of Police's orders.
- D.** City Engineer: the duly appointed City Engineer or lawfully appointed subordinate of the City Engineer acting under the City Engineer's orders.
- E.** City Traffic Engineer: the duly appointed City Traffic Engineer or lawfully appointed subordinate of the City Traffic Engineer acting under the City Traffic Engineer's orders.

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- F.** City Property: any property including but not limited to parks, rights of way, easements, buildings, or other land or physical structures owned or managed by the City.
- G.** Conducting business: the act of selling services or edible or non-edible items for immediate delivery.
- H.** Crosswalk: whether marked or unmarked, any portion of a roadway at an intersection or elsewhere, expressly for pedestrian crossing, as defined in ORS 801.220.
- I.** Firearm: a pistol, revolver, gun, rifle, or other mechanism, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air.
- J.** Minor: a person under 18 years of age.
- K.** Motor Vehicle or Vehicle: a means of conveyance that is self-propelled or designed for self-propulsion.
- L.** Park: any publicly or privately owned real property, and the buildings, structures and facilities thereon, placed under the jurisdiction of Portland Parks and Recreation for park or recreational purposes, and includes all land granted to the City for such purposes.
- M.** Police Officer: a member of the Oregon State Police, sheriff, constable, marshal, and officer of the Bureau of Police.
- N.** Possess: to have physical possession or otherwise to exercise dominion or control over property.
- O.** Public Place: a publicly or privately owned place to which the general public has access and may include but is not limited to public property and areas of private property open to the public, such as spaces within apartment houses and hotels not constituting rooms or apartments designed for actual residence, schools, places of amusement, parks, playgrounds, and premises used in connection with public passenger transportation.
- P.** Public Property: any property including but not limited to parks, rights of way, easements, buildings, or other land or physical structures owned or managed by the City or other governmental agency.

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- Q.** Public Right of Way: any thoroughfare or area intended, designed, or used for vehicular or pedestrian traffic.

Chapter 14A.20

PROCEDURES

Sections:

- 14A.20.010 General Purpose of Title.
- 14A.20.020 Principles of Construction.
- 14A.20.030 Constitutionality.
- 14A.20.040 Consistency with State Criminal Law.
- 14A.20.050 Prohibited Acts Generally.
- 14A.20.060 Penalty for Violation.
- 14A.20.070 Claims for Rewards.
- 14A.20.080 Restrictions on Rewards.
- 14A.20.090 Council Decisions on Rewards Final.
- 14A.20.100 Ineligibility of Police for Rewards.

14A.20.010 General Purposes of Title.

The general purposes of the provisions set forth in Title 14 are to prevent and prohibit conduct that unjustifiably inflicts or threatens harm to individual or public interests, to safeguard conduct that is without culpability from condemnation as criminal, and to provide fair warning of the nature of the conduct declared to constitute an offense.

14A.20.020 Principles of Construction.

The provisions embodied in Title 14 shall be construed according to the plain meaning of their terms, but when the language is susceptible of differing constructions, the language shall be interpreted to further the general purposes stated in this Chapter and of any special purposes established in the particular provision involved, and shall not contradict state or federal law. Any discretionary powers conferred by this Title shall be exercised to further the general purposes stated here.

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14A.20.030 Constitutionality.

If any section, subsection, sentence, clause, or phrase of this Title is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Title. If for any reason any portion of this Title should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

14A.20.040 Consistency with State Criminal Law.

This Title shall be construed so as to render it consistent with state criminal law, and any procedures or defenses made available in the prosecution of the same or similar offenses under state criminal law shall apply in prosecutions under this Title.

14A.20.050 Prohibited Acts Generally.

- A. The doing of any act or thing prohibited or the failing to do any act or thing commanded to be done in this Title within the corporate limits of the City and within such other areas as may be specified in this Title is hereby declared to be an offense against the public peace, safety, health, morals, and general welfare of the people of the City.
- B. Any act or omission made unlawful under this Title shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing any such act or omission.

14A.20.060 Penalty for Violation.

Unless a different penalty is specifically provided, any violation of any provision of this Title shall upon conviction be punished by a fine of not more than \$500, or by imprisonment of not more than 6 months, or by both. However, no greater penalty shall be imposed than allowed under Oregon law.

14A.20.070 Claims for Rewards.

Each claim for a reward offered by this Code shall be made in writing by the claimant or the claimant's authorized representative and filed with the Auditor within 60 days after conviction of the accused in the Circuit Court or, if there has been an appeal, when the judgment of conviction becomes final. If two or more persons are entitled to the same reward, it shall be prorated among them. It shall be the duty of the Chief of Police to fully investigate all claims for reward and report the results of the investigation to the City Attorney. The report shall include copies of all police reports and records pertaining to the case out of which the claim arose, the court disposition, and a statement of facts or circumstances showing why the claimant is or is not entitled to payment of the reward. The City Attorney shall examine the record and report findings and conclusions to the Council, together with the report of the Chief of Police. If the arrest was made by any law enforcement agency other than the Bureau of Police, a report of that agency shall be

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obtained and submitted to the Council, along with the other reports required herein. The address of the claimant shall not be made public unless necessary to the enforcement of the law.

14A.20.080 Restrictions on Rewards.

- A.** A reward under the provisions of this Code shall not be paid to any United States, state, county, or municipal officer or employee other than a sheriff as outlined in ORS 206.330.
- B.** Bounty hunters are not entitled to rewards under this Chapter.

14A.20.090 Council Decisions on Rewards Final.

The action of the Council shall be final and binding upon any and all persons claiming a reward provided for herein, and the Council shall be the final arbiter in determining the rights, if any, of respective claimants.

14A.20.100 Ineligibility of Police for Rewards.

No member of the Bureau of Police shall for his or her own benefit under any pretense whatever, receive or share in any present, fee, gift, reward or emolument for public service other than the regular salary and pay except by the consent of the City Council.

Chapter 14A.30

**MISCELLANEOUS ACTS
OF MISCONDUCT**

Sections:

- 14A.30.010 Unlawful Noise Disturbance.
- 14A.30.020 Unlawful Operation of Sound Producing Equipment.
- 14A.30.030 Unauthorized Use of a Police Vehicle.
- 14A.30.040 Unlawful Use of Badges.
- 14A.30.050 Tampering with Animals Used for Law Enforcement Purposes.
- 14A.30.060 Unlawful Possession or Use of Devices Used to Open Coin Boxes.

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14A.30.010 Unlawful Noise Disturbance.

It is unlawful to make any excessive, unreasonable, or unusually loud sound which disturbs the peace and quiet of any neighborhood or which injures or endangers the comfort, repose, health, peace, or safety of any person.

14A.30.020 Unlawful Operation of Sound Producing Equipment.

- A.** It is unlawful to operate or use or permit the use of any sound producing equipment:
 - 1.** Between the hours of 10 p.m. and 7 a.m. so as to be plainly audible within any dwelling unit which is not the source of the sound; or
 - 2.** While on public property so as to be plainly audible 100 feet or more from the device.
- B.** Sound producing equipment includes but is not limited to any radio, television set, musical instrument, phonograph, loud speaker, bell or chime.

14A.30.030 Unauthorized Use of a Police Vehicle.

It is unlawful for any person other than a police officer or designee to possess or operate a vehicle marked or identified by the word "police" or any other marking, insignia, or equipment identifying it as a police vehicle.

14A.30.040 Unlawful Use of Badges.

It is unlawful for any person not a regular member of the police force of the City to use in any manner a City of Portland police officer's badge, or any replica or imitation thereof, except by special permission of the Chief of Police.

14A.30.050 Tampering with Animals Used for Law Enforcement Purposes.

It is unlawful for any person to torture, torment, beat, kick, strike, choke, cut, stab, stone, shoot, mutilate, injure, disable, kill, or tamper with any animal while it is being caged, kenneled, transported, exhibited, exercised, or used in discharging or attempting to discharge any lawful duty or function or power of office, by any police officer or his or her representative, for any police agency.

14A.30.060 Unlawful Possession or Use of Devices Used to Open Coin Boxes.

It is unlawful for any unauthorized person to have in his or her possession or use any tool, key, implement, or device designed for forcing, breaking, or otherwise gaining entry to a pay telephone coin box, coin vending machine, parking meter or other coin-operated machine or device.

Chapter 14A.40

**INTERFERENCE WITH PERSONS
AND SEXUAL MISCONDUCT**

Sections:

- 14A.40.010 Interfering with Privacy.
- 14A.40.020 Offensive Physical Contact Prohibited.
- 14A.40.030 Indecent Exposure.
- 14A.40.040 Loitering to Solicit Prostitution.
- 14A.40.050 Unlawful Prostitution Procurement Activities.

14A.40.010 Interfering with Privacy.

- A.** It is unlawful for any person to look through a window, transom, or door into the dwelling of another with the intent to interfere with the privacy of an occupant.
- B.** As used in this Section, “dwelling” includes a building or part of a building in which a person temporarily lodges.

14A.40.020 Offensive Physical Contact Prohibited.

- A.** No person shall cause or attempt to cause another person reasonably to apprehend that they will be subjected to any offensive physical contact either to their person or to personal property in their immediate possession.
- B.** Violation of this Section is subject to a maximum \$500 fine and/or 10 days in jail.
 - 1.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for misdemeanors pursuant to ORS 137.126 to ORS 137.129.

14A.40.030 Indecent Exposure.

It is unlawful for any person to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex.

14A.40.040 Loitering to Solicit Prostitution.

- A.** For the purposes of this Section, the following definitions apply:

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1. Prostitution: engaging in, offering, or agreeing to engage in sexual conduct or sexual contact in return for a fee or paying, offering, or agreeing to pay a fee to engage in sexual conduct or sexual contact.
 2. Sexual Conduct: sexual intercourse or deviate sexual intercourse.
 3. Sexual Contact: any touching of one person's sexual organs or other intimate parts, used with the intention of touching another person not married to the actor, for the purpose of arousing or gratifying the sexual desire of either party.
- B.** It is unlawful for any person to loiter in or near any street or public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting, or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that the person repeatedly contacts, stops or attempts to stop pedestrians, or repeatedly stops or attempts to stop motor vehicle operators or passengers by hailing them or gesturing to them.

14A.40.050 Unlawful Prostitution Procurement Activities.

- A.** As used in this Section, "prostitution" means that unlawful conduct defined in Section 14.A40.040 of this Code. As used in this Section, "prostitution procurement activity" means any conduct by any person that constitutes a substantial step in furtherance of an act of prostitution. Such activity includes, but is not limited to, lingering in or near any street or public place, repeatedly circling an area in a motor vehicle, or repeatedly beckoning to, contacting, or attempting to stop pedestrians or motor vehicle operators.
- B.** It is unlawful for any person to engage in any prostitution procurement activity with an intent to induce, entice, solicit, procure, locate, or contact another person to commit an act of prostitution.

Chapter 14A.50

**CONDUCT PROHIBITED
ON PUBLIC PROPERTY**

Sections:

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

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

- A.** It is unlawful for any person to drink alcoholic liquor upon any street, sidewalk, or other public right of way.
- B.** It is unlawful for any person to have in his possession while upon any street, sidewalk, or other public right-of-way any bottle, can, or other receptacle containing any alcoholic liquor which has been opened or a seal broken or the contents of which have been partially removed.
- C.** This Section does not apply to prohibit the consumption of alcoholic liquor in sidewalk cafes which have been issued permits under Chapter 17.25 of this Code.

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

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

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

14A.50.030 Obstructions as Nuisances.

(Replaced by Ordinance No. 178958; amended by Ordinance Nos. 180194 and 180600, effective November 22, 2006.)

- A. Unless specifically authorized by ordinance or permit, a person commits the offense of sidewalk obstruction if, in the area bounded by the Willamette River, Interstate 5 and Interstate 405, the person:
 1. sits, kneels or creates a trip hazard or obstruction in the through pedestrian zone of a sidewalk;
 2. sits, kneels or creates a trip hazard or obstruction on any part of sidewalks on the bus mall;
 3. sits, kneels or creates a trip hazard or obstruction less than 18 feet from a corner as measured from the intersection of the extended curb lines;
 4. sits, kneels or creates a trip hazard or obstruction on any part of the same sidewalk as a MAX stop;
 5. creates a trip hazard or obstruction between 7:00 a.m. and 7:00 p.m. on any frontage or furnishing zone;
 6. stands as part of a stationary group of three or more persons in a through pedestrian zone;
 7. leans against a structure or thing, sits on a structure or a ledge which is elevated above the sidewalk surface, or on a step, and thereby reduces the through pedestrian zone of a sidewalk to a width less than eight feet on a fifteen-foot sidewalk, or to less than six feet on narrower sidewalks; or

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8. without using the sidewalk facility or amenity for its principal purpose, blocks pedestrian access to the function provided by an information kiosk, water fountain, parking pay center, food cart, trash can, curb cut, ramp, bench, paper box, display window, service window or pedestrian walk signal switch.
- B.** The provisions of Subsection 14A.50.030 A. do not apply when
1. they are waived by permit;
 2. the person is in line waiting for goods or services unless the person creates a trip hazard or obstacle that is unlawful under Subsection 14A.50.030 A., or refuses to comply with an order of a peace officer, the City Engineer, or the City Traffic Engineer to form the line in a way that moderates the impact of the line on passage along the through pedestrian zone;
 3. the person violates the section due to reasons beyond the person's control;
 4. the person is covered by, and complying with, the Street Musician Partnership Agreement.
- C.** Subsections 14A.50.030 A.6, A.7., and A.8. do not apply to a person who is part of an assembly that has formed to participate in or observe an expressive event if the assembly has lasted less than eight hours, unless the person refuses to comply with a reasonable order of a peace officer, the City Engineer or the City Traffic Engineer to move so as to moderate the impact of the assembly on passage along the through pedestrian zone.
- D.** This Section does not apply unless a person has received a warning in the last seven days that a behavior violated the restrictions in this section. The warning must have described the unlawful behavior, but need not be location-specific.
- E.** An obstruction or trip hazard that is unlawful under this Section is hereby declared to be a public nuisance. The City Engineer, the City Traffic Engineer, or the Chief of Police may summarily abate any such obstruction or trip hazard, or it may be abated as set forth in Chapter 29.20
- F.** The provisions of this Section do not apply to merchandise in course of receipt or delivery, unless that merchandise is permitted to remain upon a street or sidewalk for a period longer than 2 hours. The vehicle in which merchandise is delivered is subject to all parking regulations as described in Title 16.

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G. The following definitions apply to this Section:

- 1.** A trip hazard is any object, including any thing or animal, that extends to, or occupies space, more than a half-inch above a sidewalk surface but does not include objects used to move, carry or guide an object, thing or animal in a through pedestrian zone or an object that is entirely outside the through pedestrian zone and within two feet of a person who is capable of moving or controlling the object to accommodate the needs of other sidewalk users. Legs extended from a seated person are a trip hazard, but a person who sits or kneels with legs drawn up to the body does not constitute a trip hazard.
- 2.** An obstruction includes any object, including any thing or animal, that prevents pedestrian or vehicular traffic from traveling over the surface on which it rests, or over which it extends, but does not include objects being carried, moved or guided in a through pedestrian zone or objects that are entirely outside the through pedestrian zone and within two feet of a person who is capable of moving or controlling the object to accommodate the needs of other sidewalk users. Legs extended from a seated person are an obstruction, but a person who sits with legs drawn up to the body does not constitute an obstruction.
- 3.** As described in the City of Portland Pedestrian Design Guide, the through pedestrian zone of a sidewalk is the area designed for unimpeded pedestrian travel along the length of a sidewalk, typically aligned between the furnishing and frontage zones, consisting of an area free of temporary and permanent objects and, when possible, eight feet wide on a fifteen-foot-wide sidewalk, six feet wide on a twelve-foot-wide sidewalk, and five feet wide on a local service walkway. The through pedestrian zone is described in the City of Portland Pedestrian Design Guide.
- 4.** As described in the City of Portland Pedestrian Design Guide, the furnishing zone of a sidewalk is the area between the through pedestrian zone and the adjacent roadway. As one of its purposes, the furnishing zone can be designed to accommodate through pedestrian traffic, but it is also the area used by people alighting from cars and is the proper location for street trees, signal poles, utility poles, street lights, controller boxes, hydrants, signs, parking meters, driveway aprons, grates, hatch covers, transit kiosks, paper boxes and sidewalk amenities.

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5. As described in the City of Portland Pedestrian Design Guide, the frontage zone of a sidewalk is the area between the through pedestrian zone and the property line. This zone is designed to allow pedestrians a comfortable buffer distance from the building fronts in areas where buildings are at the lot line, or from elements such as fences and hedges on private property.
6. The bus mall includes both sidewalks on Fifth and Sixth Avenues from N.W. Glisan to S.W. Hall.
7. Sitting in or on a mobility device is the equivalent of standing for purposes of this Section.

H. This Section is effective until January 15, 2007.

14A.50.035 Pedestrians.

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

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

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

- A. Within the Central City Plan District;
- B. With 250 feet of any:
 1. Public library grounds;

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

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

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

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

Tickets to all events at municipally-owned facilities, including the Memorial Coliseum, PGE Park, and the public plaza at the Rose Quarter, and tickets to all events at the Rose Garden Arena other than season tickets, shall have printed thereon the retail price thereof. It shall be unlawful for any person to sell or offer for sale any ticket for an event at any municipally-owned facility, or for any event at the Rose Garden Arena, at a price greater

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than the retail price printed thereon or at a price greater than the original retail price. Notwithstanding the above, this Section shall not be construed to prohibit service fees or charges imposed or collected by ticket outlets where service fees or charges are specifically authorized by the management of the facilities.

14A.50.070 Advertising on Streets.

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

14A.50.110 Misuse of a Public Restroom.

- A.** This Section applies to permanent and temporary structures erected or placed for use as a public restroom.
- B.** It is unlawful to stand, climb, sit upon, or lay down on any fixture or floor located inside of or at the entrance of any restroom located in a public building or on public property, unless that fixture or floor is intended to be used for standing, climbing, sitting or lying upon.
- C.** It is unlawful for two or more persons to occupy any restroom that is specifically designed for use by only one person and that is located in a public building or on public property, unless one of those persons is assisting a handicapped person or persons, a child or children under 12 years of age, or an elderly person, or persons in need of assistance.
- D.** It is unlawful to interfere with any attendant in the discharge of his or her duties within any restroom located in a public building or on public property.
- E.** It is unlawful for any male person to enter a restroom marked "Women." This Section does not apply to a male child with his mother or female guardian, or an authorized person in the discharge of his regular duties.
- F.** It is unlawful for any female person to enter a restroom marked "Men." This

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Section does not apply to a female child with her father or male guardian, or an authorized person in the discharge of her regular duties.

- G.** It is unlawful for any person to engage in disorderly or disruptive conduct inside of or at the entrance to any restroom located in a public building or on public property.
- H.** The above requirements do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

14A.50.120 Misuse of a Public Drinking Fountain.

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

14A.50.130 Misuse of Reservoirs.

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

Chapter 14A.60

WEAPONS AND EXPLOSIVES

Sections:

- 14A.60.010 Possession of a Loaded Firearm in a Public Place.
- 14A.60.020 Discharge of a Firearm.
- 14A.60.030 Tear Gas Bombs and Stun Guns.
- 14A.60.040 Explosives and Bottle Bombs.

14A.60.010 Possession of a Loaded Firearm in a Public Place.

- A.** It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the firearm.
- B.** It is unlawful for any person to knowingly possess or carry a firearm and that firearm's clip or magazine, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the clip or magazine.
- C.** The following are exceptions and constitute affirmative defenses to a violation of this Section:

 - 1.** A police officer or other duly appointed peace officers, whether active or honorably retired.
 - 2.** A member of the military in the performance of official duty.
 - 3.** A person licensed to carry a concealed handgun.
 - 4.** A person authorized to possess a loaded firearm while in or on a public building under ORS 166.370.
 - 5.** A government employee authorized or required by his or her employment or office to carry firearms.
 - 6.** A person summoned by a police officer to assist in making arrests or preserving the peace, while such person is actually engaged in assisting the officer.
 - 7.** A merchant who possesses or is engaged in lawfully transporting unloaded firearms as merchandise.
 - 8.** Organizations which are by law authorized to purchase or receive weapons from the United States or from this state.
 - 9.** Duly authorized military or civil organizations while parading, or their members when going to and from the places of meeting of their organization.

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10. A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.
 11. Persons travelling to and from an established target range, whether public or private, for the purpose of practicing shooting targets at the target ranges.
 12. Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.
 13. A person authorized by permit of the Chief of Police to possess a loaded firearm, clip, or magazine in a public place in the City of Portland.
 14. A security guard employed at a financial institution insured by the Federal Deposit Insurance Corporation while the security guard is on duty.
- D.** It is unlawful for any person who possesses a firearm, clip or magazine in or upon a public place, or while in a vehicle in a public place, to refuse to permit a police officer to inspect that firearm after the police officer has identified him or herself as a police officer. This Section does not apply to law enforcement officers or members of the military in the performance of official duties, nor persons licensed to carry a concealed handgun or persons authorized to possess a loaded firearm, clip or magazine while in or on a public building or court facility.

14A.60.020 Discharge of a Firearm.

(Amended by Ordinance No. 178428, effective May 26, 2004.)

- A.** It is unlawful for any person to discharge a firearm in the City or upon its boundaries.
- B.** This Section does not apply to:
1. A person discharging a firearm in the lawful defense of person or property;
 2. A person discharging a firearm on a public or private shooting range, shooting gallery, or other area designed, built, and lawfully operating for the purpose of target shooting;
 3. A person conducting an athletic contest who fires blank ammunition toward the sky;

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4. A person authorized to fire blank ammunition as part of military or police ceremonies;
5. A person authorized by permit of the Chief of Police to discharge blank ammunition for a lawful purpose;
6. Hunter safety instructors of the Oregon State Game Commission or their pupils who are engaged in hunter safety training classes sponsored by the Commission;
7. A police officer in the performance of official duty;
8. Employees or contractors of the Port of Portland engaged in flight safety hazard abatement at and around Portland International Airport to comply with FAR Part 139.337.

14A.60.030 Tear Gas and Stun Guns.

A. For the purposes of this Section, the following definitions apply:

1. Tear gas, mace, pepper mace, or any similar deleterious agent: a sternutator, lacrimator, or any substance composed of a mixture of a sternutator or lacrimator, including, but not limited to chloroacetophenone, alpha-chloroacetophenone, phenylchloro-methylketone, orthochloro-benzalmalonitrile, oleoresin capsicum, or any chemical or combination of chemicals, whether in liquid, solid form, or gas capable of generating offensive, noxious or suffocating fumes, gases, or vapor capable of producing temporary discomfort, permanent injury, paralysis, immobilization, tears, nausea, or other illness.
2. Tear gas weapon: includes but is not limited to any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of tear gas or oleoresin capsicum, mace, pepper mace or other similar deleterious agent.
3. Stun gun: an electrical device that transmits an electrical charge designed to incapacitate humans or animals.

B. It is unlawful for any person, corporation, or association to offer for sale, sell, furnish, transport, carry, possess, or use, within the City limits, any tear gas weapon or stun gun. This Subsection does not apply to:

1. Police officers in the performance of their duties;

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2. Members of the armed forces of the State of Oregon and the United States in the performance of their official duties;
 3. Manufacturers, distributors, or commercial sellers when selling tear gas to any governmental agency for official use;
 4. Manufacturers, distributors, or commercial sellers when selling tear gas to any person, corporation or association when such sale is not in violation of this Section;
 5. Persons involved in the bona fide scientific, educational, or industrial use of tear gas;
 6. Persons, who have not been convicted of any felony, who possess or use tear gas, provided that it is contained in a device that is commercially manufactured to dispense tear gas from an aerosol tube as a self-defense weapon, and is designed to contain not more than 4 fluid ounces per device;
 7. Persons, who have not been convicted of any felony, and who are 18 years of age or older who possess or use a stun gun for the purpose of self-defense.
- C. Exemptions numbers 4., 5., and 6. of this Subsection, above, do not apply to devices that project tear gas by means of firing any type of cartridge by powder discharge, spring action, compressed air, or any other means.
- D. It is unlawful for any person to use, or attempt or threaten to use tear gas or a stun gun against any person known to be, or who should reasonably be known to be, a police officer engaged in the performance of official duties.

14A.60.040 Explosives and Bottle Bombs.

- A. The following definitions apply to this Section:
1. Explosive: any substance or material that on ignition by heat, impact, friction, or detonation will explode with such force as to injure a person or damage property in the immediate vicinity of the explosion.
 2. Bottle bomb: any sealed device containing dry ice (CO₂) or other chemically reactive substances assembled for the purpose of causing an explosion by chemical reaction.

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- B.** It is unlawful for any person, other than a peace officer or member of the armed forces of this State or of the United States acting in the performance of official duty, to possess or have under his or her control an explosive or bottle bomb.
- C.** This Section does not apply to the possession or use of explosives or bottle bomb by a police officer or member of the armed forces of this State or of the United States, members of regularly organized fire departments while in the performance of their official duties, or where otherwise authorized by Federal Law, Oregon Law, or this Code.

Chapter 14A.70

**GAMBLING, SOCIAL GAMES,
AND UNLAWFUL AMUSEMENT
GAMES OR CONCESSIONS**

Sections:

- 14A.70.010 Definitions.
- 14A.70.020 Unlawful Frequenting of a Place Where Unlawful Gambling Activity is Conducted.
- 14A.70.030 Unlawful Chain Letter or Pyramid Scheme.
- 14A.70.040 Social Games Authorization Limited.
- 14A.70.050 Social Games Permit Required.
- 14A.70.060 Social Games Permit Application Process.
- 14A.70.070 Social Games Permit Issuance and Denial.
- 14A.70.080 Revocation and Suspension of Social Games Permit.
- 14A.70.090 Appeal of Denial, Revocation, or Suspension of Social Games Permit.
- 14A.70.100 Inspection of Premises Permitted for Social Games.
- 14A.70.110 Notice of Social Games Required.
- 14A.70.120 Unlawful Amusement Games and Concessions.

14A.70.010 Definitions.

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

- A.** "Chain letter or pyramid scheme" includes, but is not limited to the following:

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1. Any system, scheme, or device, operated by letters, circulars, cards, or other written or printed instrumentality, or orally, or by any other system, whereby it is represented that upon surrender of any sum of money or any other thing of value, a person may receive in return money or any other thing of value in an amount greater than the sum or value surrendered; or
 2. Receipt of money or other thing of value in a sum greater than the value of the money, or other thing of value surrendered, dependent either wholly or in part, upon that person's surrendering money or any other thing of value; or
 3. Determination of when persons shall receive a greater sum of money or other thing of value, effected by any system or scheme where the names of persons surrendering any sum of money or other thing of value are arranged so that the payment, donation, or contribution to them depends upon a scheme whereby their names appear at the top or other designated place upon a list according to the number order or rotation of such persons who have, or who may thereafter surrender any sum of money or other thing of value in order to participate.
- B.** "Contest of chance" means any contest, game, gaming schemes, or gaming device in which the outcome materially depends upon an element of chance, notwithstanding that the contestants' skill may also be a factor.
- C.** "Gambling" shall have the same definition as provided in ORS 167.117(7).
- D.** "Lottery" means a game in which:
1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated as winning ones; and
 2. The winning chances are to be determined by a drawing or by some other similar method; and
 3. The holders of the winning chances are to receive something of value.
- E.** "Social game" means a game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

- F.** "Something of value" means any money, item of value, or any form of credit or promise directly or indirectly contemplating transfer of money or thing of value or any interest.

14A.70.020 Unlawful Frequenting of a Place Where Unlawful Gambling Activity is Conducted.

It is unlawful for any person to frequent or remain at any place where unlawful gambling activity is being conducted.

14A.70.030 Unlawful Chain Letter or Pyramid Scheme.

It is unlawful for any person, whether acting as principal, agent, servant or employee to establish, maintain, conduct, manage, profit from, or operate any chain letter or pyramid scheme; or to solicit or advertise any such scheme; or to list persons who have surrendered any sum of money or any other thing of value to any such scheme. It is unlawful for any person, firm, or corporation to let, lease, or rent any real property and allow any such scheme to be established, maintained, conducted, managed or operated therein or thereon.

14A.70.040 Social Games Authorization Limited.

A social game between players in a private business, private club, or place of public accommodation is authorized only when each of the following conditions are met:

- A.** No house player, house bank, or house odds exist; and
- B.** There is no house income from the operation of a social game; and
- C.** The game cannot be observed from a public right of way; and
- D.** Persons under 18 years of age are not permitted in the room or enclosure where the social game takes place; and
- E.** A valid permit issued pursuant to this Chapter is conspicuously displayed in the room or enclosure where the social game takes place; and
- F.** The room or enclosure where the social game takes place is open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation; and
- G.** No player shall bet more than \$1 in money or other thing of value in any one game, and the amount awarded the winner of a game shall not exceed \$1 in money or other thing of value multiplied by the number of players in the game.

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14A.70.050 Social Games Permit Required.

A permit shall be required for any person to conduct or permit to be conducted in any private business, private club, or place of public accommodation any social game. Any violation of the conditions set forth in Section 14A.70.040 shall be considered grounds for suspension or revocation of such permit. Such permit is not subject to transfer or assignment, is not valid at any location other than the premises described therein, and shall be dated as of the first day of the month in which issued and shall expire 1 year from that date.

14A.70.060 Social Games Permit Application Process.

- A.** The application for a permit to conduct any social game activity shall set forth all information deemed necessary by the Director of the Bureau of Licenses consistent with the regulations provided in this Chapter, including but not limited to a description of the premises subject to the permit, and the fingerprints of the owner(s), officers, principal managing employees, and all employees who are involved in conducting the game activities or operating the game premises of the applicant. The permittee shall notify the Director within 10 days of any change in owners, officers, or principal managing employees that occurs subsequent to permit issuance.
1. For the purposes of this Section, "principal managing employee" shall include:
 - a.** Any person who is a proprietor or partner of the applying organization;
 - b.** Any person who owns or controls 5 percent or more of the outstanding capital stock where the organization is a corporation;
 - c.** Any person who has supervisory authority over employees and/or operations of the business as it relates to the conduct of permitted social games; and
 - d.** Any person who has the authority to supervise the premises and conditions under which permitted social games are conducted.
 2. Where the permit applicant is a nonprofit membership organization, "principal managing employee" shall also mean the chief elected official of the organization and any other elected official(s) whose authority extends to the supervision or management of permitted social games.

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3. With the concurrence of the Chief of Police or proper designee, the Business Licenses Director may exempt a corporate stockholder from the definition "principal managing employee" when it is shown that the involvement of such stockholder(s) in the operations of the applying organization is limited to stock ownership and that such stockholder(s) has no role in the conduct of the organization's operations.
 4. All persons required to supply information in the application shall by oath or affirmation swear to the veracity of the information supplied by them.
- B.** There shall be no right to renewal of a permit; each application shall be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.
- C.** Each application for a permit shall be accompanied by a nonrefundable fee of \$500.
- D.** Before issuance of a permit, the Director or appropriate designee shall confer with the Chief of Police or proper designee, who shall advise whether or not and on what basis there exists law enforcement concerns about the particular applicant's suitability to obtain a permit. If the Chief of Police so recommends, then no permit shall be issued, provided that Council may finally determine, upon appeal by the applicant that permit shall be issued.

14A.70.070 Social Games Permit Issuance, Denial.

- A.** An application for a social game permit shall be denied if the Director of the Bureau of Licenses finds:
1. That within 5 years of the present application date, the applicant or any person having a financial interest in the private business, private club, or place of public accommodation, or any of the applicant's officers or principal managing employees has been convicted of, or if evidence exists that supports a finding by a preponderance of evidence, that such person has committed any felony or misdemeanor under federal or state law or this Code relating to theft, fraud, gambling, controlled substances, or prostitution activities; or
 2. That the applicant or any person having a financial interest in the private business, private club, or place of public accommodation, or any of the applicant's officers or principal managing employees has falsified any statement in the application for permit.

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3. That any violation of federal or State law or this Code relating to gambling has occurred on the premises described in the application. It shall be prima facie evidence of such violation if any person has forfeited bail on, pleaded nolo contendere to, or been convicted of any offense in violation of federal or State law or this Code relating to gambling or gambling devices where the act charged occurred on the premises described in the permit application.
 4. That the applicant has permitted the commission of any criminal act on the premises described in the application or has failed to maintain the premises in conformance with all the requirements of this Code.
- B.** If one or more grounds for denial of a permit as described in Subsection A. of this Section are not established after investigation of the application by the Director with assistance from the Bureau of Police, then the permit shall be issued as soon as practicable.

14A.70.080 Revocation, Suspension of Social Games Permit.

- A.** The permit required under this Chapter may be temporarily suspended for up to 30 days or revoked by the Bureau of Licenses for any reason that would be grounds for denial of an application for a permit. Additionally, such permit may be suspended or revoked when investigation reveals that:
1. Any violation of the provisions of this Chapter or any violation of federal or State law or City ordinance relating to minors, theft, fraud, gambling, obscenity, controlled substances, prostitution, or alcoholic beverages has occurred on or in such premises, or that any such violation was connected in time and manner with the operation of such premises and occurred within the proximity of same; or
 2. Conducting of social games in such location as authorized by the permit causes disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other similar problems in the area around the permitted premises.
- B.** Suspension or revocation shall become effective 5 days after the Bureau makes reasonable attempts to notify the permittee in writing of the grounds for revocation or suspension. If the permittee gives notice of appeal to the Bureau prior to the effective date of the revocation or suspension, suspension or revocation shall not become effective until the appeal is finally determined. If the permittee cannot be found after a reasonable effort to locate him or her has been

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made, then such notice may be sent by certified mail to the permit address, or posted at the same, and shall be deemed acceptable alternative means of service in lieu of personal service.

- C. On a case-by-case basis, depending upon the severity of the violation and the likelihood of continued unlawful activity on such premises, in lieu of suspending or revoking a permit or to reduce the penalty period involved, with the concurrence of the permittee and the Chief of Police, the Director may order a fine of up to \$500 per violation of this Code to be paid to the City's General Fund. Failure to pay the fine within 30 days shall be grounds for revocation or suspension of the social games permit.

14A.70.090 Appeal of Denial, Revocation, or Suspension of Social Games Permit.

The sole method of appeal of a denial, revocation, or suspension of a permit shall be as follows:

- A. When denying an application for permit, the Bureau of Licenses shall immediately make reasonable attempts to notify the applicant who may appeal within 10 days thereafter.
- B. Upon receipt of notice of appeal of a permit denial, revocation, or suspension, the Director shall appoint a Hearings Officer to hear the appeal. The Hearings Officer shall conduct a hearing on the matter, giving the permittee and the Bureau 10 days notice of the date thereof. The hearing shall be conducted according to the procedures established for contested case hearings in ORS Chapter 183. The Hearings Officer shall issue a report within 10 days of the hearing, making findings of fact and determining whether the grounds for revocation or suspension given in the notice have been established by a preponderance of the evidence. The Hearings Officer's determination shall be final and effective within 10 days of giving notice to the Bureau and the permittee, unless appealed to the Council before such time by the aggrieved party. The Council shall hear and determine the appeal based on the record made at the hearing, but may, at its discretion, hear other evidence. In all cases, the decision of the Council shall be final.

14A.70.100 Inspection of Premises Permitted for Social Games.

All persons who have been issued permits pursuant to this Chapter shall permit entry to premises where social games are conducted to any member of the Bureau of Licenses or any officer of the Bureau of Police, upon presentation of official identification, for the limited purpose of inspecting the premises and any activities, records, or devices involved in such games to ensure compliance with this Chapter. Failure to permit an authorized inspection shall be grounds for suspension or revocation of the involved social games permit.

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14A.70.110 Notice of Social Games Required.

Where social games are conducted, each permittee shall continuously and conspicuously post notice that is clearly readable and in letters at least 1 inch high that such games must be conducted in accordance with the conditions set forth in this Chapter, which shall be listed in their entirety.

14A.70.120 Unlawful Amusement Games and Concessions.

- A.** It is unlawful for any person to manage, operate, or profit from any unlawful amusement game or concession.
- B.** As used in this Section, "unlawful amusement game or concession" includes the following:
 - 1.** Any amusement concession or game in which any physical limitations affecting the degree of skill necessary to win the amusement concession or game are not readily visible to the player, unless notice disclosing such physical limitations is displayed continuously and conspicuously at the location where the amusement concession or game is played, so as to be readily visible to patrons and contestants.
 - 2.** Any amusement concession or game where winning depends upon the patron or contestant's ability to throw or project an object, unless all such objects available for use by any single patron or contestant are uniform in size and weight.
 - 3.** Any amusement concession or game in which the ability of the patron or contestant to win depends upon throwing or projecting of an object, unless there exists an unobstructed air space of at least 18 inches in height above the highest point of any surface, object, or place upon which that object must land to win the amusement concession or game.
 - 4.** Any amusement concession or game in which any target, which must be struck, hit, overturned, broken, or passed through is tilted or inclined in any manner so as to give any advantage to the manager or operator.
 - 5.** Any amusement concession or game in which any material has been placed on any target so as to give any advantage to the manager or operator.

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6. Any amusement concession or game that utilizes any device, other than the target and the objects to be thrown or projected at that target, which increases or decreases the opportunity of any patron or contestant to win the amusement concession or game.
7. Any amusement concession or game in which the patron or contestant is required to shoot a firearm, air gun, pellet gun, BB gun, or similar device at a target in order to win the amusement concession or game, unless all of the ammunition used in such devices is uniform in type, size, and weight, and the devices are physically attached or controlled to ensure that they can only be pointed toward the target area at all times.
8. Any amusement concession or game in which, as a condition of winning the amusement concession or game, a part or all of a target must be destroyed, unless the patron or contestant is permitted, at his or her request, to inspect the target at any time(s) after he or she has paid to play and has concluded such contest but before he or she has left the amusement concession or game location.

Chapter 14A.80

MINORS

Sections:

- 14A.80.010 Curfew.
14A.80.020 Truancy Reduction.
14A.80.030 Unlawful Tattooing of a Minor.
14A.80.040 Unattended Minors in Vehicles.

14A.80.010 Curfew.

- A. It is unlawful for any minor to be in or upon any public property or public right of way between the hours specified in this Section, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right of way during the hours specified in this Section. For minors under the age of 14 years who have not begun high school, curfew is between 9:15 p.m. and 6 a.m. of the following

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morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, the curfew is between 10:15 p.m. and 6 a.m. of the following morning. For children 14 years of age or older who have begun high school, curfew is between 10:15 p.m. and 6 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, curfew is between 12 midnight and 6 a.m. of the following morning.

- B.** If a minor is taken into protective custody in violation of curfew, it is the responsibility of the parent, guardian, or other person having legal care and custody of the minor to come immediately and take custody of the minor from the police.

14A.80.020 Truancy Reduction.

- A.** For purposes of this Section, "regular school hours" are the hours of the full-time school that the minor would attend in the school district where the minor resides, on any day that school is in session, or, if the school in the school district of residence is unknown, "regular school hours" are the school hours of the Portland School District No. 1J on any day that school is in session.
- B.** A minor who is at least seven (7) years of age and under eighteen (18) years of age and who has not completed the 12th grade may not be upon any public property or public right of way during regular school hours except while attending school as required by ORS 339.010 to 339.065, unless the minor is:
- 1.** Absent from the school with the school's permission, but not including students who have been suspended or expelled; or
 - 2.** Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours, and which is authorized by the parent, guardian, or other person having legal care and custody of the minor; or
 - 3.** Lawfully emancipated pursuant to ORS 419B.550 to 419B.558; or
 - 4.** Exempt from compulsory school attendance pursuant to ORS 339.030.
- C.** If a police officer has reasonable suspicion to believe that a minor is in violation of this Section, the officer is authorized to detain the minor and make reasonable inquiry regarding a potential violation of Subsection B of this Section.

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- D.** If a police officer has probable cause to believe that a minor is in violation of this Section, the officer is authorized to take the minor into protective custody pursuant to ORS 419B.150.

14A.80.030 Unlawful Tattooing of a Minor.

It is unlawful for any person to tattoo a minor or to assist or permit such tattooing, without the written permission of that minor's parent or legal guardian.

14A.80.040 Unattended Minors in Vehicles.

It is unlawful for any person having the care and custody of a minor under 6 years of age to leave the minor unattended in a locked vehicle, or to leave the minor unattended in an unlocked vehicle for more than 15 minutes. A minor is unattended within the meaning of this Section if the oldest person with the minor is under the age of 10 years.

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Chapter 14B.10

BURGLARY AND ALARM SYSTEMS

(New Chapter replaced by Ordinance No.
177243, effective February 5, 2003.)

Sections:

- 14B.10.010 Purpose and Scope.
- 14B.10.020 Definitions.
- 14B.10.030 Alarm Users Permits Required.
- 14B.10.040 Failure to Post Person in Control Information Where Burglar Alarms and Fire Alarm Sprinkler Systems Exist.
- 14B.10.050 Burglary and Alarm System Fines.
- 14B.10.060 No Response to Excessive Alarms.
- 14B.10.070 Special Permits.
- 14B.10.080 User's Instruction.
- 14B.10.090 Automatic Dialing Device - Certain Interconnections Prohibited.
- 14B.10.100 Hearing.
- 14B.10.110 Sound Emission Cutoff Feature.
- 14B.10.120 Confidentiality Statistics.
- 14B.10.130 Enforcement and Penalties.
- 14B.10.140 Liability.

14B.10.010 Purpose and Scope.

- A.** The purpose of this chapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems, to prevent unnecessary police emergency response to false alarms, and thereby contribute to the protection of the emergency response capability of the City.
- B.** This chapter governs burglary and, robbery alarm systems, requires permits, establishes fees, provides for fines for excessive false alarms, provides for discontinuation of police response to alarms, provides for punishment of violations and establishes a system of administration.

14B.10.020 Definitions.

- A.** “Alarm Business” means the business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.
- B.** “Alarm System” means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police may respond. The system may or may not be interconnected to an "automatic dialing device."
- C.** “Alarm User” means the person, firm, partnership, association, corporation, company or organization of any kind which owns, controls or occupies any building, structure or facility wherein an alarm system is maintained.
- D.** “Automatic Dialing Device” means a device that is interconnected between an "alarm system" and a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.
- E.** “Bureau of Emergency Communications” is the City/County facility used to receive emergency and general information from the public to be dispatched to the respective police departments utilizing the Bureau.
- F.** “Burglary Alarm System” means an alarm system signaling an entry or attempted entry into the area protected by the system.
- G.** "Chief" means the Chief of the City of Portland's Bureau of Police or his/her designated representative.
- H.** “Sheriff” means Sheriff of Multnomah County or his designated representative.
- I.** “Coordinator” means the individual designated by the Chief of Police to issue permits and enforce the provisions of this chapter.
- J.** “False Alarm” means an alarm signal which announces a need for emergency services when no such need exists. This does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

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- K.** “Interconnect” means to connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.
- L.** “Primary Trunk Line” means a telephone line serving the Bureau of Emergency Communications that is designated to receive emergency calls.
- M.** “Robbery Alarm System” means an alarm system signaling a robbery or attempted robbery.
- N.** “Response” occurs when the Bureau of Emergency Communications treats an alarm signal as a valid alarm. When treating an alarm signal as valid, the Bureau of Emergency Communications may dispatch police officers to investigate the alarm signal as call load, staffing levels, and distance allow.
- O.** “Sound Emission Cutoff Feature” means a feature of an alarm system which will cause an audible alarm to stop emitting sound.
- P.** “System Becomes Operative” means when the alarm system is capable of eliciting a response by police.
- Q.** “Economically Disadvantaged Person” means a person receiving public assistance and/or food stamps.

14B.10.030 Alarm User Permits Required.

(Amended by Ordinance No. 179767, effective November 30, 2005.)

- A.** Every alarm user shall obtain an alarm user’s permit for each system from the Coordinator’s Office within 30 days of the time when the system becomes operative. Users of systems with both robbery and burglary alarm capabilities shall obtain separate permits for each function. Each permit shall bear the signature of the Chief of Police and shall be valid for a 1 (one) year period immediately following issuance of the permit. The permit shall be kept upon the premises using the alarm system and shall be available for inspection by the Chief or Sheriff.
- B.** A yearly alarm permit fee, permit surcharge, late payment fee, and permit renewal fee shall be established by the Bureau of Police. The fees established under this Section shall not become effective until approved by the Commissioner in charge of the Bureau of Police.

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- C.** If a residential alarm user is over the age of 62 and/or is an economically disadvantaged person and resides where the permitted alarm is located and if no business is conducted in the residence, a user's permit may be obtained from the Coordinator's Office according to Section 14B.10.030 A. without the payment of a fee.
- D.** A surcharge will be charged in addition to the fee provided in Section 14B.10.030 B to a user who fails to obtain a permit within 30 days after the system becomes operative, who is more than 30 days delinquent in renewing a permit, or who is more than 30 days delinquent in payment of an invoice.
- E.** If an alarm user fails to renew a permit within 30 days after the permit expires, the coordinator will notify the alarm user, by mail, that, unless the permit is renewed and all fees and fines are paid within 45 days from the date of expiration, and the alarm system remains operative, the user will be considered in violation of 14B.10.030 A.
- F.** Calls for emergency response to an alarm event by an alarm business must include the corresponding alarm permit number.
- G.** Alarm businesses must provide monthly updates of their designated customer list information to the Portland Police Alarm Administration Unit by the 10th day of the following month.

14B.10.040 Failure to Post Person in Control Information Where Burglar Alarms and Fire Alarm Sprinkler Systems Exist.

It is unlawful for a person having control of premises where a burglar alarm or fire alarm sprinkler system exists to fail to have conspicuously posted, where it may be plainly seen by persons outside the premises, the name, address, and telephone number of a person who possesses a key and has access to the premises.

14B.10.050 Burglary and Alarm System Fines.

(Amended by Ordinance Nos. 179726 and 179767, effective November 30, 2005.)

- A.** Fines will be assessed by the Coordinator for excessive false alarms during a permit year as follows:

Second False Alarms	\$50 each
Third False Alarms	\$100 each
Fourth and any additional False Alarms	\$150 each

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- B.** The Coordinator will send a Notification of Alarm by regular mail to notify the alarm user and the alarm business of a false alarm and the fine and the consequences of the failure to pay the fine. The Coordinator will also inform the alarm users of their right to appeal the validity of the false alarm to the Chief of Police, as provided in Section 14B.10.100. If the fine has not been received in the Coordinator's Office within 30 days of the day Notice of fine was mailed by the Coordinator and there is no appeal pending on the validity of the false alarm, the Coordinator will send the Notice of fine by mail along with a notice of late fee of \$25. If payment is not received within 10 days of the day the Notice of late fee was mailed, the Coordinator will initiate the no response process according to Section 14B.10.060 and may initiate the enforcement of penalties according to Section 14B.10.130.
- C.** The payment of any fine shall not be deemed to extend the term of the permit.
- D.** The fine assessed by the Coordinator to the Alarm User for failure to apply for an alarm permit will be \$100 per incident.
- E.** The fine assessed by the Coordinator to an Alarm Business for failure to provide the alarm permit number at the time of requesting emergency service will be \$100 per incident.
- F.** The fine assessed by the Coordinator to an Alarm Business for failure to provide the designated monthly updates of their customer list by the 10th day of the following month will be \$500 per month.

14B.10.060 No Response to Excessive Alarms.

- A.** After the second false alarm the Coordinator shall send a notification to the alarm user by regular mail, which will contain the following information:

 - 1.** That the second false alarm has occurred;
 - 2.** That if four or more false alarms occur within the permit year, the Coordinator will direct the Bureau of Emergency Communications to suspend response to further alarm signals;
 - 3.** That the approval of the Chief of Police of reinstatement of alarm response can only be obtained by applying in writing for reinstatement and that the Chief of Police may reinstate alarm response only upon finding that reasonable effort has been made to correct the false alarms;

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4. That the alarm user has the right to contest the validity of a false alarm determination by requesting a False Alarm Validity Hearing, and that a request for such a hearing will stay the effect of a false alarm determination and must be in writing and filed within ten days of the receipt of the Notice of Alarm.
- B.** After the fourth false alarm within the permit year the Coordinator shall direct the Bureau of Emergency Communications to suspend response to subsequent alarms unless instructed to respond by the of the Chief of Police pursuant to 14B.1.060
- D.** The Coordinator shall send a Notice of Suspension of Response to:
1. The Bureau of Emergency Communication; and
 2. The alarm user by certified mail.
- C.** The suspension of response to an alarm shall begin ten days after mailing of the Notice of Suspension of Response to the alarm user unless a written request for a False Alarm Validity Hearing has been made as delivered to the Coordinator.
- D.** The Chief of Police shall order the Coordinator to reinstate an alarm response if the user makes a written application for reinstatement and the Chief finds that reasonable effort has been made to correct the problem(s) which led to the false alarms.

14B.10.070 Special Permits.

An alarm user required by federal, state, county or municipal statute, regulation, rule or ordinance to install, maintain and operate an alarm system shall be subject to Chapter, provided:

- A.** A permit shall be designated a special alarm user's permit.
- B.** A special alarm user's permit for a system which has four false alarms in a permit year shall not be subject to the no response procedure specified but shall pay the regular fine schedule according to this Chapter.
- C.** The payment of any fine provided for in paragraph B of this Subsection shall not be deemed to extend the term of the permit.

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14B.10.080 User Instruction.

- A.** Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on the premises located in the area subject to this Chapter shall furnish the user with instruction that provides information to enable the user to operate the alarm system at any time. The alarm business shall also inform each alarm user of the requirement to obtain a permit and where it can be obtained.
- B.** Standard form instruction shall be submitted by every alarm business to the Coordinator. If the Coordinator reasonably finds such instructions to be incomplete, misleading, unclear or inadequate, the Coordinator may require the alarm business to revise the instruction to comply with this Chapter and then to distribute the revised instruction to its alarm users.

14B.10.090 Automatic Dialing Device: Certain Interconnections Prohibited.

- A.** It is unlawful for any person to program an automatic dialing device to select a primary trunk line and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line within 12 hours of receipt of written notice from the Coordinator that it is so programmed.
- B.** It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to the City and it is unlawful for an alarm user to fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the Coordinator that an automatic dialing is so programmed.

14B.10.100 Hearing.

- A.** An alarm user may challenge the validity of a false alarm determination by the Coordinator by appealing the determination and asking for a hearing on the matter before the Chief of Police. The appeal must be in writing and must be submitted to the Coordinator within ten days of the alarm user having received Notice of False Alarm. Failure to contest the determination in the required time period results in a conclusive presumption that the alarm was false.
- B.** If a hearing is requested, written notice of the time and place of the hearing shall be served on the user by the Chief of Police by certified mail at least 10 days prior to the date set for the hearing, which date shall not be more than 21 nor less than 10 days after the filing of the request for hearing.

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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. 3rd Avenue; thence northerly along an extension of the east curb line of N.W. 3rd 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. 4th Avenue; thence in a northwesterly direction along the east curb line becoming the north curb line of N.W. 4th Avenue as it intersects with N.W. 5th 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. 15th Avenue; thence southerly along the west curb line of N.W. 15th 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. 16th Avenue; thence northerly along the east curb line of N.W. 16th 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. 23rd Avenue; thence southerly along the west curb line of N.W. 23rd 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. 14th Avenue; thence southerly along the west curb line of S.W. 14th 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. 13th Avenue; thence southerly along the west curb line of S.W. 13th 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. 3rd Avenue and projects in a straight line to a point on the west curb of N.E. 2nd Avenue; thence southerly along the west curb line of N.E. 2nd 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. 12th Avenue; thence northerly along the east curb line of S.E. 12th Avenue as it crosses E. Burnside Street and becomes N.E. 12th Avenue; thence northerly along the east curb line of N.E. 12th 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. 82nd Avenue; 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 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. 7th Avenue; thence northerly along the east curb line of N.E. 7th 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. 14th Avenue; thence northerly along the east curb line of N.E. 14th 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. 20th Avenue; thence northerly along the east curb line of N.E. 20th 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. 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. 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. 10th Avenue; thence northerly along the east curb line of N.E. 10th 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. 6th Avenue; thence southerly along the west curb line of N.E. 6th 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 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 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. 92nd Avenue; thence northerly along the west curb line of N.E. 92nd 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.

(Amended by Ordinance No. 180260, effective July 28, 2006.) All forfeiture proceedings pursuant to this Chapter shall be done in accordance with the provisions of ORS Chapter 475A.

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.

Chapter 14B.80

GRAFFITI NUISANCE PROPERTY

Sections:

- 14B.80.010 Declaration of Purpose.
- 14B.80.020 Graffiti Nuisance Property.
- 14B.80.030 Definitions.
- 14B.80.040 Procedures.

14B.80.010 Declaration of Purpose.

- A.** It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social deterioration within the City and to promote public safety and health.
- B.** The Manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

14B.80.020 Graffiti Nuisance Property.

- A.** Any property, building or structure within the City of Portland which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.
- B.** Any person who permits property under their control to become a graffiti nuisance property shall be in violation of this Chapter and subject to its remedies.

14B.80.030 Definitions.

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

- A.** Graffiti: Any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.

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- B.** **Manager:** The Graffiti Abatement Manager is the City official, or designated representative, who is responsible for the administration of the Graffiti Nuisance Abatement program under this Chapter. In accordance with adopted procedures, the Manager may appoint such officers, employees and agents as shall be authorized and necessary to enforce the provisions of this Chapter.
- C.** **Graffiti Nuisance Property:** Property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification pursuant to Section 14B.80.040 B.
- D.** **Occupant:** Any person or sublessee, successor or assignee who has control over property.
- E.** **Owner:** Any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:
 - 1.** A mortgagor in possession in whom 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 premises; or
 - 2.** An occupant who has control over the property/premises.
- F.** **Permit:** Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.
- G.** **Property:** Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.
- H.** **Unauthorized:** Without the consent of the owner or the occupant.

14B.80.040 Procedures.

(Amended by Ordinance No. 178352, effective May 28, 2004.)

- A.** **Required Graffiti Removal.** The owner or occupant of any property in the City shall remove any graffiti from such property within ten (10) days of the graffiti's appearance.
- B.** **Notification**
 - 1.** Whenever the Manager determines that graffiti exists on any structure in the City of Portland, the Manager may issue an abatement notice.

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2. The Manager shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have ten (10) days after the date of service of the notice in which to remove the graffiti. The Graffiti Abatement Manager shall have the sole discretion to grant the property owner the option of giving the City written permission to enter on the property and remove the graffiti.
3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.
4. If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the Manager shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the Code Hearings Officer to be appropriate, the cost for the same may be made as an assessment lien upon the property.

C. Appeal

1. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the Manager to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.
2. Upon receipt of the appeal request, the Code Hearings Officer shall set the matter for hearing within ten (10) business days. If the Code Hearings Officer finds the property to be a Graffiti Nuisance Property, and the owner or responsible party has been given notice in accordance with Subsection B. above, the Code Hearings Officer shall specify when and under what conditions the graffiti shall be abated.

D. Removal of Graffiti

1. The Manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to traffic signs and lights.

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2. Whenever the Manager has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the Manager may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the Manager under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the designated compliance date, and if the property owner or occupant has not appealed the notice as provided under Subsection C., the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:
 - a. If the graffiti nuisance property is occupied, the Manager shall first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the Manager may attempt to secure entry by any legal means.
 - b. If the graffiti nuisance property is unoccupied, the Manager shall first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Subsection B. above. If entry is refused, the Manager may attempt to secure entry by any legal means.
 - (1) If the Manager has first obtained an administrative search warrant to secure entry onto the graffiti nuisance property to abate the graffiti, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Manager to abate the graffiti.
 - (2) It shall be unlawful for any owner or occupant to refuse to permit entry by the Manager to abate graffiti under this Chapter after an administrative search warrant has been obtained. Any violation of this Subsection is punishable upon conviction by a fine of not more than \$500 and a jail sentence of up to six months.
 - c. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated upon issuance of an Administrative Search warrant.
 - (1) Graffiti Abatement. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated.

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- (2) Warrants. The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.
- (3) Grounds for Issuance of Graffiti Abatement Warrants; Affidavit.
 - (a) Affidavit. A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.
 - (b) Cause. Cause shall be deemed to exist if there is reasonable belief that a graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.
- (4) Procedure for Issuance of a Graffiti Abatement Warrant.
 - (a) Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - (b) Issuance. If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions

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abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

- (c) Police Assistance. In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the graffiti.

(5) Execution of Graffiti Abatement Warrants.

- (a) Occupied Property. Except as provided in 14B.80.040 D.2., in executing a graffiti abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession.
- (b) Unoccupied Property. In executing a graffiti abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in 14B.80.040 D.2.c.(5)(a), but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the graffiti abatement warrant shall be conspicuously posted on the property.

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- (c) Return. A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

E. Graffiti Abatement Consent Forms.

1. The Manager shall develop consent forms allowing the Manager to enter onto property to abate the graffiti without prior notice from the Manager. The Manager shall make these consent forms available to the public.
2. Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement Manager shall renew the consent forms at least biannually.

Chapter 14B.90

**OCCASIONAL SECONDHAND DEALERS
AND SECONDHAND DEALERS**

Sections:

14B.90.010	Purpose.
14B.90.020	Definitions.
14B.90.030	Permit Required.
14B.90.035	Minimum Standards.
14B.90.040	Application for Permit.
14B.90.050	Issuance and Renewal of Permit.
14B.90.060	Permit Fees.
14B.90.070	Subsequent Locations.
14B.90.080	Seller Identification; Permitted Secondhand Dealers Report.
14B.90.090	Regulated Property Sale Limitations.
14B.90.100	Tagging Regulated Property for Identification.
14B.90.110	Inspection of Property and Records.
14B.90.120	Prohibited Acts.
14B.90.130	Civil Penalties.
14B.90.140	Revocation of Permit.
14B.90.150	Appeals.

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- 14B.90.160 Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement.
- 14B.90.170 Authority of Director to Adopt Rules, Procedures and Forms.
- 14B.90.180 Periodic Sunset Review.

14B.90.010 Purpose.

The Council's purpose in adopting this Chapter is to strictly regulate certain business activities that present an extraordinary risk of being used to conceal criminal behavior including the theft of property. The Council finds that this risk is present despite the best efforts of legitimate occasional secondhand dealer and secondhand dealer businesses because these businesses process large volumes of goods and materials that are frequently the subject of theft. This Chapter is intended to reduce this type of criminal activity by providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. The Council finds that these regulations are necessary and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

14B.90.020 Definitions.

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

- A. "Acceptable identification" means either a valid driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or a valid government-issued identification card and a second piece of identification one of which has a photograph of the seller. The employee completing the transaction needs to make sure that the photograph appears to be the seller who is presenting the identification and from whom the secondhand goods are being purchased.
- B. "Business Location" means the location where the occasional secondhand dealer or secondhand dealer conducts business.
- C. "Chief of Police" means the Chief of the Portland Bureau of Police or his or her designee.
- D. "Criminal arrests or convictions" means any offense defined by the statutes of the State of Oregon or ordinances of the City of Portland, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Portland, as specified herein, shall be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or Portland ordinance provisions.

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- E.** “Director” means the Director of the Portland Bureau of Licenses or his or her designee.
- F.** “Investment purposes” means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.
- G.** “Occasional secondhand dealer” means any person who:
- 1.** Engages in, conducts, manages, or carries on a business which would be required to have a business license under the Business License Law, as set forth in Title 7 of this Code. But for purposes of this Subsection, the exemption provided in Section 7.02.400 C., for businesses with gross receipts of less than \$25,000, shall not apply; and
 - 2.** Purchases or offers for sale not more than 50 items of regulated property in any one year period; and
 - 3.** Either:
 - a.** Purchases regulated property at or from business locations within the City of Portland, or on behalf of such a business regardless of where the purchase occurs, or
 - b.** Offers for sale regulated property within the City of Portland.
- H.** “Person” means any real person, or any partnership, association, organization, or corporation.
- I.** “Purchase” means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a secondhand dealer or an occasional secondhand dealer and a private party seller; leases; trade-ins; loans; and abandonments. Notwithstanding the foregoing, a "purchase" does not include
- 1.** any loans made in compliance with state laws by persons licensed by the State of Oregon;
 - 2.** memoranda between a secondhand dealer or an occasional secondhand dealer and a person engaged in the business of selling regulated property; and

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3. consignments between a secondhand dealer or an occasional secondhand dealer and a person if the person lives more than 150 miles from the City of Portland and the consigned property is mailed, shipped, or sent by courier to the secondhand dealer or occasional secondhand dealer.
- J.** “Regulated property” means any of the following property which is used or secondhand:
1. Precious metals including but not limited to: any metal that is valued for its character, rarity, beauty or quality, including gold, silver, platinum, or any other such metals, whether as a separate item or in combination as a piece of jewelry; and/or jewelry containing precious metals or precious gems including but not limited to rings, necklaces, pendants, earrings, brooches, bracelets, or chains.
 2. Precious gems including but not limited to: any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such precious or semi-precious gems or stones, whether as a separate item or in combination as a piece of jewelry.
 3. Watches including but not limited to: pocket watches, wrist watches, or stop watches.
 4. Sterling silver including but not limited to: flatware, candleholders, coffee and tea sets, ornamental objects, champagne flutes, wineglasses, or serving pieces such as: platters, bowls, trays, water pitchers, open bakers, ice buckets, shell dishes, or salt and pepper shakers.
 5. Audio equipment including but not limited to: tape players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, car stereos, car speakers, radar detectors, broadcasting equipment or citizen band radios/transceivers.
 6. Video equipment including but not limited to: color televisions, black and white televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or video monitors.
 7. Photographic and optical equipment and any accompanying bags including but not limited to: cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography

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enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment.

8. Electrical office equipment including but not limited to: telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers, modems, monitors, or any computer equipment or accessories having uniquely identifiable parts.
9. Power yard and garden tools including but not limited to: garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders, or ladders.
10. Power equipment and tools including but not limited to: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, or logging equipment.
11. Automotive and hand tools including but not limited to: wrench sets, socket sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, or timing lights.
12. Musical instruments and any accompanying cases or bags including but not limited to: pianos, organs, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, electronic synthesizers, or mixing boards.
13. Firearms including but not limited to: rifles, shotguns, handguns, revolvers, pellet guns, or BB guns.
14. Telephones or telephone equipment including but not limited to office telephones, portable home telephones, mobile telephones, cellular telephones, or answering machines.
15. Sporting equipment limited to bicycles, golf clubs and bags, pool cues or cases, skis, ski boots, snowboards, fishing rods or reels, or skates.
16. Outboard motors and boating accessories limited to outdrives, props, inboard engines, boat covers, tops, or unlicensed boat trailers.
17. Microwave ovens.

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- 18.** Regulated property does not include any of the following property:
- a.** Vehicles required to be registered with the Oregon Motor Vehicles Division;
 - b.** Boats required to be certified by the Oregon Marine Board;
 - c.** Books and comic books;
 - d.** Glassware, objects d'art, or sports cards and sports memorabilia;
 - e.** Furniture;
 - f.** Refrigerators, stoves, washers, dryers and other similar major household appliances.
 - g.** Property which is purchased by a bona fide business for investment purposes, limited to:
 - (1)** Gold bullion bars (0.995 fine or better);
 - (2)** Silver bullion bars (0.995 fine or better);
 - (3)** All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency; or
 - (4)** Postage stamps, stamp collections and philatelic items.

K. “Secondhand dealer” means any person who:

- 1.** Engages in, conducts, manages, or carries on a business which would be required to have a business license under the Business License Law, as set forth in Title 7 of this Code. But for purposes of this Subsection, the exemption provided in Section 7.02.400 C., for businesses with gross receipts of less than \$25,000, shall not apply; and
- 2.** Purchases or offers for sale 51 or more items of regulated property in any one year period; and
- 3.** Either:

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- a. Purchases regulated property at or from business locations within the City of Portland, or on behalf of such a business regardless of where the purchase occurs; or
 - b. Offers for sale regulated property within the City of Portland.

14B.90.030 Permit Required.

- A. No person shall engage in, conduct or carry on an occasional secondhand dealer business or a secondhand dealer business in the City without a valid occasional secondhand dealer permit or a valid secondhand dealer permit issued by the Bureau of Licenses.
- B. Upon purchasing 50 items of regulated property during any one-year period, an occasional secondhand dealer shall apply for and obtain a secondhand dealer permit before purchasing any more items of regulated property.
- C. Any person who advertises or otherwise holds him/herself out to be purchasing or offering for sale regulated property within the City shall be presumed to be operating a business subject to the terms of Chapter 14B.90.

14B.90.035 Minimum Standards.

Fixed place of business. No person may operate as an occasional secondhand dealer or a secondhand dealer within the City of Portland unless the person maintains a fixed business location.

14B.90.040 Application for Permit.

- A. An applicant for an occasional secondhand dealer permit or a secondhand dealer permit shall complete and submit an application including required secondhand dealer personal history forms which set forth the following information:
 - 1. The name, address, telephone number, birth date and principal occupation of the applicant and any other person who will be directly engaged or employed in the management or operation of the business or the proposed business;
 - 2. The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
 - 3. Written proof that the applicant is at least 18 years of age;

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4. The applicant's business occupation or employment for the 3 years immediately preceding the date of application;
5. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 14B.90;
6. A brief summary of the applicant's business history in this city or any other city or state including:
 - a. The business license or permit history of the applicant; and,
 - b. Whether the applicant has ever had any license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant subsequent to the suspension or revocation.
7. If the business or proposed business is the undertaking of a sole proprietorship, partnership, limited liability company or corporation:
 - a. If a partnership, the application shall set forth the names, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each.
 - b. If a corporation, or limited liability company, the application shall set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;
8. Any arrests or convictions of each applicant and all natural persons enumerated in paragraphs 1. through 7. of this Section; and
9. Upon request, applicants and any other person who will be directly engaged or employed in the management or operation of the business or the proposed business, shall submit to the Portland Police Bureau the following information: fingerprints, passport size photographs, and a copy of the signature initials to be used by persons on Permitted Secondhand

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Dealer Report forms. Permittees, their employees, agents, partners, and officers shall be required to submit new photos if requested to do so by the Portland Police Bureau;

10. Any other information which the Director of the Bureau of Licenses may reasonably feel is necessary to accomplish the goals of this Chapter.

B. Employees of occasional secondhand business locations or secondhand business locations shall complete and submit the secondhand dealer personal history form as required in Section A. of this Section. New employees may not buy or sell regulated property until all required information has been reviewed and approved by the Portland Police Bureau.

C. The personal and business information contained in the application forms required pursuant to Section 14B.90.040. A. shall be subject to disclosure pursuant to the Oregon Public Records Law, ORS 192.410 et seq.

14B.90.050 Issuance and Renewal of Permit.

A. Upon the filing of an application for an occasional secondhand dealer or secondhand dealer permit and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant. The Director shall issue the permit within 90 days of receiving the application if no cause for denial exists.

B. Except as provided in Section 14B.90.050 C., the Director shall deny an application for an occasional secondhand dealer's permit or a secondhand dealer's permit if:

1. The applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90; and the license or permit for the business has been revoked for cause which would be grounds for revocation pursuant to Chapter 14B.90; or

2. The applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90 and the business has been found to constitute a public nuisance and abatement has been ordered; or

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3. The Director finds that applicant has been convicted of one or more of the offenses listed below and that based upon the facts and circumstances supporting the conviction(s) and all intervening circumstances that granting the application would put the public at risk. The offenses include:
 - a. Any crime that would constitute a felony under the laws of the state in which the crime was committed or the United States of America; or
 - b. Any crime that would constitute a misdemeanor under the laws of the state in which the crime was committed or the United States of America and the offense involved either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft; or
 - c. Any offense listed in Section 14B.90.120; or
 - d. Any misdemeanor or violation that is indicative of a pattern of stalking, dishonesty, fraud or predatory behavior; or
4. The applicant, or any person who owns a five percent or more interest in the business, has outstanding judgments which represent unsatisfied monetary obligations; or
5. Evidence exists that supports a finding by a preponderance of the evidence that the applicant or any person who will be involved in the business has committed any offense relating to fraud, theft or any offense listed in Section 14B.90.120; or
6. Evidence exists that supports a finding by a preponderance of the evidence that the applicant or any person who will be involved in the business has violated any law or statute where the elements of such law or statute are equivalent to the provisions of the Occasional Secondhand Dealers and Secondhand Dealers Code; or
7. The operation as proposed by the applicant would not comply with all applicable requirements of the Portland City Code including but not limited to: the building, health, planning, zoning and fire codes of the City; or
8. Any statement in the application is found to be false or any required information is withheld; or

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9. Evidence exists to support a finding that either:
 - a. The location of the business for which the application has been filed has a history of violations of the provisions of this Chapter; or
 - b. A statistically significant record exists of criminal offenses relating to fraud or theft in the area located within 500 feet of the business location; or
10. Evidence exists to support a finding by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90 or any laws or statutes equivalent to the provisions of Chapter 14B.90, and the business has violated applicable State, Federal or local requirements, including permitting requirements; or
11. The Director finds that the applicant will employ any person in the business that has been convicted of:
 - a. Any crime that would constitute a felony under the laws of the state in which the crime was committed or the United States of America; or
 - b. Any crime that would constitute a misdemeanor under the laws of the state in which the crime was committed or the United States of America and the offense involved either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft; or
 - c. Any offense listed in Section 14B.90.120; or
 - d. Any misdemeanor or violation that is indicative of a pattern of stalking, dishonesty, fraud, or predatory behavior; or
- C. Notwithstanding Section 14B.90.050 B., the Director may grant a permit after consulting with the Chief of Police despite the presence of one or more of the enumerated factors if the applicant establishes to the Director's satisfaction that:
 1. The behavior evidenced by such factor is not likely to recur;
 2. The behavior evidenced by such factor is remote in time; or,

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3. The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of Chapter 14B.90.
- D. Notwithstanding the foregoing, Section 14B.90.050 B.3. shall not be used to deny an application for a secondhand dealer permit or occasional secondhand dealer permit if the applicant had a permit on February 23, 2000 and the applicant's criminal conviction(s) occurred prior to February 23, 2000.
- E. Occasional secondhand dealer permits and secondhand dealer permits shall be for a term of one year and shall expire on the first anniversary of their issuance. The permits shall be nontransferable and shall be valid only for a single business location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Bureau of Licenses for approval at least 14 days prior to the change.
- F. All occasional secondhand and secondhand dealer permits shall be displayed at the business location in a manner readily visible to patrons.
- G. The Director, upon denial of an application for an occasional secondhand dealer's permit or a secondhand dealer's permit, shall give the applicant written notice of the denial by causing notice to be served upon the applicant at the business or residence address listed on the application.
 1. Service of the notice shall be accomplished by mailing the notice by regular and certified mail, return receipt requested, or at the option of the Director, by personal service in the same manner as a summons served in an action at law.
 2. Mailing of the notice by regular mail shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.
 3. The denial shall be effective and final the date the notice is received by an applicant as evidenced by the Return Receipt or the Return of Service.
- H. Denial of a permit may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance with Section 14B.90.150.

14B.90.060 Permit Fees.

- A.** Every person engaged in, conducting or carrying on an occasional secondhand dealer business shall:
 - 1.** For an occasional secondhand dealer's permit, complete and submit all required forms with the Bureau of Licenses and pay a nonrefundable fee of \$50.00.
 - 2.** For renewal of an occasional secondhand dealer's permit, shall pay a nonrefundable fee of \$25.00.
- B.** Every person engaged in, conducting or carrying on a secondhand dealer's business shall:
 - 1.** For a secondhand dealer's permit, complete and submit all required forms with the Bureau of Licenses and pay a nonrefundable fee of \$300.00. The Director shall allow occasional secondhand dealers to credit any current occasional secondhand dealer application fee against the charge for the secondhand dealer application fee.
 - 2.** For renewal of a secondhand dealer's permit, pay a nonrefundable fee of \$150.00.

14B.90.070 Subsequent Locations.

- A.** The holder of a valid occasional secondhand dealer's permit or a secondhand dealer's permit shall file an application for a permit for a subsequent or additional business location with the Bureau of Licenses and shall pay a fee of \$25.00 for occasional secondhand dealers and \$150.00 for secondhand dealers, provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Section 14B.90.040 A.2.
- B.** Permits issued for subsequent or additional business locations shall be subject to all the requirements of this Chapter, and the term of the permit issued for a subsequent or additional location shall expire on the same date as the initial permit.

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14B.90.080 Seller Identification; Permitted Secondhand Dealers Report.

- A.** The Bureau of Police shall provide all occasional secondhand dealers and secondhand dealers with Permitted Secondhand Dealers report forms at cost. The Chief of Police may specify the size, shape and color of the Permitted Secondhand Dealers report form. The Chief of Police may require the Permitted Secondhand Dealers report forms to provide any information relating to the regulations of this Chapter. Occasional secondhand dealers and secondhand dealers may utilize their own forms, in lieu of those supplied by the Bureau of Police, if such forms have been approved by the Chief of Police. The Declaration of Proof of Ownership shall be considered to be included in references in this Chapter to the Permitted Secondhand Permit Dealers report form, as appropriate.
- B.** When purchasing regulated property, occasional secondhand dealers and secondhand dealers shall obtain current and acceptable identification. Additionally the purchaser shall record the seller's current residential address, thumb print, and social security number (optional) on the Permitted Secondhand Dealers report form and have the seller complete the Declaration of Proof of Ownership.

 - 1.** All occasional secondhand dealers and secondhand dealers shall require the employee completing the transaction to write a complete and accurate description of the regulated property to be purchased or acquired of sufficient detail to distinguish like objects one from the other, upon a Permitted Secondhand Dealers report form at the time of purchasing or acquiring any item of regulated property. The description of the purchased or acquired property shall be as called for by the Permitted Secondhand Dealers report form.

 - a.** All occasional secondhand dealers and secondhand dealers shall fill in all of the blank spaces on the Permitted Secondhand Dealers report forms with the data required by the form, which requires the seller of any regulated property to sign the seller's name and provide a current telephone number on the completed form.
 - b.** The employee initial shall be that of the employee completing the transaction. The employee shall confirm that the acceptable identification conforms to that of the person signing the Declaration of Proof of Ownership. No purchase or acquisition shall be made from a person under 18 years of age unless parent or guardian completes the applicable information on the Declaration of Proof of Ownership.

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- c. All Permitted Secondhand Dealers report forms shall be filled out in clearly legible, printed English.
 - d. The seller shall legibly complete the Declaration of Proof of Ownership. The seller shall, at the time of the transaction, certify in writing that the seller has the legal right to pledge or sell the property that is the subject of the transaction and is competent to do so. All occasional secondhand dealers and secondhand dealers (except those exempted in Section 14B.90.080 F.) shall place the thumbprint (identifiable) of the seller's right hand (left if right unavailable) in the thumbprint box on the Declaration of Proof of Ownership.
 - e. An occasional secondhand dealer or secondhand dealer may provide a description of any motor vehicle (including license number) identified as used in the delivery of regulated property and record the description and license number next to the seller's thumbprint.
 - f. The entire Permitted Secondhand Dealers report form is subject to disclosure pursuant to Oregon Public Records Law.
- 2. The information required to be furnished on Permitted Secondhand Dealers report forms is to assist in the investigation of the theft of property. Therefore, additional reporting for occasional secondhand dealers and secondhand dealers includes unregulated property that is identifiable with markings indicating apparent ownership. Any such items shall not count towards the 50 items per year regulated property purchase limitations for occasional secondhand dealers.
- 3. Occasional secondhand dealers and secondhand dealers (except those exempted in Section 14B.90.080 F.) shall take either a photograph or still video of each person selling an item of regulated property or photocopy the acceptable identification presented by the seller. This photograph shall be developed and referenced to the Permitted Secondhand Dealers report number. A video photograph (still) shall be referenced by time and date and Permitted Secondhand Dealers report number to correspond to the regulated property accepted. Photocopied identification shall be kept with the Permitted Secondhand Dealers report or shall have the Permitted Secondhand Dealers report number on it. The photograph or videotape or photocopied identification shall be kept by the secondhand dealer for 1 year and shall be provided to the Portland Police Bureau or the Bureau of Licenses upon request.

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- C.** All occasional secondhand dealers and secondhand dealers shall mail or deliver to the Chief of Police at the close of each business day the original and second copy of all Permitted Secondhand Dealers report forms describing articles purchased during that business day. When the completed Permitted Secondhand Dealers report form shows the seller to live outside the City of Portland, the Portland Police Bureau may send a copy of the Permitted Secondhand Dealers report form to the police agency having jurisdiction where the seller resides.
- D.** The third copy of all completed and voided Permitted Secondhand Dealers report forms shall be retained by occasional secondhand dealers and secondhand dealers for a period of not less than 1 year from the date of purchase at their business location. Any unused Permitted Secondhand Dealers report forms must be available for inspection by the Portland Police Bureau or the Bureau of Licenses.
- E.** The Portland Police Bureau shall destroy Permitted Secondhand Dealers report forms and the Declaration of Proof of Ownership forms (including thumbprints) immediately after the statute of limitations for the suspected crime(s) has expired unless the form is needed as evidence in a pending criminal prosecution. Thumbprints on the Permitted Secondhand Dealers report may be used by the Portland Police Bureau only to identify a suspect or to confirm or deny the identity of a suspect in a criminal case and in the subsequent prosecution of a criminal defendant.
- F.** Notwithstanding Section 14B.90.080 B., an occasional secondhand dealer or a secondhand dealer is not required to record the thumb print of the seller or to comply with Section 14B.90.080 B.3. if the occasional secondhand dealer or secondhand dealer complies with the following provisions:

 - 1.** The occasional secondhand dealer or secondhand dealer conducts each and every purchase of regulated property by not tendering payment to the seller for a minimum of 15 days after the regulated property is delivered to the occasional secondhand dealer or secondhand dealer.
 - 2.** The occasional secondhand dealer or secondhand dealer complies with the remaining requirements set forth in Section 14B.90.080 B.; and
 - 3.** The occasional secondhand dealer or secondhand dealer notifies the Director and the Chief of Police in writing that each and every purchase of regulated property will be conducted by not tendering payment to the seller for a minimum of 15 days after the regulated property is delivered to the occasional secondhand dealer or secondhand dealer.

14B.90.090 Regulated Property Sale Limitations.

- A.** No regulated property purchased by any occasional secondhand dealer or secondhand dealer shall be sold for a period of 30 full days after the date of purchase unless the property is purchased from a dealer regulated by the City of Portland who already has satisfied the holding requirement of this ordinance, and the purchaser records the original Permitted Secondhand Dealers report number on the Permitted Secondhand Dealers report completed for the new transaction. The dealer shall hold the purchased property in the same form as purchased, and keep the property separate and apart from all other regulated property during this 30 day holding period to allow identification and examination. The dealer shall keep the purchased property at the business location during this holding period so that it can be inspected during normal business hours as provided in Section 14B.90.110. The 30 day holding period does not apply if a seller, who originally purchased property from an occasional secondhand dealer or secondhand dealer, returns it to that dealer with the original receipt, and purchases a different item of greater value.
- B.** Notwithstanding Section 14B.90.090 A., if an occasional secondhand dealer or a secondhand dealer complies with each requirement in Section 14B.90.080 F., the occasional secondhand dealer or secondhand dealer is subject to the following holding period:

 - 1.** No regulated property purchased by any occasional secondhand dealer or secondhand dealer shall be sold for a period of 15 full days after the date of purchase unless the property is purchased from a dealer regulated by the City of Portland who already has satisfied the holding requirement of this ordinance, and the purchaser records the original Permitted Secondhand Dealers report number on the Permitted Secondhand Dealers report completed for the new transaction. The dealer shall hold the purchased property in the same form as purchased, and keep the property separate and apart from all other regulated property during this 15 day holding period to allow identification and examination. The dealer shall keep the purchased property at the business location during this holding period so that it can be inspected during normal business hours as provided in Section 14B.90.110.
 - 2.** The 15 day holding period does not apply if a seller, who originally purchased property from an occasional secondhand dealer or secondhand dealer, returns it to that dealer with the original receipt, and purchases a different item of greater value.

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- C.** The Chief of Police may provide written notice, upon reasonable belief that the purchased property is the subject of theft, to any occasional secondhand dealer or secondhand dealer not to dispose of any specifically described property purchased. The dealer shall retain the property in the same form as purchased. The dealer shall not sell, exchange, dismantle or otherwise dispose of the property for a period of time as determined by the Chief of Police, not to exceed 180 days from the date of purchase.
- D.** If an occasional secondhand dealer or secondhand dealer purchases regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which are or have been altered, obliterated, removed, or otherwise rendered illegible, the occasional secondhand dealer or secondhand dealer shall continue to hold the property at the business location for a period of 90 full days after purchase. In addition, any such property shall not be purchased without notifying the Portland Police Bureau. This shall be accomplished by writing "90 day hold" next to the item on the Permitted Secondhand Dealers report form. The dealer shall maintain the purchased property in the same form as purchased and keep the property separate and apart from all other regulated property during this 90 day holding period to allow identification and examination. The dealer shall keep the purchased property at the business location during this holding period so that it can be inspected during normal business hours, as provided in Section 14B.90.110.
- E.** If occasional secondhand dealers or secondhand dealers have an objectively reasonable basis to believe that any property at their business location has been previously lost or stolen, they shall promptly report that belief to the Portland Police Bureau by providing the Permitted Secondhand Dealers report number, and any additional information regarding the name of the owner, if known.

14B.90.100 Tagging Regulated Property for Identification.

Any occasional secondhand dealer or secondhand dealer purchasing any regulated property shall affix to the property a tag upon which shall be written a number in legible characters. The number shall correspond to the number on the Permitted Secondhand Dealers report form required by Section 14B.90.080. After the holding period has expired, the Permitted Secondhand Dealers report form number shall remain identifiable on the property until the sale of the property.

- A.** After the applicable holding period (set forth in Sections 14B.90.090 A.-B.) has expired, hand tools, or items which are sold with other like items and have no identifiable numbers or markings need not remain tagged.
- B.** After the applicable holding period (set forth in Sections 14B.90.090 A.-B.) has expired, items that are remanufactured need not remain tagged.

14B.90.110 Inspection of Property and Records.

Upon presentation of official identification, any representative of the Portland Police Bureau or the Bureau of Licenses may enter the business location of any permitted occasional secondhand dealer or secondhand dealer to ensure compliance with the provisions of Chapter 14B.90. The inspection shall be for the limited purpose of inspecting the business location, any regulated property purchased by the dealer pursuant to Section 14B.90.090, and the related records as provided in Sections 14B.90.080 and 14B.90.100. Any inspection under this Section shall be authorized to occur only during normal business hours of the business location.

14B.90.120 Prohibited Acts.

A. It shall be unlawful for any person regulated by Chapter 14B.90:

1. To engage in, conduct or carry on the operation of any occasional secondhand dealer business or secondhand dealer business within the City of Portland, unless a permit for the business has first been obtained from the Bureau of Licenses;
2. To fail to obtain acceptable identification from the seller of any regulated property;
3. To fail to fill out the Permitted Secondhand Dealers report form as required by Chapter 14B.90;
4. To fail to have the seller of any regulated property sign the completed Permitted Secondhand Dealers report form describing the article purchased;
5. To fail to retain at the business location a copy of all Permitted Secondhand Dealer Report forms received from the Portland Police Bureau, whether used or voided, for a period of 1 year from the date of purchase;
6. To fail to mail or deliver to the Portland Police Bureau at the close of each business day the original and second copy of all Permitted Secondhand Dealers report forms describing regulated property purchased during that business day;
7. To fail to include on the Permitted Secondhand Dealers report form all information as required by the form and this Chapter;

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8. To fail to withhold from sale any regulated property for the required holding period after purchase;
 9. To fail, after purchasing regulated property, to retain the property at the business location for the required holding period after its purchase;
 10. To refuse to allow inspection by a representative of the Portland Police Bureau or the Bureau of Licenses of the business location and any regulated property as provided under Chapter 14B.90;
 11. To refuse to allow inspection by a representative of the Portland Police Bureau or the Bureau of Licenses of any records required by Chapter 14B.90;
 12. To fail to have affixed to any purchased regulated property, a tag upon which is written a number in legible characters which corresponds to the number on the Permitted Secondhand Dealers form required by Chapter 14B.90; or
 13. To continue activities as an occasional secondhand dealer or secondhand dealer after revocation of a permit.
- B.** Any violation of any prohibited act listed in Section 14B.90.120 A. is punishable, upon conviction, by a fine of not more than \$500 and a jail sentence of up to six months.

14B.90.130 Civil Penalties.

- A.** The Director may assess civil penalties in an amount up to \$500 for each violation of Chapter 14B.90.
- B.** In determining the amount of any civil penalty to be assessed against any person, the Director shall consider the following criteria:
 1. The extent and nature of the person's involvement in the violation;
 2. The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violations;
 3. Whether the violations were repeated and continuous, or isolated and temporary;
 4. The magnitude and seriousness of the violation;

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5. The City's costs of investigating the violation and correcting or attempting to correct the violation;
6. Whether any criminal charges have been issued against the person; and,
7. Any other factors the Director deems to be relevant.

C. Procedure.

1. The Director, having made a determination to seek civil penalties as provided by this Section, shall give the occasional secondhand dealer or the secondhand dealer written notice of the determination by causing notice to be served upon the occasional secondhand dealer or secondhand dealer at the business or residence address listed on the application or on record at the Bureau of Licenses.
2. Service of the notice shall be accomplished by mailing the notice by regular and certified mail, return receipt requested, or at the option of the Director, by personal service in the same manner as a summons served in an action at law.
3. Mailing of the notice by regular mail shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the business owner.
4. The civil penalty shall be effective and final ten days after the giving of notice unless such civil penalty is appealed in accordance with Section 14B.90.150.

14B.90.140 Revocation of Permit.

- A.** Along with the other regulatory enforcement authority granted under this Chapter, the Director may, after consulting with the Chief of Police, revoke any permit issued pursuant to this Chapter:
1. For any cause which would be grounds for denial of a permit; or
 2. Where investigation reveals that any violation of the provisions of this Chapter has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that

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violations or offenses have been permitted to occur at the location by the dealer or any other person engaged or employed in the management or operation of the business location; or

3. The occasional secondhand dealer or secondhand dealer or its employee has engaged in activity that presents a future compliance risk and the dealer has failed to take appropriate corrective action; or
4. A lawful inspection has been refused; or
5. Upon a finding by the Director that the business activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion or other similar problems in the area around a business location; or
6. If payment of civil penalties has not been received by the Bureau of Licenses within ten (10) working days after the penalty becomes final; or
7. If any statement contained in the application for the permit is found to have been false.

B. The Director, upon revocation of any permit issued pursuant to this Chapter, shall give the occasional secondhand dealer or secondhand dealer written notice of the revocation by causing notice to be served upon the occasional secondhand dealer or secondhand dealer at the business or the residence address listed on the application or on record at the Bureau of Licenses.

1. Service of the notice shall be accomplished by mailing the notice by regular and certified mail, return receipt requested, or at the option of the Director, by personal service in the same manner as a summons served in an action at law.
2. Mailing of the notice by regular mail shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the occasional secondhand dealer or secondhand dealer.

C. Revocation shall be effective and final 10 days after the giving of notice unless the revocation is appealed in accordance with Section 14B.90.150.

14B.90.150 Appeals.

- A.** Any person whose initial application or renewal application for an occasional secondhand dealer or secondhand dealer permit has been denied, or whose permit has been revoked, or who has been directed to pay a civil penalty by the Director, may appeal the action of the Director to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of the Portland City Code.
- B.** The filing of a notice of appeal of revocation of a permit, or of a civil penalty imposed by the Director under this Chapter, shall stay the effective date of the action until the appeal is determined by the Code Hearings Officer.

14B.90.160 Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement.

Any business maintained in violation of the provisions of this Chapter is hereby declared to be a public nuisance. The City Attorney is authorized to bring any action or suit to abate the nuisance by seeking injunctive or other appropriate relief to:

- A.** Cease all unlawful activities; or
- B.** Close the unlawful business establishment; or
- C.** Return property obtained through unlawful activities to the rightful owners; or
- D.** Seek payment of civil penalties assessed by the Director of the Bureau of Licenses; or
- E.** Seek such other relief as may be appropriate.
- F.** The Director shall give at least ten (10) days written notice of any violation of this Chapter to the owner of real property upon which a business regulated by this Chapter is located, if the owner is a different person from the operator of the business. The real property owner shall have twenty (20) days from the date of the notice to abate the violation. Nothing in this Subsection shall affect the City Attorney's authority to take any and all actions otherwise authorized under this Section.

14B.90.170 Authority of Director to Adopt Rules, Procedures and Forms.

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

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1. The Director may adopt rules pertaining to matters within the scope of this Chapter.
2. 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.
3. 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 will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau of License's office. Copies of all current rules shall be made available to the public upon request.
4. Notwithstanding paragraphs 2. and 3. of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, 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.

14B.90.180 Periodic Sunset Review.

Beginning in 2001 and in odd numbered years thereafter, the City Council shall conduct a public hearing to determine whether the amendments to Chapter 14B.90 are accomplishing the purpose set forth in Section 14B.90.010.

Chapter 14B.100

**LIQUOR LICENSE
RECOMMENDATIONS**

Sections:

- 14B.100.010 Purpose.
- 14B.100.020 Delegation of Application Recommendation Authority.
- 14B.100.030 Application Procedure.
- 14B.100.040 Reconsideration of Applications.
- 14B.100.050 Notification of OLCC Proceedings.
- 14B.100.060 Impact Areas.

14B.100.010 Purpose.

The purpose of this Chapter is to establish a fair, effective and efficient process which shall be used by the Chief of Police in making recommendations to the Oregon Liquor Control Commission (OLCC) for liquor licenses for premises within the City limits. This Chapter is necessary to ensure that all premises licensed to sell or dispense liquor in any form meet the high expectations of this community and that all licensed premises are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this City and its neighborhoods.

14B.100.020 Delegation of Application Recommendation Authority.

In order to expedite service to license applicants and the citizens of the City, the Council, as the governing body of the City, hereby delegates to the Chief of Police its authority to make liquor license application recommendations to the OLCC. Any responsibility delegated to the Chief of Police by this Chapter may also be performed by the designee of the Chief of Police.

14B.100.030 Application Procedure.

(Amended by Ordinance No. 179351, effective June 22, 2005.)

- A.** Any applicant for any license who is required by the OLCC to have a recommendation from the City of Portland concerning the suitability of the application shall present the license application forms prescribed by the OLCC to the Office of Neighborhood Involvement, or its designee, for the purpose of obtaining the recommendation of the Chief of Police concerning the license.
- B.** The Office of Neighborhood Involvement shall accept liquor license applications only when the following conditions are met:

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1. All required forms are properly completed and in order; and
 2. The applicant has obtained a valid City business license; and
 3. The processing fee has been paid. Fees shall be in the maximum amount allowed by Oregon law and shall be nonrefundable.
- C.** The Office of Neighborhood Involvement shall forward liquor license applications to the Chief of Police with a copy of the City of Portland Liquor Outlet Information form to the Bureau of Licenses within one business day of receipt.
- D.** Except for applications for new licensed premises for railroads, public passenger carriers or boats, health care facilities, or all OLCC wholesale type licenses, in addition to the posting of a conspicuous notice on the licensed premises as required by the OLCC, ONI shall:
1. Notify the following persons by mail that an application has been filed:
 - a. Property owners and property occupants within 300 feet of the proposed licensed premises;
 - b. The neighborhood association within whose boundaries the licensed premises will be located.
 2. Post the proposed new licensed premises with a notice indicating the process for public comment.
 3. Request a response in writing from the neighborhood association, property owners and property occupants and allow at least 20 days after the mailing or posting of notification as provided in this Section, to provide a response in writing to ONI. ONI shall notify any person who responds pursuant to this Section of the recommendation made by the Chief of Police to the OLCC.
- E.** The Chief of Police shall conduct an investigation of each application for the purpose of determining the recommendation that shall be made to the OLCC. In addition to the information required by the OLCC application forms, the Chief of Police is authorized to require from the applicant any other pertinent information that the Chief of Police deems appropriate.

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- F.** The Chief of Police shall coordinate with ONI and the City Noise Control Officer prior to issuance of a recommendation to determine if there is substantial neighborhood concern or opposition to the application, or if there is evidence that noise is or will be a significant and persistent problem at the licensed premises.
- 1.** If the Chief of Police finds that there are valid grounds to make an unfavorable recommendation to OLCC as provided by Oregon liquor laws, the Chief of Police shall forward an unfavorable recommendation directly to the OLCC.
 - 2.** If there is substantial neighborhood concern or opposition to the application, or there is evidence that noise is or will be a significant and persistent problem at the licensed premises, but the Chief of Police, because of time constraints or other factors, does not find sufficient basis for an unfavorable recommendation as provided by Oregon liquor laws, the Chief of Police shall forward a no endorsement recommendation directly to the OLCC, with supporting documentation of neighborhood concern or opposition and/or evidence of noise as provided by ONI, and shall request that the OLCC hear testimony from the neighborhood. ONI shall coordinate neighborhood testimony for OLCC hearings.
 - 3.** If the Chief of Police finds no basis for an unfavorable recommendation as provided by Oregon liquor laws, and there is no substantial neighborhood concern or opposition or evidence that noise is or will be a significant and persistent problem at the licensed premises, the Chief of Police shall forward a favorable recommendation directly to the OLCC. The Chief of Police may also attach conditions or restrictions to a favorable recommendation, such as allowing sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other conditions or restrictions consistent with the Oregon liquor laws.
- G.** The Chief of Police shall notify the applicant of the recommendation.
- H.** The process for renewal applications shall be as provided by this Section except that the notification requirements of Subsection D shall not apply.
- I.** If ONI believes a good neighbor agreement will alleviate substantial neighborhood concern or opposition, ONI shall attempt to work with the licensed premises and the neighborhood to achieve a good neighbor agreement. ONI shall notify the Chief of Police and the OLCC of any completed good neighbor agreements, or, of its attempts to achieve a good neighbor agreement, in the event ONI is unable to complete a good neighbor agreement within a reasonable period of time.

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14B.100.040 Reconsideration of Applications.

Except as provided by this Section, after having made a recommendation other than favorable on any new license application, the Chief of Police shall not reconsider an application for the same location by the same or substantially the same applicant for a period of at least 6 months, or during the period the applicant has an appeal relating to the license pending in court or in a state administrative agency, whichever is longer. However, the Chief of Police may reconsider an application in less than 6 months if no appeal relating to the license is pending in court or in a state administrative agency, and the Chief of Police reasonably determines that the circumstances which caused the Chief of Police to make a recommendation other than favorable have substantially changed.

14B.100.050 Notification of OLCC Proceedings.

ONI shall notify Council of OLCC hearing dates, places and times, and advise Council of applications that will receive unfavorable recommendations, no endorsements recommendations, or favorable recommendations with conditions or restrictions. ONI shall advise Council of the OLCC's decisions on applications.

14B.100.060 Impact Areas.

- A.** It shall be the responsibility of the Chief of Police to review, from time to time, the locations, types and quantities of liquor licenses that have been issued for premises located in geographical areas, neighborhoods or sectors of the City. If the Chief of Police, upon inquiry, or at the request of citizens or groups finds: that some area of the City is saturated with certain types of licensed premises selling or serving alcoholic beverages and that the placement of additional licensed premises within that area will likely be deleterious to that area; or, that excessive criminal acts, traffic congestion, or litter problems are present or will increase due in part to the licensed premises; or, additional licensed premises are not justified by public interest or convenience, then the Chief of Police shall make a recommendation to Council that the area be designated as an impact area, and that liquor licenses of certain types should not be granted or renewed in that area for a specific period of time, or until the number of current licenses is reduced to the point that licensed premises can be permitted that will not be deleterious to the area, or, will not lead to additional criminal acts, traffic congestion or litter problems, or, are justified by public interest or convenience.
- B.** If Council declares an area to be an impact area based upon findings that valid grounds exist as provided by Oregon liquor laws, the Chief of Police shall notify OLCC so that OLCC may ensure that liquor license applicants are put on notice of the impact area.
- C.** Within any area declared to be an impact area as provided by this Chapter, the Chief of Police is authorized, on behalf of Council:

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1. To present an unfavorable recommendation to the OLCC on any application for a new licensed premises located in the impact area; or,
 2. To present a favorable recommendation for any existing licensed premises located in the impact area, subject to certain conditions or restrictions, such as allowing liquor sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other restrictions consistent with the Oregon liquor laws.
- D.** Impact area recommendations shall not apply to licensed premises wherein the sale of alcoholic beverages is incidental to full service restaurant facilities, with meals prepared on the licensed premises, provided that the liquor license applicant(s) and the restaurant owner(s) are one and the same.
- E.** The following areas are declared by Council to be impact areas:
1. Burnside District Impact Area. The Burnside District, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Burnside District is defined as that area bounded by the Willamette River on the East and North, by NW Ninth Avenue to West Burnside Street, by West Burnside Street to SW Fourth Avenue, by SW Fourth Avenue to SW Ankeny Street, by SW Ankeny Street to the Willamette River.
 2. Central Eastside Industrial District Impact Area. The portion of the Central Eastside Industrial Area, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For the purposes of this Section, the Central Eastside Industrial Area is defined as that area bounded by the Banfield Freeway to the North, by SE 12th Avenue to the East, by SE Clay Street to the South, and by the Willamette River on the West.
 3. Inner North/Northeast Neighborhood Impact Area. The Inner North/Northeast Neighborhood, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Inner North/Northeast Neighborhood is defined as that area bounded by NE Columbia Blvd. on the North, NE Broadway Blvd. on the South, and Interstate 5 on the West. The area's boundary on the East is NE 42nd Avenue from NE Columbia Blvd. to NE Prescott Street, NE 23rd Avenue from NE Prescott Street to NE Mason Street, NE 21st Avenue from NE Mason Street to NE Fremont Street and NE 7th Avenue from NE Fremont Street to NE Broadway Blvd.

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Chapter 14B.110

**AMUSEMENT DEVICES,
GAMES AND MACHINES**

Sections:

- 14B.110.010 Purpose.
- 14B.110.020 Definitions.
- 14B.110.030 Authorization.
- 14B.110.040 Permits Required for Certain Amusement Devices.
- 14B.110.050 Permits Required, Fees.
- 14B.110.060 Permit Application, Issuance, Denial.
- 14B.110.070 Requirements of Permit Holders.
- 14B.110.080 Inspection of Amusement Devices, Records, and Premises.
- 14B.110.090 Prohibited Conduct.
- 14B.110.100 Permit Suspension, Revocation.
- 14B.110.110 Violations, Sealing Prohibited Amusement Devices.
- 14B.110.120 Civil Penalties.
- 14B.110.130 Criminal Penalties.
- 14B.110.140 Appeals.

14B.110.010 Purpose.

The purpose of this Chapter is to provide for the strict regulation of amusement devices, games and machines in order to reduce the potential for unlawful gambling, adverse neighborhood impacts, and adverse impacts on the welfare and education of children in the City, and to raise revenue.

14B.110.020 Definitions.

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

- A.** “Amusement device” means any machine, device, or game, including foosball or table soccer games, billiards or pool tables, shuffleboard, shooting gallery devices, miniature bowling games, electronic games of skill, video games, and other similar machines, devices, or games:
 - 1.** Which are made available for display or operation; and,
 - 2.** Which require the payment of money or other valuable consideration.
 - 3.** “Amusement device” shall not include:

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- a. Ping pong tables, music devices, vending machines, or any rides where no element of chance, bonus, or prize is involved; or
 - b. Video lottery games, game terminals and equipment operated directly by the Oregon Lottery Commission as a state agency.
- B. “Amusement Center” means any location where a person makes seven or more amusement devices available for operation or play at any one time, but excluding any location that:
 1. Derives at least 50 percent of its gross income from the sale of food; or,
 2. Possesses a current, valid license authorizing the on-premises consumption of alcoholic beverages; or,
 3. Is operated primarily as a movie theater, bowling alley, skating rink, or other similar establishment, which displays or operates amusement devices only during the hours that such establishment makes its primary service or activity available to the public.
- C. “Director” means the Director of the Portland Bureau of Licenses, or his or her designee.
- D. “Display or operation” means to make any amusement device available to the public for use or play, for the purposes of displaying or exercising skill or for amusement, at any public or private location.
- E. “Location” means any business establishment, public or private club, association, or any other site where a person makes any amusement device available for display or operation, excepting only private residences in which such amusement devices are available only for display or operation at no cost to the player.
- F. “Person” means any real person, or any partnership, association, corporation, or other form of business organization.

14B.110.030 Authorization.

- A.** Enforcement. The Director is authorized to enforce all provisions of this Chapter.
- B.** Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Chapter.

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14B.110.040 Permits Required for Certain Amusement Devices.

- A.** It shall be unlawful for any person to make available for display or operation any amusement device in which the outcome does not depend in a material degree upon an element of chance, unless all required permits have been obtained, and the display or operation of the amusement device comply with all applicable provisions of this Chapter and of the statutes of the State of Oregon.
- B.** The provisions the this Section shall not exempt any amusement device from any applicable provisions of the Internal Revenue Code requiring federal gaming device tax stamps, or any applicable provisions of the statutes of the State of Oregon.

14B.110.050 Permits Required, Fees.

- A.** It shall be unlawful for any owner of a location to display or make available for operation any amusement device described in Subsection 14B.110.040 without first obtaining a valid Location Permit for the location. Location Permits shall be classified with respective nonrefundable fees, as follows:

Type of Permit	No. of Devices	Fee Per Location
Class I	1 - 3	\$ 50.00
Class II	4 - 6	100.00
Class III	7 - 9	200.00
Class IV	10 - 19	500.00
Class V	20 or more	1000.00

- B.** It shall be unlawful for any owner of an amusement center to display or make available for operation any amusement device described in Subsection 14B.110.040 without first obtaining a valid Amusement Center Permit. Amusement Center Permits shall be classified with nonrefundable fees according to the number of devices at the location as set forth above.
- C.** In lieu of all other permits required by this Chapter, any person may make any amusement device described in Section 14B.110.040 available for display or operation, for one continuous time period not exceeding 90 days in any calendar year, by obtaining a Temporary Location Permit, which shall require the payment of a nonrefundable fee of \$250.

- D.** All permits issued under this Chapter, except Temporary Location Permits, shall be valid for the calendar year of issue, and shall expire on December 31 of that year. All permits shall contain information regarding the permittee's identity. No permit issued under this Chapter shall be transferable or assignable under any circumstances.
- E.** No provision in this Chapter shall be construed to permit the use of any amusement device in violation of State or federal law, or of any of the other provisions of this Code other than those specifically referred to herein.

14B.110.060 Permit Application, Issuance, Denial.

- A.** Applications for all permits required by this Chapter shall be made to the Bureau of Licenses on forms provided by the Bureau of Licenses. The applicant shall provide all the information relating to the purposes of this Chapter required on the form by the Bureau of Licenses. Failure to provide any information requested on this form may be cause to deny the requested permit.
- B.** The Director shall approve issuance of permits after payment of the required fee, completion of the application form and following an investigation of the applicant. However, the Director shall deny a permit application if:

 - 1.** The applicant has been convicted of any offense related to minors, juveniles, gambling, obscenity, controlled substances, prostitution or alcoholic beverages;
 - 2.** Any person has been convicted of any offense relating to minors, juveniles gambling, obscenity, controlled substances, prostitution or alcoholic beverages occurring at the location for which the permit is to be obtained;
 - 3.** Any statement in the application is found to be false;
 - 4.** The applicant has been a principal owner, operator, manager or supervisor of an amusement location and the activities or patrons of such business caused a significant increase in harassing, disorderly or violent acts, criminal activity, vandalism, litter, liquor law violations, noise or traffic congestion in or around such business;
 - 5.** In the Director's opinion, after investigation of the proposed location of an amusement location, the proposed site would be reasonably likely to result in an increase in those acts noted in part (4) of this Subsection;

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6. The business operation as proposed by the applicant would not comply with all applicable requirements of this Code, including, but not limited to, the Building, Health, Planning and Zoning and Fire Codes of the City;
 7. The permitted amusement center would be located within 100 feet of any residential zone established by the Planning and Zoning Code or any location within 500 feet of any public or private elementary, junior high or high school or playground, this distance to be measured in a straight line without regard to intervening structures or obstacles from the nearest point of the school property or residential zone to the nearest point of the structure in which the permitted amusement devices would be operated; or,
 8. The proposed location of the business operation requiring a Location Permit, would be a detriment to the immediate vicinity due to congregation of pedestrian or vehicular traffic.
- C. Notwithstanding Subsection B. above, the Director with the concurrence of the Chief of Police may issue a conditional permit if the applicant establishes to the Director's satisfaction that:
1. The behavior evidenced by such factor is not likely to recur;
 2. The behavior evidenced by such factor is remote in time; or,
 3. The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Chapter.
 4. Under this Subsection, the Director may only issue a permit containing conditions directed at ensuring that such factor shall not recur.
- D. Denial of a permit may be appealed by the applicant by filing written notice of an appeal as provided in Section 14B.110.140.

14B.110.070 Requirements of Permit Holders.

- A. Any person issued any permit for any amusement device shall supervise the use and operation of such device to prevent its use or operation for any purposes contrary to the provisions of this Chapter or any other violation of the provisions of the City Code or applicable State statutes.
- B. Displaying Permits.

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1. All location, amusement center, and temporary location permits issued under this Chapter shall either be:
 - a. Securely affixed to the permitted amusement device;
 - b. Displayed so as to be visible to the public at all times such device is in a location open to the public; or,
 - c. Visible to the public in the same room as the permitted amusement device.
 2. If affixed to the amusement device, the permit must be visible for inspection without removing any portion of the amusement device, or any other obstacle, and without physically moving the amusement device from its normal operating position.
 3. The entire face of any displayed permit shall be visible. The permit shall be displayed or affixed during its entire term.
- C. Any person issued a Location Permit, or a permit to operate an amusement center, shall operate, maintain and supervise the permitted business and its premises, including parking facilities, to prevent:
1. Violations of the provisions of the Portland City Code, state, or federal law, relating to juveniles, minors, alcoholic beverages, gambling, obscenity, controlled substances, prostitution, or crimes against persons or property as defined by the Oregon Revised Statutes, that are connected in a time and manner with the operation and proximity of such premises;
 2. Harassing or disorderly acts on, in, or around such premises; and,
 3. Any significant increase in litter, noise, vehicular or pedestrian traffic congestion, or other locational problems in the area around such business.

14B.110.080 Inspection of Amusement Devices, Records, and Premises.

- A. Any person issued permits under this Chapter, or who controls any location in which a permitted amusement device is located, shall permit any Bureau of Licenses' representative or Bureau of Police officer upon presentation of official identification, to enter such location for the limited purposes of inspecting all records, amusement devices and premises regulated under this Chapter, to which the public has access, to ensure compliance with the provisions of this Chapter.

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- B.** Inspections under this Section shall be authorized only during normal business hours.
- C.** Failure to permit an inspection authorized under this Section shall be grounds for suspension or revocation of any permit required under this Chapter.

14B.110.090 Prohibited Conduct.

- A.** It shall be unlawful for any person to make an amusement device available for use or operation without first obtaining all permits required pursuant to this Chapter.
- B.** It shall be unlawful for any person in control of an amusement device to display an expired permit.
- C.** It shall be unlawful for any person to possess or control an amusement device which has any paper, sticker, tag or other device affixed, attached or placed on the device which purports to be a permit issued by the City or implies that the City has issued a permit when the paper, sticker, tag or other device was not issued by the City.
- D.** It shall be unlawful to knowingly or intentionally use or permit the use or operation of an amusement device for any gambling purposes, whether by operation of the amusement device or based upon results obtained through use or operation of the device.
- E.** It shall be unlawful for any owner to transfer ownership of any amusement location permitted under this Chapter without first removing the permit from the location.
- F.** It shall be unlawful for any person to sell, rent, give, loan or otherwise assign or transfer any permit issued under this Chapter.
- G.** It shall be unlawful for any person to operate an amusement center without having a permit issued pursuant to this Chapter.

14B.110.100 Permit Suspension, Revocation.

- A.** The Director may suspend or revoke any permit issued under this Chapter upon finding reasonable grounds to believe, based upon an investigation, that:
 - 1.** Cause exists which would otherwise be grounds for the denial of such permit;

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2. An intentional or knowing violation by the permittee of any provision of this Chapter has occurred; or,
 3. Any violation by any person of any City ordinance or state or federal statute has occurred relating to gambling while using, operating or playing any such amusement device. Persons holding permits shall be considered to be responsible for any gambling activity of any employee relating to any permitted amusement device. Pursuant to this Section, permits may be suspended or revoked for any violation of law relating to gambling activity relating to permitted amusement devices or premises.
- B.** A suspension or revocation ordered by the Director shall not become effective until the permittee is served with written notice of the suspension or revocation, the reasons therefor, and the limited right of appeal pursuant to Section 14B.110.140, either personally or by delivery or posting of the notice at the location of the involved amusement device or business. The suspension or revocation may be appealed by filing written notice of an appeal as provided in Section 14B.110.140.

14B.110.110 Violations, Sealing Prohibited Amusement Devices.

- A.** Upon a determination that any provision of this Chapter has been violated, the Director shall issue a written Notice of Violation and assess civil penalties. The notice shall state the nature of the violation, the date of the violation, and the date by which such violation must be corrected and any civil penalties which must be paid to prevent the amusement device from being sealed. The person responsible for the violations shall be allowed 5 days in which to correct the violation.
- B.** Sealing of Amusement Devices.
1. If a violation is not corrected and civil penalties paid within the time period allowed in Subsection A. above, the Director may seal the coin slot of any amusement device involved in the violation. If an amusement device is sealed, the Director may remove the seal only if the person responsible for the violations has corrected the violations and paid any penalties imposed under this Chapter.
 2. It shall be unlawful for any other person other than the Director to remove or alter a seal. If a seal is unlawfully removed or altered, the sealed amusement device shall be subject to seizure and destruction pursuant to this Section.

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3. If within a single calendar year a permittee has been issued a Notice of Violation, the Director may seal any amusement device and impose penalties for all further violations by that permittee within that calendar year without first issuing a Notice of Violation or allowing time to correct the violations.
- C. A sealed amusement device shall be subject to seizure and destruction as a public nuisance if:
 1. The violation is not corrected and all penalties paid within 5 days of sealing; or
 2. Upon the occurrence of any subsequent violations of this Section by any one owner or lessor within any calendar year.
- D. The Bureau of Police shall assist the Bureau of Licenses in the seizure of the amusement device. The City Attorney is authorized to bring any suit or action for the destruction of the amusement device as a public nuisance.
- E. The owner of any amusement device seized for destruction may, within 10 days of the permittee being served with written notice of such seizure, file a written notice of appeal as provided in Section 14B.110.140.

14B.110.120 Civil Penalties.

- A. The Director may impose civil penalties for violations of the provisions of this Chapter according to the following schedule:
 1. Sealed amusement device removed from location: the penalty shall be up to \$50 per amusement device.
 2. Failure to obtain proper location permit: the penalty shall be up to \$50 per amusement device.
 3. The unlawful removal of seal from amusement device: the amusement device shall be subject to seizure and destruction pursuant to Section 14B.110.110.
- B. Calculation of Civil Penalties.
 1. In calculating the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Director shall consider:

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- a. The extent and nature of the person's involvement in the violation;
 - b. The economic or financial benefit accruing or likely to accrue as a result of the violations;
 - c. Whether the violations were repeated or continuous, or isolated and temporary;
 - d. The magnitude and seriousness of the violation;
 - e. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
 - f. Any other factor the Director deems to be relevant.
 2. The Director shall provide notice of the assessment of civil penalties in the Notice of Violation under Section 14B.110.110 A.
- C.** No person assessed a penalty under this Section shall be issued a permit under this Chapter until all such penalties have been paid in full.
- D.** Civil penalties imposed pursuant to this Section shall be the only penalties authorized for such violations.
- E.** Any person assessed a penalty may, within 10 days of receiving such written order, file a written notice of appeal as provided in Section 14B.110.140.

14B.110.130 Criminal Penalties.

Except as provided in Section 14B.110.120, the intentional or knowing violation of any provision of this Chapter is punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

14B.110.140 Appeals.

- A.** The filing of a notice of appeal to the Code Hearings Officer, as set out in Chapter 22.10 of this Code, of revocation or suspension of a permit, or of any civil penalty imposed by the Director under this Chapter, or of any seizure of an amusement device for destruction, shall stay the effective date of the action until the appeal is determined by the Code Hearings Officer.

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- B.** The notice of appeal shall be in writing. The notice shall state the name and address of the appellant to which all required notices may be mailed. The notice shall also indicate the reasons why the appealed action was wrong and what the correct determination should be.

Chapter 14B.120

**TIME, PLACE AND MANNER
REGULATION OF ESTABLISHMENTS THAT
SELL AND SERVE ALCOHOLIC BEVERAGES**

(New Chapter added by Ordinance No.
178201, effective March 19, 2004.)

Sections:

- 14B.120.010 Purpose.
- 14B.120.020 Definitions
- 14B.120.025 Authority to Adopt Rules, Procedures and Forms.
- 14B.120.030 Nuisance Activity Violations.
- 14B.120.040 Notice.
- 14B.120.050 Nuisance Abatement Plan.
- 14B.120.055 Responsible Neighbor Program.
- 14B.120.060 Enforcement.
- 14B.120.070 Hearings.
- 14B.120.080 Remedies.

14B.120.010 Purpose.

The Oregon Legislature has authorized Oregon cities and counties to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments serving alcoholic beverages, ORS 147.164. In adopting the provisions of this Chapter, the City Council's intent is to provide for reasonable time, place and manner regulations of the nuisance aspects of those establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. By requiring that the nuisance violations be brought before the Code Hearings Officer, the City Council's intent is that there will be specific findings made regarding the occurrence of adverse effects. The City Council also intends that the remedies imposed by the Code Hearings Officer under the authority of this Chapter will solely address the time, place and manner aspects of the nuisance activities. In addition, to create the most effective program, this Chapter

establishes the Responsible Neighbor Program. The purpose of the Responsible Neighbor Program is to encourage the owners of establishments serving alcoholic beverages to act to ensure that the operation of their establishment does not create nuisances and thereby negatively impact neighborhood livability.

14B.120.020 Definitions.

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

- A.** "Alcoholic Beverage" means any liquid or solid containing more than one-half of one-percent alcohol and capable of being consumed by a human being.
- B.** "Director" means the Director of the Office of Neighborhood Involvement, or the Director's designee.
- C.** "Chief of Police" means the Chief of Police of the Portland Police Bureau.
- D.** "Licensee" means any person holding a license issued by the Oregon Liquor Control Commission.
- E.** "Establishment" means any location licensed under ORS Chapter 471 and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Establishment" also includes areas outside of a building that the Oregon Liquor Control Commission has specifically approved for serving alcoholic beverages.
- F.** "Nuisance activity" means any of the following:
 - 1.** Operation of sound producing equipment, as prohibited by City Code Section 14A.30.020.
 - 2.** Disorderly conduct as defined in ORS 166.025 (2003).
 - 3.** Offensive littering as defined in ORS 164.805 (2003).
 - 4.** Drinking on public rights of way, unless officially authorized, as prohibited by City Code Section 14A.50.010.
 - 5.** Interference with vehicle ingress and egress as prohibited by City Code Section 14A.50.035.
 - 6.** Alcoholic beverage violations in parks, as prohibited by City Code Section 20.12.040, where the violation relates to a specific licensee.

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7. Discharge of a firearm at the establishment, as prohibited by City Code Section 14.A.60.020.

- G. "Serve" or "serving" means to furnish, provide or supply alcoholic beverages to patrons or customers.

14B.120.025 Authority to Adopt Rules, Procedures and Forms.

The Director and Chief of Police are authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.

14B.120.030 Nuisance Activity Violations.

It shall be a violation of this Chapter if during any continuous thirty (30) day period, any combination of three or more nuisance activities occurs that is related to or arising out of an establishment that serves alcoholic beverages.

14B.120.040 Notice.

- A. The Director and the Chief of Police shall appoint a Liquor License Team to review and substantiate the occurrences of nuisance activities.
- B. If the Director or the Chief of Police determines that a nuisance activity has occurred at an establishment, the Director or the Chief of Police will send a written notice to the licensee. The notice shall contain a description of the nuisance activity, the date and the time of its occurrence.
- C. Upon determining that there is reasonable belief that three nuisance activities have occurred in violation of Section 14B.120.030, the Director or the Chief of Police shall send written notice to the licensee. The written notice shall contain at least the following information:
 1. The street address or legal description of the establishment, as reflected in the records of the Oregon Liquor Control Commission.
 2. A concise statement setting forth the date and time of nuisance activities, and the possible remedies that may be imposed under this Chapter by the Code Hearings Officer; and,
 3. A request that the licensee provide a written response within ten (10) business days either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.

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- D.** If the licensee's response does not satisfy the Director or the Chief of Police's concerns, they may attempt to develop a nuisance abatement plan with the licensee. The Director or the Chief of Police may file a complaint with the Code Hearings Officer as provided under Section 14B.120.060 if:
- 1.** The licensee refuses to actively and meaningfully participate in the process of developing a nuisance abatement plan; or,
 - 2.** The effort by the Director or the Chief of Police to develop a nuisance abatement plan with the licensee fails.

14B.120.050 Nuisance Abatement Plan.

- A.** If the licensee responds to the Director or the Chief of Police within ten (10) business days of the date of the notice, with a proposed course of action for abating the nuisance activities, the Director or the Chief of Police shall review the proposal. If the Director or the Chief of Police determines that the proposal will reasonably abate the nuisance activities, the Director or the Chief of Police and the licensee shall enter into an enforceable agreement, specifying the terms and conditions of the abatement plan.
- B.** At a minimum, the agreement shall identify the nature of the nuisance activities, the specific steps the licensee will undertake to abate the nuisance activity and the related resources the licensee will commit to the abatement, if applicable, and a mechanism for the Director or the Chief of Police to monitor compliance with the plan.
- C.** Any such agreement shall be executed by the licensee and the Director or the Chief of Police within thirty (30) days of the date of the licensee's written response to the Director or the Chief of Police's notice. The Director or the Chief of Police may, upon request, extend this thirty-day period if it appears that the parties are working diligently to come to agreement.

14B.120.055 Responsible Neighbor Program.

(Amended by Ordinance No. 178898, effective November 24, 2004.) Qualified licensees may request to participate in a Responsible Neighbor Program as administered by the Director.

- A.** The Director shall approve a licensee for participation in the Responsible Neighbor Program, if the licensee meets all of the following qualifications:
- 1.** The licensee is licensed solely for off premises sales; and

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2. The licensee is currently certified for participation in the Responsible Vendor Program provided in ORS 471.344 (2003).
- B. If any licensee participating in the Responsible Neighbor Program has three (3) nuisance activities in violation of Section 14B.120.030, or fails to comply with any of the qualifications under Subsection 14B.120.030 A., the Director shall issue a written notice to the licensee and initiate a proceeding before the Code Hearings Officer as set out in Chapter 22.03 of the City Code for suspension of the licensee from participation in the Responsible Neighbor Program for a period of one year.
- C. If a licensee is removed from the Responsible Neighbor Program, any subsequent nuisance activity violations under Section 14B.120.030, the Director or the Chief of Police will follow the processes and remedies as provided in Sections 14B.120.040 through 14B.120.080

14B.120.060 Enforcement.

Upon making a determination that three or more nuisance activities have occurred as provided under Section 14B.120.030, the Director or the Chief of Police may file a complaint before the Code Hearings Officer to initiate a code enforcement proceeding only if any of the following have first occurred:

- A. The licensee has failed to submit a timely written response to the Director or the Chief of Police's notice; or
- B. The licensee fails to propose or enter into an abatement plan that is acceptable to the Director or the Chief of Police; or
- C. The licensee does not operate the establishment in compliance with the written abatement plan.

14B.120.070 Hearings.

The initiation and procedures of any code enforcement proceeding to determine whether nuisance activities have occurred as provided in Section 14B.120.030 and to impose remedies under Section 14B.120.080 shall follow the provisions of Chapter 22.03 of the City Code.

14B.120.080 Remedies.

If the Code Hearings Officer determines that three or more nuisance activities have occurred at an establishment, as provided in Section 14B.120.030, the Code Hearings Officer shall make findings regarding the occurrence of the nuisance activities and any

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related adverse effects. Time, place and manner abatement remedies imposed by the Code Hearings Officer to address the occurrence of the nuisance activities may include any of the following:

- A.** Limiting the hours or days during which the establishment may operate.
- B.** Requiring the establishment to provide resources to monitor, control and respond to patron behavior at and around the establishment, including but not limited to, hiring adequate security personnel to patrol the establishment.
- C.** Restricting the activities at the establishment to prevent the reoccurrence of nuisance activities, including but not limited to restrictions upon the time and manner in which entertainment is offered.
- D.** Ordering the licensee to undertake other actions reasonably necessary to abate the nuisance activities or mitigate the effects thereof, including but not limited to, modifying the establishment to include noise insulation to prevent and abate nuisance activities related to noise.

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Chapter 14C.10

POLICE DUTIES TO INVENTORY PROPERTY

Sections:

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

14C.10.010 Purpose.

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

14C.10.020 Definitions.

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

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

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4. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement or detaining of persons pursuant to Oregon Revised Statute or this Code.
- E. “Police officer” means any police officer employed or acting at the direction of or in collaboration with the Portland Bureau of Police and any officer of the Port of Portland Police Department.

14C.10.030 Inventories of Impounded Vehicles.

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

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

14C.10.040 Inventories of Persons In Police Custody.

- A. A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:
 1. Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or
 2. Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.
- B. The purpose of the inventory of a person in police custody will be to:

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1. Promptly identify property to establish accountability and avoid spurious claims to property; or
 2. Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or
 3. Assist in the prevention of theft of property; or
 4. Locate toxic, flammable or explosive substances; or
 5. Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
 6. Reduce the danger to persons and property.
- C. Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:
1. An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.
 2. To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
 3. A closed container in the possession of such person will have its contents inventoried only when:
 - a. The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;
 - b. Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or

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- 14C.20.040 Evidence Property.
- 14C.20.050 Reserved.
- 14C.20.060 Found Property.

14C.20.010 Maintenance of Property/Evidence Division.

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

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

14C.20.020 Receipts for Property.

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

14C.20.030 Records.

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

14C.20.040 Evidence Property.

- A. All property received by the property/evidence division as evidence shall be held subject to use as evidence in the appropriate court(s). Upon final disposition of the case(s) for which such property was seized as evidence, the Bureau of Police shall make a reasonable attempt to return all lawful property still held by the property/evidence division to its legal owner or rightful possessor.
- B. The Bureau of Police shall make a reasonable attempt to give notice to the legal owner or rightful possessor that the property will be released to him or her. The notice shall state that the legal owner or rightful possessor has 60 days within which to claim the property at the Bureau of Police. All property received from the property/evidence division requires the signature of the legal owner or rightful possessor.

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- C. Upon attempted notice, if property is not claimed within 60 days, the property may be disposed of by the Bureau of Police in the manner provided by law. The return of undisputed claims for money equal to or in excess of \$100.00 shall first be deposited into the General Fund and then shall be paid out from said Fund to the legal owner or rightful possessor. Payment on disputed claims shall be authorized either by an appropriate court order approved by the City Attorney or by ordinance.

14C.20.060 Found Property.

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

Chapter 14C.30

**GENERAL PROCEDURES AND
AUTHORITY OF THE BUREAU OF POLICE**

Sections:

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

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

- A. Whenever a threat to the public health or safety is created by any emergency, a Portland police officer may restrict or deny access to any persons to the area where such threat exists, for the duration of such threat, when the officer reasonably believes the presence of such persons would constitute a danger to themselves or others or would substantially interfere with the performance of the

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police or other emergency services. For purposes of this Section, an emergency includes, but is not limited to an escaped prisoner, a natural disaster, a fire, an explosion, an accident, a riot, the presence of an armed person, a hostage incident or a bomb threat.

- B.** Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of criminal acts, a police officer may restrict or deny access to any area.
- C.** As used in this Section, "restrict or deny access" means that a police officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.
- D.** It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Subsections (A) or (B) above, unless such person has specific statutory authority, or the permission of the on-scene ranking police officer, to be within such area.
- E.** In accordance with the authority granted by this Section, and in consideration of the law enforcement and emergency services needs involved, provision shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

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

Police officers, as defined in this Title, are authorized to arrest, issue a citation, or take other enforcement action for violations of the following City Code provisions:

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

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

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

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14C.30.040 Seizure and Disposition of Weapons.

- A.** The Bureau of Police may seize and take possession of any dangerous or deadly weapon that is possessed unlawfully, or used unlawfully, or used for an unlawful purpose. The weapon shall be held subject to disposal as provided in this Section.
- B.** If it is determined that the weapon was not possessed, carried, or used unlawfully, the weapon shall be released to the lawful owner if he or she files a timely written claim with the Bureau.
 - 1.** A claim is timely if it is filed:
 - a.** Within 60 days after the weapon was seized, if it was not held for use as evidence, or
 - b.** Within 60 days after it was released by directive of the Chief of Police or court order, if it was held for use as evidence.
 - 2.** If there is a question as to ownership or right to possession, the weapon shall be released as ordered by the court.
- C.** If the name and address of a person entitled to claim possession of a weapon under Subsection B. is known to the Bureau of Police, the Bureau shall give that person notice as provided in Portland City Code 14C.20.
- D.** If the weapon is not claimed under the provisions of Subsection B. or was possessed, carried or used unlawfully by the owner, it is a nuisance. Subject to a court order to the contrary, the weapon shall be disposed of as provided in Subsection E. to G.
- E.** Subject to approval of the, Property/Evidence Division, if the weapon is a firearm suitable for use by the Bureau of Police, it shall be added to the inventory of the Bureau.
- F.** Subject to Subsection C. if the weapon is a shotgun or rifle, it shall be delivered to the Property/Evidence Division, which shall dispose of it in the same manner as surplus property. However, disposal shall be only to persons who have prequalified with the Property/Evidence Division as being licensed to sell firearms at retail.
- G.** Any weapon described in Subsection D. that is not disposed of as ordered by the court, or as provided in Subsection E. or F., shall be destroyed by the Property/Evidence Division.

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

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

14C.30.060 Caretaking of Property.

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

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

- A.** Tri-Met may make and enforce such ordinances and regulations as it deems necessary regarding misuse of transit shelters and transit loading platforms for the purpose of exclusion and criminal trespass.
- B.** For the purposes of this Section, the following definitions apply:
 - 1.** Transit Shelter: the area within the drip line of any transit shelter within the limits of the City of Portland, except the Pioneer Square North and South stations.
 - 2.** Transit loading platform: the area that extends the entire length of the tactile bricks where Tri-Met operated trains and trolleys load and unload within the limits of the City of Portland. This area extends from the tracks to one foot past the rear of the Tri-Met ticket vending machines, or to the farthest drip line of the transit shelter, whichever is farthest from the tactile bricks.

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

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

