

**TITLE 7
BUSINESS LICENSES**

Chapter 7.02

BUSINESS LICENSE LAW

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(New Chapter substituted by
Ordinance No. 180863, effective
May 4, 2007.)

Sections:

- 7.02.005 Short Title.
- 7.02.010 Fees for Revenue.
- 7.02.020 Conformity to State Income Tax Laws.
- 7.02.100 Definitions.
- 7.02.110 Income Defined.
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- 7.02.830 Collection and Remittance of Donations to “Work for Art,” a Program of the Regional Arts & Culture Council.
- 7.02.840 Frivolous Filing.
- 7.02.850 Hacking.

7.02.005 Short Title.

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

7.02.010 Fees for Revenue.

The term “license” as used in the Business License Law shall not be construed to mean a permit. The fees prescribed herein are for revenue purposes, and are not regulatory permit fees.

7.02.020 Conformity to State Income Tax Laws.

The Business License Law shall be construed in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income. Any reference in this Chapter to the laws of the State of Oregon means the laws of the State of Oregon imposing taxes on or measured by net income as those laws existed for that particular tax year. The Bureau shall have the authority by written policy to connect to and/or disconnect from any legislative enactment that deals with income or excise taxation or the definition of net income. Should a question arise under the Business License Law on which this Chapter is silent, the Bureau may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under State law is not in conflict with any provision of this Chapter or the State law is otherwise inapplicable.

7.02.100 Definitions.

For the purpose of this Chapter, the terms used in this Chapter shall be defined as provided in this Chapter or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

- A. **“Business”** means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain, or the

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production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

- B. “Doing Business”** means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.
- C. “Employee”** means any individual who performs services for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance.
- D. “Person”** includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
- E. “Licensee”** means a person licensed to do business within the City under the Business License Law.
- F. “Individual”** means a natural person.
- G. “Controlling Shareholder”** means any person, either alone or together with that person’s spouse, parents, and/or children, who, directly or indirectly, owns more than 5 percent of any class of outstanding stock or securities of the licensee. The term “controlling shareholder” may mean the controlling shareholder individually or in the aggregate.
- H. “Ownership of Outstanding Stock or Securities”** means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the licensee.
- I. “Non-business Income”** means income not created in the course of the licensee’s business activities.
- J. “Net Operating Loss”** means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.

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- K.** “**Notice**” means a written document mailed first class by the Bureau to the last known address of a licensee as provided to the Bureau in the latest application or renewal return on file with the Bureau.
- L.** “**Received**” means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.
- M.** “**Tax Year**” means the taxable year of a person for Federal and/or State income tax purposes.
- N.** “**License Year**” means the term of a license issued under the Business License Law.
- O.** “**Bureau**” means the Revenue Bureau of the City of Portland, Oregon, along with its employees and agents.
- P.** “**Director**” means the Director of the Revenue Bureau or his or her designee.
- Q.** “**Licensed**” means that a non-exempt person has paid at least the current or previous year's minimum required license fee and is otherwise in compliance with all provisions of the Business License Law.
- R.** “**Day**” means a calendar day unless otherwise noted.
- S.** “**License Fee**” means the fee owed by a licensee for any particular license year.
- T.** “**License Application**” or “**Application**” means the initial application form that establishes a licensee’s account with the Bureau.
- U.** “**Renewal Return**” means any tax return filed by or due from the licensee, including an annual exemption request form.
- V.** “**License Certificate**” means the document issued to a licensee upon full compliance with the Business License Law for the license year in question.

7.02.110 Income Defined.

“Income” means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

- A.** Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures shall be

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liable for the business license and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities shall include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity.

- B.** If one or more persons are required or elect to report their income to the State of Oregon for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single license certificate shall be issued to the person filing such return. In such cases, “income” means the net income of the consolidated, combined or joint group of tax filers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.
- C.** The absence of reporting income to the Internal Revenue Service or the State of Oregon shall not limit the ability of the Bureau to determine the correct income of the licensee through examination under Section 7.02.260.

7.02.200 Administration.

- A.** The Business License Law shall be administered by the Bureau. Authority granted to the Director may be delegated, in writing, to another employee within the Bureau.
- B.** The Bureau may, upon request, interpret how the Business License Law applies, in general or for a certain set of circumstances.
- C.** Nothing in this Chapter shall preclude the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.

7.02.210 Administrative Authority.

- A.** The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.
- B.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.
- C.** Before adopting a new rule, the Director shall hold a public hearing. Prior to the hearing, the Director shall publish a notice in a newspaper of general circulation in the City. The notice shall be published not less than ten nor more than thirty days before the hearing. Such notice shall include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed

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rule, and the location where copies of the full text of the proposed rule may be obtained.

- D.** At the public hearing, the Director or designee, shall hear oral and written testimony concerning the proposed rule. The Director shall either adopt the proposed rule, modify, or reject it, taking into consideration the testimony 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's office. Copies of all current rules shall be made available to the public upon request.
- E.** Notwithstanding subsections C and D of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

7.02.220 Presumption of Doing Business.

A person is presumed to be doing business in the City and subject to this Chapter if engaged in any of the following activities:

- A.** Advertising or otherwise professing to be doing business within the City; or
- B.** Delivering goods or providing services to customers within the City; or
- C.** Owning, leasing, or renting personal or real property within the City which is used in a trade or business; or
- D.** Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this Chapter. Property may be personal, including intangible or real in nature; or
- E.** Engaging in any activity in pursuit of gain which is not otherwise exempted in this Chapter.

7.02.230 Confidentiality.

Except as otherwise required by law, it shall be unlawful for the Bureau, or any elected official, employee or agent of the City, or for any person who has acquired information pursuant to Section 7.02.240 A and C to divulge, release or make known in any manner

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any financial information submitted or disclosed to the City under the terms of the Business License Law. Nothing in this Section shall be construed to prohibit:

- A. The disclosure of the names and addresses of any persons that have a Bureau account;
- B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual licensee;
- C. The filing of any legal action by or on behalf of the Bureau to obtain payment on unpaid accounts; or
- D. The assignment to an outside collection agency of any unpaid account balance receivable, provided that the Bureau notifies the licensee of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the Bureau.

7.02.240 Persons to Whom Information May be Furnished.

(Amended by Ordinance No. 181445, effective November 21, 2007.)

- A. The Bureau may disclose and give access to information described in Section 7.02.230 to an authorized representative of the Department of Revenue, State of Oregon, or any local government of the State of Oregon imposing taxes upon or measured by gross receipts or net income, for the following purposes:
 - 1. To inspect the license application or renewal return of any licensee;
 - 2. To obtain an abstract or copy of the license application or renewal return;
 - 3. To obtain information concerning any item contained in any application or renewal return; or
 - 4. To obtain information of any financial audit of any renewal returns of any licensee.

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

- B. Upon request of a licensee, or authorized representative, the Bureau shall provide copies of the licensee's application and/or renewal returns filed with the Bureau for any license year.

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- C.** The Bureau may also disclose and give access to information described in Section 7.02.230 to:
- 1.** The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Bureau deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau, including but not limited to instituting legal actions on unpaid accounts.
 - 2.** Other employees, agents and officials of the City, to the extent the Bureau deems disclosure or access necessary for such employees, agents or officials to
 - a.** aid in any legal collection effort on unpaid accounts,
 - b.** perform their duties under contracts, agreements or written policies and procedures between the Bureau and any other department, bureau, agency or subdivision of the City relating to the administration of the Business License Law, or
 - c.** aid in determining whether a Bureau account is in compliance with all City, State and Federal laws or policies.
- D.** Officials, employees and agents of the Bureau or City, prior to the performance of duties involving access to financial information submitted to the Bureau under the terms of the Business License Law, shall be advised in writing of the provision of Section 7.02.730 relating to penalties for the violation of Sections 7.02.230 and 7.02.255. Such employees, agents and officials shall execute a certificate in a form prescribed by the Bureau, stating that the person has reviewed these provisions of law and is aware of the penalties for the violation of Sections 7.02.230 and 7.02.255. The requirements of this subsection do not apply to officials, employees and agents of the Bureau or City who are given access to financial information as part of their duties to process refunds and refund-related documents.
- E.** Prior to any disclosures permitted by this Section, all persons described in subsection A above, to whom disclosure or access to financial information is given, shall:
- 1.** Be advised in writing of the provisions of Section 7.02.730 relating to penalties for the violation of Section 7.02.230; and

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

7.02.250 Licensee Representation.

No person shall be recognized as representing any licensee in regard to any matter relating to the fee of such licensee without written authorization of the licensee or unless the Bureau determines from other available information the person has authority to represent the licensee.

7.02.255 Representation Restrictions.

- A. No employee or official of the City shall represent any licensee in any matter before the Bureau. This restriction against licensee representation shall continue for two years after termination of employment or official status.
- B. Members of the Appeals Board, as described in Section 7.02.295 of the Business License Law shall not represent a licensee before the Appeals Board. No member of the Appeals Board shall participate in any matter before the Board if the appellant is a client of the member or the member's firm.

7.02.260 Examination of Books, Records or Persons.

- A. The Bureau may examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license application or renewal return, or to make an estimate of any license fee. The Bureau shall have the authority, after notice, to:
 1. Require the attendance of any person required to be licensed under the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Bureau may designate;
 2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
 3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.
 4. Require the property manager of a tenant in common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.

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- B.** The Director shall designate the employees who shall have the power to administer oaths hereunder. Such employees shall be notaries public of the State of Oregon.

7.02.270 Records.

Every person required to be licensed under the Business License Law shall keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the licensee's application and/or renewal returns, and the calculation of fee for such license year.

7.02.280 Deficiencies and Refunds.

- A.** Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, ORS 314.415, and ORS 317.950. The Bureau may by agreement with the licensee extend such time periods to the same extent as provided by statute.
- B.** Consistent with ORS 314.410 (3), in cases where no license application or renewal return has been filed, there shall be no time limit for a notice of deficiency and/or the assessment of fees, penalty, and interest due.
- C.** Notwithstanding subsections A and B, the Bureau is not required to accept any license application or renewal return from a licensee if:
 - 1.** The Bureau obtains a money judgment against the licensee for failure to pay an unpaid account balance due; and
 - 2.** The Bureau or its designee lawfully served the licensee with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
 - 3.** The license application or renewal return is for a taxable year that is the subject of the money judgment; and
 - 4.** The Bureau gave written notice stating that the licensee had an outstanding balance due at least 60 days before the Bureau (or its designee) filed a lawsuit for those particular tax years.

7.02.290 Protests and Appeals.

- A.** Any determination by the Bureau may be protested by the licensee. Written notice of the protest must be received by the Bureau within 30 days after the notice of determination was mailed or delivered to the licensee. The protest shall state the name and address of the licensee and an explanation of the grounds for

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the protest. The Bureau shall respond within 30 days after the protest is filed with the Bureau with either a revised determination or a final determination. The Bureau's determination shall include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Bureau's response may be extended by the Bureau for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice shall be given to the licensee if the Bureau's deadline is extended.

- B.** Any final determination by the Bureau may be appealed by the licensee to the Business License Appeals Board. Written notice of the appeal must be received by the Bureau within 30 days after the final determination was mailed or delivered to the appellant. The notice of appeal shall state the name and address of the appellant and include a copy of the final determination.
- C.** Within 90 days after the final determination was mailed or delivered to the licensee, the appellant shall file with the Business License Appeals Board a written statement containing:
 - 1.** The reasons the Bureau's determination is incorrect, and
 - 2.** What the correct determination should be.

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

- D.** Within 150 days after the final determination was mailed or delivered to the licensee, the Bureau shall file with the Business License Appeals Board a written response to the appellant's statement. A copy of the Bureau's response shall be promptly mailed to the address provided by the appellant.
- E.** The appellant shall be given not less than 14 days prior written notice of the hearing date and location. The appellant and the Bureau shall have the opportunity to present relevant testimony and oral argument. The Business License Appeals Board may request such additional written comment and documents as it deems appropriate.
- F.** Decisions of the Business License Appeals Board shall be in writing, state the basis for the decision and be signed by the Business License Appeals Board Chair.
- G.** The decision of the Business License Appeals Board shall be final on the date it is issued and no further administrative appeal shall be provided.

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- H.** The filing of an appeal with the Business License Appeals Board shall temporarily suspend the obligation to pay any fee that is the subject of the appeal pending a final decision by the Business License Appeals Board.
- I.** Penalty waiver and/or reduction requests are not subject to the protest/appeal process until the licensee receives written notice from the Bureau that the licensee's request was either denied or only approved in part. The Bureau shall respond to requests to reduce and/or waive late and/or underpayment penalties within 60 days from the date that the written request is received by the Bureau.

7.02.295 Business License Appeals Board.

There is hereby created a Business License Appeals Board that shall consist of the following members:

- A.** A member of the public appointed by the City Auditor for a two year term that expires every even year.
- B.** A member of the public appointed by the elected official in Charge of the Bureau, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.
- C.** Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member shall be appointed for one year, one for two years and one for three years. After making the initial appointments, each member shall serve for a term of three years.
- D.** Appointments to the Business License Appeals Board shall be made to provide for an appropriate level of expertise in accounting methods and tax regulation.
- E.** No employee or agent of the City may be appointed to or serve on the Business License Appeals Board.

7.02.300 Requirements to be Licensed.

- A.** No person shall do business within the City unless such person shall have first paid a license fee under this Chapter.
- B.** The payment of a license fee required hereunder and the acceptance of such fee by the City shall not entitle a licensee to carry on any business not in compliance with all requirements of this Code and all other applicable laws.
- C.** In the event that a court of competent jurisdiction determines that the requirement to be licensed hereby imposed is unconstitutional with respect to any person, such

person shall pay a tax determined as provided in this Chapter with respect to license fees.

- D.** Any licensee shall be deemed to be doing business within the City within any fiscal year he or she receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

7.02.310 Duplicate License Certificates.

Upon request by the licensee a duplicate license certificate may be issued to replace any license certificate previously issued that has been lost or destroyed. Duplicate license certificates will be issued in accordance with the Bureau's written policy.

7.02.320 License Account Transfer.

- A.** The Bureau shall require the transfer of a licensee's account if, in the judgment of the Bureau, the successor or transferee business represents a continuity of business which does not change the substance of a business licensed under the Code. The Bureau shall establish guidelines through written policy to explain the requirements of a license transfer.
- B.** In the event of a license account transfer, the license fees for each partial or full year shall be computed upon the incomes earned by each entity involved in the transfer for all tax periods required to be reported under state and federal tax laws and regulations. The transferring license fee for the license year following the transfer shall be based upon the income of the transferor and shall be computed as though the transferor were continuing in business as the same tax entity.

7.02.330 License Account Merger or Division.

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

7.02.350 License Certificate Term.

- A.** Each license year shall begin on the first day of the month in which a licensee was required to be licensed. Each license year shall expire at the end of the applicable tax period on the basis of which the licensee computes net income under the

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

- B.** Notwithstanding the expiration of the license certificate term, no person shall be deemed to be in violation of any provision of the Business License Law on account of such person not having filed a renewal return during the period of time permitted under Section 7.02.510 for the filing of such renewal return, provided that such renewal return shall have been filed before the end of such period.

7.02.360 Temporary License Certificates and Fees.

- A.** Notwithstanding other provisions of the Business License Law, persons doing business as provided in this Section shall apply for and obtain temporary business license certificates and pay the fees as provided herein.

- 1.** Vendors not located in a permanent structure and operators of amusement rides not in the same location for more than 14 days shall pay a temporary license fee of \$10 per day per vendor and \$10 a day for each ride operated.
- 2.** Promoters of commercial entertainment doing business in the City and production companies filming in the City for no more than 3 days in any calendar year shall pay a temporary license fee of \$25 per day. Any person doing business as a performing artist at a commercial entertainment event conducted by a licensed promoter shall be deemed to be in compliance with the Business License Law.
- 3.** Vendors conducting limited, seasonal sales (including, but not limited to, Christmas trees or fireworks), operating in temporary locations shall pay a temporary license fee of \$10 per day for each location, not to exceed \$100 per location.

- B.** Income from activity for which a temporary license certificate has been obtained shall be exempt from the business license requirements of Section 7.02.540 and 7.02.545.

7.02.400 Exemptions.

To the extent set forth below, the following persons or incomes are exempt from the requirements of the Business License Law:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.

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- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007). The Bureau may demand a statement that the person's gross receipts for the license year will be less than \$50,000. If such person shall have been exempt hereunder during the prior tax year, an additional statement shall be filed indicating the gross receipts for such year were less than \$50,000 or indicating the amount thereof.
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 shall pay a license fee based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), shall pay a license fee based solely on that income.
- F.** Any individual whose only business transactions are exclusively limited to the renting or leasing of residential real property dwelling units provided that the beneficial owner rents or leases less than ten total units, regardless of whether they are located inside or outside of the Portland City limits. For purposes of this subsection, payments to foster care and other service providers shall be considered payments for "services" and not for "rent." If a building contains more than one residential living quarter, the term "dwelling unit" refers to each separate living quarter. This exemption does not apply if any income is recognized from the sale of residential rental property.
- G.** The following incomes of an individual:
 - 1.** Income from sales, exchanges or involuntary conversions of a primary or secondary residence;
 - 2.** Income from the sale of personal property acquired for household or other personal use by the seller;
 - 3.** Income from interest and dividend income earned from investments if the income is not created in the course of or related to the licensee's business activities;

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4. Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- H.** Any person whose only business transactions are exclusively limited to the following activities:
1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption shall not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- I.** Gross incomes subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, income which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.
- J.** Gross incomes subject to franchise fees under residential solid waste, recycling and yard debris collection franchises issued by the City of Portland. Income which is not otherwise subject to such franchise fees is subject to the Business License Law.

7.02.500 Fee Rate.

- A.** The fee established by the Business License Law shall be 2.2 percent of adjusted net income, except as provided in subsections B. and C. of this section.
- B.** Surcharge applicable to Tax Years 2002 through 2005
1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in addition to the 2.2 percent fee established in subsection A above, in an amount calculated by the Director to be sufficient to raise \$20 million net of City costs, with the proceeds of that surcharge to be

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dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The decision of the Director as to the surcharge amount shall be final. Allocation will be based on Average Daily Membership, weighted (ADMw) for the 2002 and 2003 tax years, and on an equitable method determined by the City Council for the 2004 and 2005 tax years.

2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge shall be charged or imposed for the 2002 tax year.
3. For tax years beginning on or after January 1, 2003, a surcharge is imposed in an amount sufficient to produce a net \$6 million for each tax year, to be dedicated as provided in subsection B. of this section. The Director shall calculate for the 2003, 2004 and 2005 tax years the surcharge amount that is expected to result in raising the specified amount and shall provide notice of the surcharge amount for each tax year. The decision of the Director as to the surcharge amount shall be final.
4. If the surcharge calculated by the Director for any tax year raises more than the specified amount in that tax year, the surcharge calculated for the ensuing tax year shall be adjusted to reduce the amount to be raised by the amount of the excess raised in the previous tax year.
5. If the surcharge calculated by the Director for any tax year raises less than the specified amount in that tax year, the surcharge calculated for the ensuing tax year shall be adjusted to increase the amount to be raised by the amount of the deficit in the previous tax year.
6. If the surcharge amount calculated by the Director raises more than \$500,000 in excess of the required amount for the final tax year in which the surcharge is imposed, the excess shall be refunded to or may be retained as a credit for fees due in the ensuing tax year.
7. This surcharge shall be terminated at the time the net \$38 million has been raised for school funding.

C. Surcharge Applicable to Tax Years 2006 through 2007

1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in addition to the 2.2 percent fee established in subsection A above, in an amount calculated by the Director to be sufficient to raise \$6 million plus City costs and minus the amount of the remaining balance

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from the surcharge for the Tax Years 2002-2005. The proceeds of the surcharge shall be dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharge shall be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law. The decision of the Director as to the surcharge rate shall be final. Allocation will be based on ADMw.

2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge shall be charged or imposed for the 2006 tax year.
3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in addition to the 2.2 percent fee established in subsection A above, in an amount calculated by the Director to be sufficient to raise \$3 million plus City costs, with the proceeds of that surcharge to be dedicated as provided in Subsection C.1 of this Section. The decision of the Director as to the surcharge rate shall be final.
4. If the Director determines prior to calculating the surcharge for the 2007 tax year that the surcharge calculated by the Director for the 2006 tax year raised more than the specified amount in that tax year, the surcharge calculated for the 2007 tax year shall be adjusted to reduce the amount to be raised by the amount of the excess raised in the previous tax year.
5. If the Director determines prior to calculating the surcharge for the 2007 tax year that the surcharge calculated by the Director for the 2006 tax year raised less than the specified amount in that tax year, the surcharge calculated for the 2007 tax year shall be adjusted to increase the amount to be raised by the amount of the deficit in the previous tax year.
6. If the surcharge calculated by the Director raises more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, shall be dedicated to public schools within the City as provided in Subsection C.1 of this Section. If the surcharge calculated by the Director raises more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, shall be retained as a credit for fees due in a later tax year. The Director shall apply the credit to fees due no later than the 2010 tax year. The Director shall have sole discretion to determine the method of calculating and distributing credits.

7.02.510 License Application Renewal Return and Fee Due Dates.

- A.** All persons required to be licensed shall apply to the Bureau upon application forms provided or approved by the Bureau. Thereafter, licensees shall file renewal returns with the Bureau. The following timing requirements shall apply:
 - 1.** Applications shall be filed, together with the specified license fee, before the applicant begins to do business in the City, and,
 - 2.** Renewal returns shall be filed by the 15th day of the 4th month following the end of the term of the prior license year.
- B.** The Bureau may, for good cause, grant extensions for filing renewal returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the fee.
- C.** Applications and renewal returns shall contain a written declaration, verified by the applicant or licensee, to the effect that the statements made therein are true.
- D.** The Bureau shall prepare blank applications and renewal returns and make them available at its office upon request. Failure to receive or secure a form shall not relieve any person from the obligation to pay a license fee and be licensed under the Business License Law.

7.02.520 Quarterly Estimates.

For tax years beginning on or after January 1, 1994, every licensee expecting to have a fee liability under Section 7.02.500 of \$1,000 or greater shall make an estimate of the fee based upon the licensee's current tax year and pay the amount of fee determined as provided in Section 7.02.530.

7.02.530 Schedule for Payment of Estimated Fee.

A licensee required under Section 7.02.520 to make payments of estimated license fees shall make the payments in installments as follows:

- A.** One quarter or more of the estimated fee on or before the 15th day of the fourth (4th) month of the tax year; and
- B.** One quarter or more of the estimated fee on or before the 15th day of the sixth (6th) month of the tax year; and
- C.** One quarter or more of the estimated fee on or before the 15th day of the ninth (9th) month of the tax year; and

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- D.** The balance of the estimated fee shall be paid on or before the 15th day of the twelfth (12th) month of the tax year.
- E.** Any payment of the estimated fee received by the Bureau for which the licensee has made no designation of the quarterly installment to which the payment is to be applied, shall first be applied to underpayments of estimated fees due for any prior quarter of the tax year. Any excess amount shall be applied to the installment that next becomes due after the payment was received.

7.02.540 Fee - Applications.

- A.** Each application shall be accompanied by a reasonable estimate of the income of the business to be licensed for the first license year and by an estimated fee at the rate established in Section 7.02.500 applied to such estimated income, provided that each such application shall be accompanied by a minimum fee of \$100.
- B.** Upon the filing of the licensee's first renewal return, or first renewal return after a license year in which the licensee was not required to be licensed, the estimated fee paid with the application shall be adjusted by being computed on the actual income of the first license year. This adjustment computation shall be in addition to the computation on the renewal fee in accordance with Section 7.02.545.
 - 1.** If the license fee so determined exceeds the estimated fee previously paid, the renewal return shall be accompanied by such additional fee plus interest thereon as specified in Section 7.02.710.
 - 2.** If the estimated fee exceeds the fee shown on the renewal return, the overpayment may be credited against the license fee due from the licensee for the next license year, and any additional overpayment may be refunded to the licensee. However, the minimum fee required by Section 7.02.540.A shall not be credited or refunded.

7.02.545 Fee - Renewal Returns.

Except as provided in Section 7.02.540, each renewal return shall be accompanied by a fee at the rate established in Section 7.02.500 applied to the income of the licensed business for the tax year immediately prior to which the return is filed, provided that each such renewal return shall be accompanied by a minimum fee of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

7.02.550 Presumptive Fee.

- A. If a person fails to file a license application or a renewal return, a rebuttable presumption shall exist that the fee payable amounts to \$500 for every license year for which an application or renewal return has not been filed.
- B. Nothing in this Section shall prevent the Bureau from assessing a fee due which is less than or greater than \$500 per license year.
- C. Presumptive fees assessed under this subsection shall be considered an initial application if the licensee did not file an initial application during the previous tax year. If the licensee filed either an initial application or a renewal return the previous tax year, then presumptive fees assessed under this subsection shall be considered a renewal return. In either situation, presumptive fees assessed under this subsection shall be considered filed documents and shall be subject to the time limitations for deficiencies and refunds as described in subsection 7.02.280.
- D. Fees determined under this subsection shall be assessed and subject to penalties and interest from the date the fees should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Bureau shall send notice of the determination and assessment to the person doing business in the City.

7.02.560 Payment Plan Fee.

If a person fails to pay the license fee when due, the Bureau may establish a payment plan and charge a set up fee pursuant to written policy.

7.02.600 Income Determinations.

- A. **Owners Compensation Deductions.** “Owners Compensation Deduction is defined as the additional deduction allowed in Sections B, C, and D Below. For tax years beginning prior to January 1, 1999, the owner’s compensation deduction cannot exceed \$50,000 per owner, as defined in Sections B, C, and D below. For tax years beginning after January 1, 1999, the owners compensation deduction will be indexed by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The initial index will be the September 1998 to September 1999 index. The Bureau will determine the exact deduction amount and publish the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Bureau’s discretion. For tax years beginning on or after January 1, 2007, the owners compensation deduction cannot exceed \$80,000 per owner as defined in

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Sections B, C and D below. For tax years beginning on or after January 1, 2008, the owners compensation deduction will be indexed as previously described.

- B. Sole Proprietorships.** In determining income, no deduction shall be allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions shall be allowed as an additional deduction, not to exceed the amounts listed in subsection A per owner.
- C. Partnerships.** In determining income, no deductions shall be allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members shall be deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions shall be allowed as an additional deduction, not to exceed the amounts listed in subsection A per general partner or member.
 2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions shall be allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in subsection A per compensated limited partner.
- D. Corporations.** In determining income, no deduction shall be allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, shall be allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in subsection A for each controlling shareholder.
1. For purposes of this subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
 2. For purposes of this subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than 5 percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child

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who owns more than 5 percent of stock shall be deemed to be an additional controlling shareholder.

3. For purposes of this subsection, joint ownership of outstanding stock or securities shall not be considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income shall be measured before distribution of profits to beneficiaries. No additional deduction shall be allowed.
- F. Non-business Income.** In determining income under this Section, an allocation shall be allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business shall be treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The licensee shall have the burden of showing that income is non-business income.
- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction shall be allowed for taxes based on or measured by net income. No deduction shall be allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Sections 7.02.400.G and H shall be included as ordinary gain or loss.
- I. Net Operating Loss.** In determining income, a deduction shall be allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the licensee from doing business both within and without the City result in a net operating loss, such loss shall be apportioned in the same manner as the net income under Section 7.02.610. However, in no case shall a net operating loss be carried forward from any license year during which the licensee conducted no business within the City or the licensee was otherwise exempt from license requirements.

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2. In computing the net operating loss for any license year, the net operating loss of a prior year shall not be allowed as a deduction.
3. In computing the net operating loss for any license or tax year, no compensation allowance deduction shall be allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Section 7.02.600 A.
4. The net operating loss of the earliest license year available shall be exhausted before a net operating loss from a later year may be deducted.
5. The net operating loss in any license year shall be allowed as a deduction in the 5 succeeding license years until used or expired. Any partial license year shall be treated the same as a full license year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

- A. "Business activity" means any of the elements of doing business. However, a person shall not be considered to have engaged in business activities solely by reason of sales of tangible personal property in any state or political subdivision, or solely the solicitation of orders for sales of tangible personal property in any state or political subdivision. Business activities conducted on behalf of a person by independent contractors are not considered business activities by the person in any state or political subdivision.
- B. Any licensee having income from business activity both within and without the City shall determine, in computing the license fee, the income apportioned to the City by multiplying the total net income from the applicant's business by a fraction, the numerator of which is the total gross income of the licensee from business activity in the City during the tax year, and the denominator of which is the total gross income of the licensee from business activity everywhere during the tax year.
- C. In determining the apportionment of gross income within the City under subsection B:
 1. Sales of tangible personal property shall be deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. Sales of tangible personal property shipped from the City to a purchaser located where the licensee is not taxable shall not be apportioned to the City.

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2. Sales other than sales of tangible personal property shall be deemed to take place in the City, if the income producing activity is performed in the City or the income producing activity is performed both in and outside the City and a greater portion of the income producing activity is performed in the City than outside the City based on costs of performance.
- D.** Certain industries or incomes shall be subject to specific apportionment and/or allocation methodologies. Such methodologies shall be described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes shall be used in cases where no rule has been adopted by the Bureau regarding the apportionment of such industry or income. In those specific cases where Oregon has directed allocation of income, such income shall be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- E.** If the apportionment provisions of subsection B do not fairly represent the extent of the licensee's business activity in the City and result in the violation of the licensee's rights under the Constitution of this State or the United States, the licensee may petition the Bureau to permit the licensee to:
1. Utilize the method of allocation and apportionment used by the licensee under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or
 2. Utilize any other method to effectuate an equitable apportionment of the licensee's income.

7.02.620 Changes to Federal and/or State Tax Returns.

- A.** If a licensee's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the licensee to correct an error in the original federal or state return, a report of such change shall be filed with the Bureau within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report shall be accompanied by an amended renewal return with respect to such income and by any additional fee, penalty, and interest due.
- B.** The Bureau may assess deficiencies and grant refunds resulting from changes to federal, state or business license renewal returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state or business license returns as the filing of an amended renewal return.

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- C. The Bureau may assess penalties and interest on the additional fee due as provided in Section 7.02.700.A and 7.02.710.A, or may refuse to grant a refund of business license fees as a result of the amended renewal return if the amended renewal return is not filed with the Bureau within the time limits set forth in subsection A.

7.02.630 Income - Long Term Construction Contract Methods.

- A. A licensee reporting income using a long term construction contract method shall file an additional renewal return for the licensee's income earned during the last license year, not later than the 15th day of the 4th month following the end of the prior license year during which either:
 - 1. The licensee ceases to do business in the City; or
 - 2. The licensee ceases to receive income from such long term construction contracts.
- B. Net income for such licensee shall include apportioned income arising from all contracts completed during such license year.

7.02.700 Penalties.

- A. A penalty shall be assessed if a person:
 - 1. Fails to file a license application, renewal return or extension request at the time required under Section 7.02.510.A or 7.02.620.A; or
 - 2. Fails to pay the fee when due.
 - 3. The penalty under subsection A shall be calculated as:
 - a. Five percent (0.05) of the total fee liability, but not less than \$5, if the failure is for a period less than four (4) months;
 - b. An additional penalty of 20 percent (0.20) of the total fee liability if the failure is for a period of four (4) months or more; and
 - c. An additional penalty of 100 percent (1.00) of the total fee liability of all license years if the failure to file is for three (3) or more consecutive license years.
- B. A penalty shall be assessed if a person who has filed an extension request:

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1. Fails to file a renewal return by the extended due date; or
 2. Fails to pay the fee liability by the extended due date.
 3. The penalty under subsection B shall be calculated as:
 - a. Five percent (0.05) of the total fee liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b. An additional penalty of 20 percent (0.20) of the total fee liability if the failure is for a period of four (4) months or more.
- C.** A penalty shall be assessed if a person:
1. Fails to pay at least 90 percent (0.90) of the total fee liability, but not less than \$100, by the original due date; or
 2. Fails to pay at least 100 percent (1.00) of the prior year's total fee liability by the original due date.
 3. The penalty under subsection C shall be calculated as five percent (.05) of the fee underpayment, but not less than \$5.
- D.** The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
1. Failure to file any license application or renewal return within 60 days from the due date as further outlined in subsection 7.02.510 of this Chapter;
 2. Failure to pay any fee within 60 days of the Bureau's original written notice for payment; or
 3. Failure to provide documents as required by Section 7.02.260 within 60 days of the Bureau's original written notice to provide documents.
- E.** The Director may impose a civil penalty under subsections D 2 and D 3 only if the Bureau gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- F.** The Bureau may waive or reduce any penalty determined under subsections A through D for good cause, according to and consistent with written policies.

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7.02.710 Interest.

- A.** Interest shall be collected on any unpaid license fee at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of payment.
- B.** Interest shall be collected on any unpaid or underpaid quarterly estimated payment required by Section 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the license application or renewal return to which the estimated payments apply.
- C.** Notwithstanding subsection B. there shall be no interest on underpayment of quarterly estimated payments if:

 - 1.** The total fee liability of the prior license year was less than \$1,000; or
 - 2.** An amount equal to at least 90 percent (0.90) of the total fee liability, but not less than \$100, for the current license year was paid in accordance with Section 7.02.530; or
 - 3.** An amount equal to at least 100 percent (1.00) of the prior year's total fee liability was paid in accordance with Section 7.02.530.
- D.** For purposes of Subsection B, the amount of underpayment is determined by comparing the 90 percent of the current total fee liability amount to quarterly estimated payments made prior to the original due date of the renewal return. However, if 100% of the prior year's total fee liability is paid to the Bureau by the due date of the fourth quarterly payment, the Bureau may use the prior year's fee liability if doing so will reduce the amount of interest owed.
- E.** For purposes of subsection A of this Section, the amount of fee due on the renewal return shall be reduced by the amount of any fee payment made on or before the date for payment of the fee in accordance with Section 7.02.510.A or 7.02.530.
- F.** Interest at the rate specified in subsection A of this Section shall accrue from the original due date without regard to any extensions of the filing date.
- G.** Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Bureau, unless specifically provided for by written policy.

7.02.715 Payments Applied.

License fees received shall first be applied to any penalty accrued, then to interest accrued, then to license fees due, unless the Bureau determines in accordance with its written policies that a more equitable method exists for a particular licensee's account.

7.02.720 Interest on Refunds.

When, under a provision of the Business License Law, licensees are entitled to a refund of a portion of the license fee paid to the Bureau, they shall receive simple interest on such amount at the rate specified in Section 7.02.710.A, subject to the following:

- A.** Any overpayments shall be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:
 - 1. the original due date of the renewal return, or
 - 2. the date the renewal return was filed or the refund was otherwise requested, or
 - 3. the date the license fee was paid to the date of the refund; and

- B.** Any overpayments of fees that are the result of an amended renewal return being filed shall be refunded with interest for each month or fraction thereof for the period beginning four (4) months after the date the licensee filed the amended renewal return. This subsection shall apply to renewal returns that are amended due to a change to the federal, state or renewal return.

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

Anyone knowingly violating Section 7.02.230 may be punished, upon conviction thereof, by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding six (6) months, or by both fine and imprisonment. Any City employee shall, upon conviction, be dismissed from employment and shall be ineligible for holding any position of employment or office in the City for a period of 5 years thereafter. Any agent of the City shall, upon conviction, be ineligible for participation in any City contract for a period of 5 years thereafter.

7.02.800 Refundable Credit.

For tax years beginning on or after January 1, 2005, a maximum of four (4) refundable credits of \$500 each are allowed for qualifying businesses that employ disconnected youth. For the purpose of this credit, the terms used in this section shall be defined as provided below or in written policies adopted under Section 7.02.210 unless the context requires otherwise.

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- A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington; and
 2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; OR is a sole proprietorship that is not legally required to register to do business in the State of Oregon; and
 3. is currently licensed to do business within the City of Portland and has complied with all filing and payment requirements of Portland’s Business License Law and the Multnomah County Business Income Tax Law.
- B. “Disconnected Youth”** means a youth that is
1. a resident of the City of Portland,
 2. is 16-24 years old on the date on which the youth begins working with the local business,
 3. has a household income that is at or below 50% of the HUD Portland Area Median Income, and
 4. one or more of the following apply:
 - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families OR Aid to Families with Dependent Children OR Supplemental Security Income; or
 - b. is a 16-24 year old member of a family that is receiving (or has received in the last 6 months) food stamps; or
 - c. is a custodial parent; or
 - d. is a high school drop-out; or
 - e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.

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- C.** “**Qualified Youth Employment Organization**” means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D.** “**Credit Certificate**” means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E.** “**Youth Certifying Agency**” means an agency that has entered into an agreement or other memorandum of understanding with the Bureau to act as the Youth Certifying Agency for the purpose of this program.
- F.** “**2005 Tax Year**” means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G.** “**2006 Tax Year**” means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H.** “**Non-exempt**” means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

- A.** For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.
- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the renewal return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B, the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.

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- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

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

- A.** Submit an application to the youth certifying agency that includes an intent to employ an eligible disconnected youth for an average of 25 hours per week and a minimum of 300 hours within four months.
- B.** Contact one or more qualified youth employment organizations for assistance in identifying youth, enrolling a specific youth in one of the qualified youth employment programs in order to pursue eligibility of the youth in the program, and/or seek assistance working with a youth to increase his/her opportunity for employment success.
- C.** Complete employee evaluations or conduct reviews of employees that fall under this program;
- D.** Report employment data for each youth to the participating qualified youth employment organization or the youth certifying agency.

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

The Revenue Bureau is authorized to collect and remit donations from taxpayers to "Work for Art," a program of the Regional Arts & Culture Council.

- A.** Taxpayers may donate to "Work for Art" by either
 - 1.** paying a sum above what is owed for their City Business License fees, or
 - 2.** by designating that all or some of any refund due to them be instead donated to "Work for Art."

- B.** To indicate a desire to donate, the taxpayer must check the appropriate donation box on their renewal return form (tax return) for the tax year in question. In addition, the taxpayer must indicate the amount that is to be donated.
- C.** Once the renewal return form (tax return) is filed with the Bureau, the taxpayer may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Bureau.

7.02.840 Frivolous Filing.

A \$500.00 penalty shall be assessed if a licensee takes a "frivolous position" in respect to preparing the licensee's renewal return. A renewal return is considered frivolous if a licensee does not provide information on which the substantial correctness of the self-assessment may be judged or if the renewal return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5) are hereby adopted by direct reference.

7.02.850 Hacking.

- A.** Any individual who intentionally accesses the Bureau's computer database without authorization shall be fined:
 - 1.** \$500 if the individual acquires any information regarding any business account found in the database;
 - 2.** \$1000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
 - 3.** \$5000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Bureau's computer database, and, as a result of such conduct, causes damage to the database.
- B.** Definitions. As used in this section:
 - 1.** the term "Bureau's computer database" means computer application(s) used by the Bureau to calculate and store business and financial data collected under the authority granted by the Business License Law;
 - 2.** the term "loss" means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost,

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cost incurred, or other consequential damages incurred because of interruption of service;

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

Chapter 7.04

ADMINISTRATION

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

Chapter 7.06

LICENSE REQUIREMENTS & APPLICATIONS

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

Chapter 7.08

LICENSE FEES

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

Chapter 7.10

VIOLATIONS

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

Chapter 7.12

PUBLIC SERVICE PERMITS,
FRANCHISES AND REGULATIONS

Sections:

- 7.12.010 Auditor to Keep Record of Franchises.
- 7.12.020 Holder of Franchise to Keep Accounts and Make Reports.
- 7.12.030 Bureau of Licenses or Designee Authorized to Inspect Books and Prescribe Forms.
- 7.12.040 Interest Payable on Deposits.
- 7.12.050 Contents of Franchise.
- 7.12.060 Privilege Tax Levies.
- 7.12.070 Privilege Tax Applicable to Other Cases.
- 7.12.080 Report of Gross Earnings.
- 7.12.090 Time of Payment of Tax.
- 7.12.100 No Waiver or Estoppel.
- 7.12.110 Credits Allowable.
- 7.12.120 Restricted to City Business.
- 7.12.200 Penalty Applicable.
- 7.12.210 Additional Annual Report.
- 7.12.220 Depreciation Accounts of Public Utilities.

7.12.010 Auditor to Keep Record of Franchises.

The Auditor shall keep a separate record of each grantee of a franchise from the City rendering a service to be paid for wholly or in part by users of such service, which record shall show in the case of each such grantee:

- A. The true and entire cost of construction, equipment, maintenance, and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in; the number and par value of shares; the amount and character of indebtedness, if any; the rate of taxes; dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, and for wear and tear or depreciation; all amounts and sources of income;
- B. The amount collected annually from the City Treasury and the character and extent of the service rendered therefor to the City;
- C. The amount collected annually from other users of the service and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during the business hours of the Auditor's Office. Such information, in addition to any further data which may be required

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by the Auditor, under the City Charter, shall be furnished by the grantees or holders of such franchises to the Auditor upon his request, and at such grantees' own cost and expense.

In case any grantee or holder of a franchise fails or refuses to furnish such information when required so to do, on behalf of the City, the City Attorney shall petition the Circuit Court of the State of Oregon for Multnomah County to compel such grantee or holder to furnish the information required herein and to pay the costs of the proceedings in said Court.

7.12.020 Holder of Franchise to Keep Accounts and Make Reports.

Every person or corporation operating a public utility, whether under a franchise granted by the City or otherwise operating within the City and rendering service to be paid for wholly or in part by the users of such service, shall keep full and correct books and accounts and make stated quarterly reports in writing to the Council, verified by such person or officer of the corporation, which shall contain an accurate statement in summarized form as well as in detail of all receipts from all sources and all expenditures for all purposes, together with a full statement of all assets and debts including stock and bond issues, as well as such other information as to the cost and profits of the service, and the financial condition of such grantee as the Council may require, as provided for by Section 10-107, Quarterly Reports, of the Charter of the City, which Section of the Charter is incorporated in this Section by reference.

7.12.030 Bureau of Licenses or Designee Authorized to Inspect Books and Prescribe Forms.

(Amended by Ordinance No. 158792, effective July 17, 1986.) The Bureau of Licenses or designee is hereby authorized to inspect or examine, cause to be inspected or examined, at all reasonable hours, any and all books of account and vouchers of the grantee. Such books of account shall be kept and such reports made in accordance with forms and methods prescribed by the Bureau of Licenses, and so far as practicable shall be uniform for all grantees and holders of franchises, and shall conform to such reports as are required by State or federal public utilities commissions.

7.12.040 Interest Payable on Deposits.

Any person engaged in the business of furnishing or supplying gas or electricity for lighting, heating, or power purposes, or telephone service in the City, requiring of any patron the deposit of a sum of money as security for the prompt payment of bills when due, shall return to the patron within 1 year from the date the same is made the amount of the deposit together with interest thereon at the rate of 6 percent per year; provided, the patron is not indebted to the person at the date the deposit is returned. Such interest shall be payable at the time the deposit is returned; provided, however, that any person engaged in furnishing telephone service in the City may exact from each patron, or the patron may make, in lieu of such deposit, the payment of not more than 2 months rental in advance.

7.12.050 Contents of Franchise.

Each such franchise shall provide that the names of all the members of the co-partnership or association to which any such franchise may be granted, shall be kept constantly on file in the Office of the Auditor of the City and at all times shall be accessible to any person having any interest in such information. Each such franchise shall also contain a provision setting forth and requiring the minimum service to be rendered the public by the grantee of such franchise and each such franchise shall also include such terms, provisions, and conditions as the Council of the City may determine in addition to those required by the Charter and ordinances of the City.

7.12.060 Payment of Privilege Tax Required.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.)

- A.** For the purposes of Section 7.12.060 through Section 7.12.120, “utility” shall mean any electric cooperative, people’s utility district, privately-owned public utility, or heating company.
- B.** Any utility using or occupying a street, alley, or highway within the corporate limits of the City without a franchise shall pay a privilege tax for the use and occupancy of any street, alley or highway.
 - 1.** The privilege tax imposed under this Subsection shall be in an amount of 5 percent of the utility’s gross revenues earned within the corporate limits of the City for each consecutive 3 month period. the privilege tax shall be computed as of the commencement of business or upon the expiration of any franchise under which the utility formerly operated. The privilege tax shall be due and payable so long as the utility operates with the City and uses or occupies the streets, alleys or highways.
- C.** Any telecommunications utility using or occupying a street, alley or highway within the corporate limits of the City shall pay a privilege tax for the use and occupancy of any street, alley or highway.
 - 1.** The privilege tax imposed under this Subsection shall be in any amount of 7 percent of the telecommunications utility’s gross revenues earned within the corporate limits of the City for each consecutive 3 month period. For the purposes of this paragraph, “gross revenues” shall mean all revenues derived from exchange access services, as defined in ORS 401.710, less uncollectibles from such revenues. The privilege tax shall be computed as of the commencement of business or upon the expiration of any franchise under which the telecommunications utility formerly operated. The privilege tax shall be due and payable so long as the telecommunications utility operates within the City and uses or occupies the streets, alleys or highways.

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- D.** In the event a franchise is granted to any utility subject to the privilege tax herein required and the franchise becomes effective, then the privilege tax shall cease to apply from the effective date of the franchise. The franchise holder shall pay the proportionate earned amount of the privilege tax for the current quarterly period. The privilege tax shall in all such cases become immediately due and payable, and if not paid, collectible as provided in Section 7.12.080.

7.12.070 Privilege Tax Applicable to Other Cases.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) The terms of Section 7.12.060 through Section 7.12.120 shall immediately apply to any utility using or occupying a street, alley or highway within the corporate limits of the City upon the expiration of the utility's franchise.

7.12.080 Report of Earnings.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.)

- A.** Each utility and telecommunications utility subject to the privilege tax as provided in Section 7.12.060 shall file with the Office of Cable Communications and Franchise Management an audited statement of the revenues earned within the corporate limits of the City for each consecutive 3 month period.
- 1.** The first quarterly report shall be filed on or before the first payment date of privilege tax. Subsequent quarterly reports shall be filed on or before July 15, October 15, January 15, and April 15 of each year.
 - 2.** If a franchise is granted to a utility which is otherwise subject to the provisions of Section 7.12.060 the utility shall file a report with the Office of Cable Communications Franchise Management within 10 days after the franchise becomes effective showing the gross revenues earned for the proportionate period of the quarter prior to the franchise being granted.

7.12.090 Time Payment of the Privilege Tax.

(Substituted by Ordinance No. 164761, effective Oct. 3, 1991.)

- A.** Payment under Section 7.12.060 shall be made quarterly on or before July 20, October 20, January 20, and April 20 of each year.
- B.** If a utility or telecommunication utility fails to pay the privilege tax as required in Section 7.12.060 through Section 7.12.120, the City Attorney is authorized to institute an action in the Circuit Court of the State of Oregon for Multnomah County to recover the amount of the privilege tax due the City.

7.12.100 No Waiver or Estoppel.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) Nothing in Section 7.12.060 through 7.12.120, or in any ordinance granting a franchise or right to any utility or telecommunications utility, nor anything done or performed or monies expended under ordinance, shall estop or prevent the City from requiring the utility or telecommunications utility to cease using or occupying the streets, alleys or highways within the corporate limits of the City upon the expiration or other termination of such franchise or right to use or occupy the streets, alleys or highways.

7.12.110 Credits Allowable.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) Any amount which any utility or telecommunications utility may have paid to the City under the terms of any revocable permit or other authority for using the streets shall be credited against the amount or amounts which have accrued or shall have accrued under Section 7.12.060.

7.12.120 Restricted to City Business.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) The privilege tax levied by Section 7.12.060 shall not be applicable to earnings from interstate business or to earnings from business outside the corporate limits of the City.

7.12.130 Permits for Intracity Passenger Business.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.140 Application for Permit or Franchise.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.150 Conditions of Permit or Franchise.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.160 Regulations to be in Permit or Franchise.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.170 Fees.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.180 Statement of Finances to be Filed.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.190 No Effect on Certain Vehicles.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.200 Penalty Applicable.

Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30 days after the

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statement is required to be filed with the Auditor, fails, neglects, or refuses to file with the Auditor the quarterly statement of gross earning revenue of such person, association or corporation shall be subject to the penalties, including the criminal penalties, provided in Chapter 7.10 with respect to penalties for violation of the Business License Law.

7.12.210 Additional Annual Report.

Each person, firm or co-partnership operating a public utility in the City or, if such utility be an association or corporation, then the president and/or secretary and/or general manager or other officer or agent of such association or corporation having general control, management, or supervision of its business in the City, shall file with the Auditor a statement verified under oath containing the following information:

- A.** Type of corporation, if any;
- B.** List of officers and directors, and corporation control, including list of security holders and voting powers;
- C.** A balance sheet, supported by schedules showing in detail physical equipment or property, and adjustments, advances and investments, special funds, securities acquired or disposed of, itemized assets, losses and expenses, capital stock, notes and accounts payable, taxes, interest, reserves, capital surplus, income of various types, salary schedules, and information on important changes of organization;
- D.** As to plant or operating equipment, schedules showing its classification and changes therein, construction or acquisition, and progress report on property being constructed or acquired, depreciation and amortization and information to support the base therefor;
- E.** Revenues received from operation, including sources;
- F.** Operating expenses;
- G.** Rate base; and
- H.** Method by which it is determined.

This report shall cover the year ending the preceding December 31st and shall be filed on or before September 1, 1945, and June 1st thereafter, except as the Commissioner In Charge may extend the time for filing. This report shall be in addition to any and all other reports required by the Charter and ordinances of the City, including franchises and permits. It shall be sufficient hereunder if a copy of the report filed with the Commissioner of Public Utilities of Oregon, with the Interstate Commerce Commission, or with the Federal Communications Commission is filed with the Auditor.

7.12.220 Depreciation Accounts of Public Utilities.

Every grantee or holder of a franchise or permit from the City for public utility operation, or operating within the City a public utility, shall carry on its books a proper and adequate depreciation account in accordance with the requirements set forth by the State Public Utilities Commissioner, if the Commissioner has made a determination that such depreciation account can be reasonably required in the general operations of the public utility within the State. In the event that the State Commissioner has not ascertained and determined the proper and adequate rates of depreciation of the several classes of property of such public utility, or has not determined whether a depreciation account shall be required or not, such public utility shall request such a determination by the City Council. Such rates of depreciation shall be such as will provide the amounts required over and above the expenses of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry. After such determination, such public utility shall conform its depreciation account to the rate so ascertained and determined by City Council. Any such determination shall be subject to review and change from time to time as the Council may find necessary or appropriate. All monies provided for depreciation shall be set aside out of the earnings and carried in a depreciation fund. The monies in this fund may be expended in replacements, new construction, extensions, or additions to the property of such public utility, or invested. If invested, the income from the investments and proceeds upon sale of such investments, shall also be carried in the depreciation fund. This fund and the proceeds thereof shall be used for no other purpose than as provided in this Section and for depreciation. No transfer shall be made from the depreciation fund or depreciation reserve account for any other purpose than set forth in this Section, without first and before such transfer, obtaining the approval of the City Council.

Chapter 7.14

PUBLIC UTILITIES

Sections:

- 7.14.010 License Required.
- 7.14.020 Definitions.
- 7.14.030 Application - Issuance.
- 7.14.040 Fees and Payment.
- 7.14.045 Limitations.
- 7.14.050 Deductions.
- 7.14.060 Report of Gross Revenues.
- 7.14.070 Appeal and Collection.
- 7.14.080 Additional Penalty.
- 7.14.090 Interest on License Fee.

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BUSINESS LICENSES**

7.14.010 License Required.

Any person, including the City, operating a public utility as herein defined within the corporate limits of the City, shall obtain a license for such business covering the period of the calendar year, from January 1 through December 31, or if application is made after January 1 of any year, then for the balance of the same calendar year.

7.14.020 Definitions.

(Amended by Ordinance Nos. 154857, 157530, 160949, and 163203 effective July 1, 1990.)

- A. Gross revenue.** As used in this Chapter, “gross revenue” includes any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, steam or water, or sewage disposal and treatment service, and for use, rental, or lease of operating facilities of the public utility engaged in such business; from the furnishing or sale of communications or associated services by a telegraph business, or from a telecommunications or cable television business.
- B. Gross revenue of a telecommunications utility** means revenues derived from exchange access services.
- C.** Gross revenues do not include proceeds from the sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one public utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer.
- D. Public utility.** As used in this Chapter, the term, “public utility” includes the business of supplying electrical energy, gas, heat or steam, water, cable television, communications, or other services through or associated with telecommunications utility, telephone or telegraph or coaxial cable, sewage disposal and treatment, and other operations for public service but does not include transportation service, railroad operations, or service otherwise licensed under this Title.
- E. Telecommunications utility.** As used in this Chapter, “telecommunications utility” has the meaning provided in ORS 759.005(1) (1989).
- F. Exchange access services.** As used in this Chapter, “exchange access services” means:

 - 1.** Telephone exchange access lines or channels which provide local access from the premises of a subscriber in the City to the local telecommunications network to effect the transfer of information; and

2. Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph 1 hereof.

7.14.030 Application - Issuance.

(Amended by Ordinance No. 154857, effective July 1, 1983.) Any person, including the Bureau of Water of the City and the sewage disposal bureaus of the City, operating a public utility coming within the provisions of this Chapter shall make application for a license hereunder on forms supplied by the Bureau of Licenses and file the application in the Bureau. The initial application hereunder shall be made on or before July 1, 1946, for the remainder of the calendar year 1946; application for license shall be made on or before December 31, 1946, for the following calendar year, and on or before December 31 for each subsequent calendar year, except in the case of a public utility coming within the provisions of this Chapter which commences operations within the City after July 1, 1946. A person operating such utility shall make application for license on or before the date of commencing such operations. The Bureau of Licenses shall thereupon issue the license applied for.

7.14.040 Fees and Payment.

(Amended by Ordinance Nos. 154857, 157321, 160856, 160949, 163203, 172263, 174508 and 175847, effective July 1, 2000.) The fee for such license shall be measured by a percentage of the gross revenues received by the public utility for each quarter year period of licensed operation. Such percentage for each type of public utility shall be as follows beginning July 1, 1990:

Electrical Utility	5.0 percent
Gas Utility	5.0 percent
Sewer Utility	7.50 percent
Steam Utility	5.0 percent
Water Utility	7.50 percent
Telecommunications Utility	7.0 percent
Telegraph Utility	5.0 percent
Cable Television Utility	5.0 percent

The licensee shall compute the license fee by multiplying the percentage applicable to the type of operation in which such utility engages, by the gross revenues received during the quarter. The resultant fee shall be paid to the City Treasurer on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1 through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year. All such payments shall be subject to the deductions set forth in Section 7.14.050. A licensee commencing operations as provided in Section 7.14.030 shall make the initial

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payment on or before the payment date following the quarter year period within which operations are commenced. In the event a licensee terminates operations which come within the provisions of this Chapter, the final payment shall be made on or before the 45th day following the date of such termination.

7.14.045 Limitations.

(Added by Ordinance No. 178717, effective October 1, 2004.) In any single year, the license fees paid by City of Portland water and sewer utilities shall not exceed \$12,809,321 from the City's sewer utilities, and \$4,184,153 from the City water utility until those fee payments equal 5% of gross revenues at which point they will increase to equal 5% of gross revenues those fees. The directors of the Bureau of Environmental Services and Bureau of Water Works are authorized to adopt administrative rules establishing mechanisms to implement this limitation.

7.14.050 Deductions.

(Amended by Ordinance No. 157321, effective June 10, 1985.) The licensee may deduct from the license fee required in this Chapter the amount of any payments made or accrued to the City for the period upon which the license fee is computed, under any provision of franchise, permit, or ordinance in lieu of franchise, and the value of any services, including free telephone service rendered to the City under the terms of a franchise, permit or ordinance in lieu of franchise, but excluding the value of any right given to City to use poles, conduits, or ducts to other facilities in common with the licensee, nor may any licensee deduct any permit or inspection fee imposed under any Code or ordinance of the City, and a telephone utility licensee may not deduct the fees agreed to be paid the City for street telephone booths. This Section shall not be deemed to relieve any licensee from paying in accordance with the provisions of a franchise, permit, Charter provision or ordinance when the amount to be paid thereunder exceeds the amount of the license fee required under this Chapter.

7.14.060 Report of Gross Revenues.

(Amended by Ordinance No. 158792, effective July 17, 1986.) Coincidentally with the payment of the license fee required herein, the licensee shall file with the City Bureau of Licenses a report of the gross revenues of the licensed public utility, setting forth the revenues according to their accounting subdivisions, and any deductions claimed for the period upon which the license fee is computed. Within 30 days from the date such report is filed, or such additional time as the Council may allow, the Bureau of Licenses shall investigate the report and determine the accuracy of the amount reported. The Council, the Commissioner of Finance or the Commissioner of Public Utilities may require such additional investigation to be made by themselves or their agent, either simultaneously or subsequently as they may deem appropriate. For the purpose of such investigation the licensee shall make available for investigation all records and books of the company for verification of the reports of the company and the fees paid by the company. However, neither the payment nor a failure to make such investigation shall be deemed to estop the City in any way, or prevent subsequent investigation by any officer or agent of the City,

and collection of any amount due. If the fee paid is determined to be excessive, the licensee shall be entitled to a refund of the excess paid. If the fee paid is found to be insufficient, the Bureau of Licenses shall notify the licensee of the amount of the deficiency, and demand payment of the amount.

7.14.070 Appeal and Collection.

(Amended by Ordinance No. 158792, effective July 17, 1986.) Within 10 days from the date of notice by the Bureau of Licenses that the fee paid is insufficient and payment demanded, the licensee may appeal to the Council from such demand, in writing and specifying the grounds of such appeal. If no such appeal be taken and the Council decides adversely to the licensee, or decides that any other amount is due, thereafter the Bureau of Licenses shall proceed to collect the amount determined to be due and unpaid.

7.14.080 Additional Penalty.

In lieu of any other penalties prescribed in this Code, Charter Section, franchise or ordinance provision, if the licensee fails to make payment of the fee deficiency determined to be due and unpaid in accordance with the provisions of Section 7.14.070 within 10 days of such final determination (unless the grace period is extended by the Council) the Commissioner of Public Utilities may suspend the license issued to the licensee. If any person operates a public utility coming within the provisions of this Chapter without a license as required herein or during a period of suspension, such person shall be liable for a license fee, computed at 2 percent of the gross revenues plus the appropriate percentage of the revenues for the type of business in which such utility engages as set forth in Section 7.14.040, received during the period on which the fee for the operations is computed.

7.14.090 Interest on License Fee.

(Added by Ordinance No. 157728; amended by 162425, effective Sept. 28, 1989.)

- A.** Late Payments. If a public utility fails to pay to the City the utility license fee on or before the date on which the fee is due, interest shall be owed on the license fee from the due date to the date on which the City receives the license fee, compounded daily. The interest rate shall be equal to one percent over the existing prime interest rate as set by First Interstate Bank of Oregon, N.A., for the period during which the license fee is delinquent. Payment of interest shall be due at the same time that the utility pays the delinquent utility license fee to the City.

- B.** Audit charges. If a public utility fails to properly report the true amount of gross revenue from all accounts within the City of Portland as determined by representatives of the City after review of the utility's reports, interest will be owed on the under reported gross revenue calculated from the first day of the calendar quarter in which the error occurred to the date of billing by the City, compounded quarterly. The interest rate shall be equal to one percent over the

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existing prime interest rate as set by First Interstate Bank of Oregon, N.A., for the period during which the gross revenue was under reported. Payment of interest shall be due at the same time that the utility is required to make payment of any insufficiency of the license fee.

Chapter 7.16

CHARITABLE SOLICITATIONS

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

Chapter 7.18

**LIQUOR LICENSE
RECOMMENDATIONS**

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

Chapter 7.22

**STREET AND SIDEWALK
USE PERMITS**

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

Sections:

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

7.22.010 Purpose.

The purpose of this Chapter is to regulate walks, marches, parades, athletic events or other processions in streets or on sidewalks held by sponsors that require use of City resources. This Chapter and the administrative regulations that implement it are necessary to maximize the safety of participants and others and to minimize inconvenience to the general public and disruption of public services while providing the public with the opportunity to exercise constitutionally protected rights of assembly and expression.

7.22.020 Authorization.

- A.** The Street and Sidewalk Use Coordinator of the Bureau of Licenses is authorized to issue street and sidewalk use permits.

- B.** Adoption of Administrative Regulations. The Director of the Bureau of Licenses is authorized to adopt or amend administrative regulations pertaining to use of sidewalks and streets. All administrative regulations shall be in writing.
 - 1.** Prior to the adoption of any administrative regulations the Director of the Bureau of Licenses shall submit the proposed administrative regulations to the Street and Sidewalk Use Review Committee. After consultation with the Street and Sidewalk Use Review Committee, the Director of the Bureau of Licenses shall publish a notice regarding the proposed administrative regulations, and shall make them available for public review and written comments.

 - 2.** No sooner than thirty days from the publication of the notice, the Director of the Bureau of Licenses may adopt the proposed administrative regulations. All administrative regulations adopted by the Bureau Director shall be filed in the office of the Bureau of Licenses. Copies of all current administrative regulations shall be made available to the public upon request.

 - 3.** Notwithstanding subsections 1. and 2. of this section, the Director of the Bureau of Licenses may adopt interim administrative regulations without prior public notice upon the Director's finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for prejudice. Any administrative regulation adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

7.22.030 Permit Required.

A permit issued by the Street and Sidewalk Use Coordinator is required for use of streets or sidewalks for the purposes of, and as provided in, this Chapter and the Street and Sidewalk Use Administrative Regulations.

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7.22.040 Revocation of a Permit.

A street or sidewalk use permit may be revoked or modified by the Street and Sidewalk Use Coordinator, or the police supervisor assigned to the street or sidewalk use permit, if the sponsor fails to comply with any of the requirements of this Chapter, of the Street and Sidewalk Use Administrative Regulations, or the conditions set forth in the application or permit. If a street and sidewalk use permit is subject to revocation pursuant to this section, on the day of the street and sidewalk use to which the permit pertains, the Street and Sidewalk Use Coordinator or the police supervisor assigned to the street and sidewalk use permit shall attempt to contact or notify the sponsor, the organizer or the day of use coordinator, if any, as provided on the permit application, and attempt to resolve any problems before revoking the permit. If resolution is not possible the permit may be revoked.

7.22.050 Permit Subject to Ordinances and Regulations.

The sponsor and participants shall comply with all applicable federal, state, and local laws and regulations in connection with their use of streets or sidewalks.

7.22.060 Diversion of Traffic.

Whenever any street or sidewalk use is in progress, the Bureau of Police shall have the authority to clear the streets or other public places and prohibit motor vehicles, buses, light rail, bicycles, and pedestrians from crossing, parking, stopping, and standing on the streets.

7.22.070 Interference Prohibited.

It is unlawful for any person to interfere with street or sidewalk use permitted under this Chapter. The following acts, among others, are prohibited by this section, when done with the intent to cause interference:

- A. Blocking, obstructing, or impeding the passage of participants, vehicles, or animals along the route.
- B. Walking, running, driving a vehicle, riding a bicycle or skateboard through, between, with, or among participants, vehicles, or animals.
- C. Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals.
- D. Throwing, squirting, dumping, or dropping any liquid, solid or gaseous substance on, toward, among, or between participants, vehicles, or animals.
- E. Grabbing at, taking hold of, hitting, pulling, or pushing any participant, vehicle, or animal or anything in the possession of any participant.

- F. Vending or offering for sale any food or merchandise during the hours and on the route of a street and sidewalk use permit without first having obtained the written permission of the sponsor, in addition to any permits and/or licenses otherwise required for such activity.

Chapter 7.24

TOWING AND PAY AND PARK FACILITIES

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

Sections:

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

7.24.010 Towing of Vehicles from Private Property.

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

- A. **Short Title.** Sections 7.24.010 through 7.24.019 shall be known as the PPI (Private Property Impound) Code.
- B. **Purpose.** The purpose of the PPI Code is to require that towing from private parking facilities be performed safely and at a reasonable price. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure that the public safety and convenience are protected.
- C. **Conformity to State Laws.** The PPI Code shall be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property. The Director shall have authority to adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code.

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

7.24.011 Administrative Authority.

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

- A.** The Director is authorized and directed to enforce all provisions of the PPI (Private Property Impound) Code. The Director shall have the power to investigate any and all complaints regarding alleged violations of the PPI Code. The Director may delegate any or all authority granted under this Section to the Towing Coordinator or any Revenue Bureau officer, employee or agent.
- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
- 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.
 - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
 - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue Bureau and the Office of the City Auditor in compliance with Section 1.07.030. Copies of all current rules shall be available to the public upon request.
 - 4.** Notwithstanding 7.24.011 C. 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for

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such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

- D.** Rates. The Director is authorized to establish a schedule of maximum rates permissible for all PPI tows from properties located within the city limits of Portland. The jurisdiction of this code section may be expanded by intergovernmental agreement with other agencies.
- E.** Inspection of Records. The City of Portland reserves the right to review and/or copy the records of any PPI tow for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Director.

7.24.012 Definitions.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) For the purposes of the PPI (Private Property Impound) Code, and administrative rules adopted by the Director pursuant to the PPI Code, certain terms, phrases, words, abbreviations and their derivations shall be construed as specified in this Section. Words used in the singular include the plural and the plural the singular. Terms, phrases, words, abbreviations and their derivatives used, but not specifically defined in this Section, either shall have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, shall have the meanings commonly accepted in the community.

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

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- G. "Private parking facility"** means any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking. Private parking facility does not include:
1. Property used for governmental purposes by any agency or special district; or
 2. Property used primarily for residences, including houses and apartment houses where there is designated parking for 10 or fewer vehicles.
 3. Pay and park facilities and non-pay private parking facilities duly registered under Section 7.24.020.
- H. "Private parking facility owner"** means the owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner.
- I. "Private Property Impound" (PPI)** means the impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee, manager or person in lawful possession of the private property facility, without the prior consent of the vehicle's registered owner.
- J. "Release at Scene" (RAS)** means the fee allowed to be charged when a vehicle owner/owner's agent returns before the PPI tower has departed in tow. Not applicable until the hookup is complete and tow truck is in motion.
- K. "Storage facility"** means a secure area, meeting all requirements of Administrative Rule LIC 9.01, used by PPI tower for storing towed vehicles.
- L. "Storing"** means holding a towed vehicle in an approved secure storage facility until it is redeemed by the registered owner/owner's agent or until a possessory lien is foreclosed.
- M. "Tow Desk"** means the private tow dispatching company contracted with the City of Portland for municipal tow dispatching and data management or any government agency serving this function.
- N. "Towing"** means to draw or pull along a vehicle by means of a tow truck or car carrier.
- O. "Towing Coordinator"** means the person designated by the Director to provide direct enforcement and administration of all provisions of this Section and applicable administrative rules.

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- P.** **"Towing firm" or "Tower"** means any entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.
- Q.** **"Tow vehicle"** means a tow truck equipped as specified in Administrative Rule LIC 9.01 to perform towing of automobiles, motorcycles, or other motor vehicles, and which has a minimum Gross Vehicle Weight Rating (GVWR) of 10,000 lbs.
- R.** **"Vehicle owner"** means the person registered with the Department of Motor Vehicles as the owner of the vehicle.

7.24.013 Private Property Impound (PPI) Tower Registration.

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

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

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expiration date shall be invalid and a new application must be submitted and approved before PPI towing resumes.

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

6. The adequacy of the insurance shall be subject to the approval of the City Attorney.
7. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the Director.

7.24.014 Towing Regulations.

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

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

7.24.015 Towing and Storage Rates.

(Added by Ordinance No. 178109, effective December 17, 2003.) The Director shall issue a schedule of approved maximum fees for PPI (Private Property Impound) towing and storage at the beginning of each permit period. Such schedule shall be published annually and supplied to all applicants with the application materials for new permits and renewals. PPI towers may submit a request for an increase in the approved maximum fees not later than two months before the end of any permit period. The Director shall consider such requests and hold a public hearing for the purpose of determining fair and reasonable prices prior to making any changes in the PPI rate schedule.

7.24.016 Conditions.

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

- A. Perform all PPI tows in a safe manner, taking care not to cause damage to the person or property of others while towing or storing a vehicle; and
- B. Practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle; and

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- C.** Cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle; and
- D.** Issue to the owner/owner's agent a clearly legible receipt complete with all required information and with all fees and considerations itemized; and
- E.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing the current list of approved PPI rates; and
- F.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing a statement of the rights of the vehicle owner; and
- G.** Be considered in possession of any vehicle towed under this Section, and therefore entitled to charge a Release at the Scene fee, when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward; and
- H.** Offer to call for or provide transportation to the vehicle owner/operator, from within the immediate vicinity of the tow scene to the location of the towed vehicle storage; and
- I.** Have staff or dispatch service available at all times to provide information about the location of a towed vehicle and/or instructions for release of a towed vehicle; and
- J.** Staff the storage facility with an attendant between 8:00 a.m. and 6:00 p.m., Monday through Friday, excluding official City holidays, and at all other hours have personnel available at the storage facility to release a vehicle within thirty (30) minutes after receiving a request for vehicle release; and
- K.** Accept at least the following methods of payment for any fees assessed:
 - 1.** Cash. Adequate cash must be available at all times at the storage facility and with the tow drivers for the purpose of making change; or
 - 2.** By any valid credit card or debit card bearing the VISA emblem and issued in the name of the registered owner/owner's agent; and
- L.** Notify the local police agency of the intent to tow by telephone call to the Tow Desk prior to attaching any equipment to a vehicle at a private parking facility; and

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- M.** Notify the local police agency of the location of the vehicle by facsimile transmission to the Tow Desk within one hour after the vehicle is placed in storage; and
- N.** Notify the local police agency of the release of a vehicle to the registered owner/owner's agent, acceptance of a vehicle title in lieu of payment, or foreclosure of a possessory lien by facsimile transmission to the Tow Desk within eight (8) hours after the release; and
- O.** Pay a data service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such data fees shall be payable to the Tow Desk by the 20th day of each month; and
- P.** Pay a service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such service fees shall be payable to the City of Portland by the 20th day of each month; and
- Q.** Accept as proof of ownership vehicle title or registration in addition to valid photo-identification of the person seeking the release.
- R.** Exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, as detailed in Administrative Rule LIC 9.04 Conditions.

7.24.017 Prohibitions.

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

- A.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- B.** Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed or relieving the PPI tower from responsibility for the condition of the vehicle or its contents;
- C.** Solicit PPI towing business by means of payment of a gratuity, commission or any other consideration, except as provided in this PPI Code, to the private property owner, operator, manager or employee;
- D.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- E.** Use predatory practices, as defined in Administrative Rule LIC 9.05, to secure PPI tows.

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- F.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.
- G.** Assess or collect a surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Section 7.24.020 "Pay and Park and Non-Pay Private Parking Facilities."
- H.** Make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this Code.

7.24.018 Remedies.

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

- A.** Suspension. The Director may suspend a PPI tower's permit if investigation reveals any substantial violation of the PPI Code or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods have failed to resolve. Suspension may be for a period of up to fourteen calendar days. The suspension shall be effective from the PPI tower's receipt of written notice of a suspension. If the violation is not corrected within the fourteen day period, the Director may revoke the permit.
- B.** Revocation. The Director may revoke a permit for any substantial violation of the PPI Code or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. The revocation shall be effective immediately upon issuance of written notice by the City of Portland to the PPI tower. No new application shall be accepted from any PPI tower with outstanding penalties or who has been revoked within the current term for the remainder of the current permit period.
- C.** Civil penalty. The Director may impose a civil penalty of up to \$500.00 for any substantial violation of the PPI Code or the administrative rules, including:
 - 1.** Late payment of data service fees to Tow Desk. The penalty shall be \$50.00 for each incident.
 - 2.** Late payment of service fees to the City of Portland. The penalty shall be \$50.00 for each incident.
 - 3.** Late report or failure to report a release. The penalty shall be \$50.00 for each incident.

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4. Civil penalties shall be payable to the City of Portland.
- D. Refund to vehicle owner/owner's agent. Upon a finding of any violation by a PPI tower, the Director may direct release of a vehicle at no charge or a refund of all or part of fees paid by a vehicle owner/owner's agent for towing and storage, in lieu of, or in addition to, civil penalties.
- E. Public nuisance. Any towing equipment or PPI tower's storage facility maintained in violation of the PPI Code is hereby declared to be a public nuisance. The Director may request that the City Attorney bring action or suit to abate such nuisance in any court with jurisdiction to hear such action or suit.
- F. Civil remedies. Nothing in this Section is intended to prevent any person from pursuing legal remedies.

7.24.019 Appeals.

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

- A. Any towing firm whose application for initial PPI (Private Property Impound) permit registration or renewal of PPI permit registration has been denied, or whose permit registration has been revoked or suspended, or who has been directed by the Director or director's designee to pay a civil penalty or refund, may appeal such action of the Director or director's designee by submitting a written request for a hearing before the Code Hearings Officer of the City of Portland, within 10 business days of receiving the Director's written findings, as set out in Chapter 22.10.
- B. Creation of PPI Board of Appeals. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the PPI Board of Appeals. The PPI Board of Appeals shall hear and resolve protests and appeals arising from adoption of Administrative Rules by the Director. The findings of the PPI Board of Appeals shall be final.
 1. Composition of the PPI Board of Appeals. The PPI Board of Appeals shall consist of three members. A quorum shall consist of three members. The Commissioner in Charge of the Revenue Bureau shall appoint a representative member from a public agency and a representative member of the general public, and shall approve a representative member from the towing industry selected by the towing industry.

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2. Compensation. All members of the PPI Board of Appeals shall serve without pay, except that they may receive their regular salaries during the time spent on Board matters.
3. Procedures and Rules. The Director shall establish rules and procedures for the Board and the Board shall follow those procedures in all matters heard by the Board.
4. Staff. The Revenue Bureau shall provide staff and assistance to the Board.
5. Powers of the Board. The PPI Appeals Board shall hear protests of Administrative Rules adopted by the Director. Written notice of the protest must be received by the Revenue Bureau Towing Coordinator within 30 days after the notice of adoption of the Administrative Rule. The protest shall state the name and address of the PPI tower and an explanation of the grounds for the protest. Requests not received within 30 days of the notice of adoption shall not be heard.

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

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

- A. Purpose. The purposes of this Section are to ensure that the regulation of parking at pay and park lots and non-pay private parking facilities shall be applied objectively with proper notice; and protecting fairness and convenience for the parking public.
- B. Savings Clause. If any provision of this Section is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of this Section.
- C. Definitions. Except where the context requires otherwise, the following words and phrases shall have the definitions given in this Section:
 1. **“15-day notice”** means the letter providing second notice of a penalty which must be sent by the operator to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle.
 2. **“Boot”** means a mechanical device attached to a vehicle to prevent its movement.
 3. **"Director"** means the Director of the Bureau of Licenses.
 4. **“Non-pay private parking facility”** means any facility at which the free parking or storage of motor vehicles is limited by time or authorization by

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the property owner/operator. Non-pay private parking facility does not include pay and park facilities or any facility owned or used by a public agency or district.

5. **"Operator"** means any entity whose business includes assessing and collecting penalties at pay and park or non-pay private parking facilities.
6. **"Park"** means to leave a vehicle standing for more than 5 minutes with no driver at the wheel.
7. **"Parker"** means the owner, operator, or other person in control of any vehicle parking at a registered pay and park facility or non-pay private parking facility.
8. **"Pay and park facility"** means any facility open for parking or storage of motor vehicles by the general public, at which the fee for parking is payable by meter, coin box, or other similar device, or by use of a payment device at any time during hours of operation, and payment of parking fees is enforced by issuance of penalty fee notices. Pay and park facility does not include any facility owned or used by a public agency or district.
9. **"Payment device"** means any mechanical or electrical device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
10. **"Penalty fee"** means a fee assessed for failure to pay for parking, or properly display proof of payment, at a pay and park facility. This term also applies to a fee assessed for unauthorized or over-time parking at a non-pay private parking facility.
11. **"Penalty notice"** means the initial demand for payment of a penalty fee which is affixed to vehicles parked without authorization on a pay and park or non-pay private parking facility.

D. Authorization.

1. Enforcement. The Director is authorized to enforce all provisions of this Section.
 - a. Investigation. The Director shall have the power to investigate any and all complaints regarding alleged violations of this Section.

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- E.** Rates. The Director shall establish a maximum designated penalty fee for vehicles parked on pay and park, or non-pay, private parking facilities without the authorization of the property owner/operator.
- F.** Registration of pay and park and non-pay private parking facility. No person shall collect any penalty fees at any pay and park, or non-pay private parking facility, unless such facility has first been registered with the Director and is in compliance with the provisions of this Section.
- 1.** Applications. The operator of any pay and park, or non-pay private parking facility shall submit to the Director an application form containing:
- a.** The name, address and telephone number of the applicant;
 - b.** Proof of valid insurance as described in this Section;
 - c.** A copy of the proposed notice of demand for payment;
 - d.** A sample copy of the 15-day notice.
 - e.** Penalty fee notices, 15-day notices and any subsequent demands for payment shall include:
 - (1)** The name, address and telephone number of the operator;
 - (2)** A description of the vehicle, including make, model, color and license plate;
 - (3)** The time and date the notice was issued;
 - (4)** The exact location of the pay and park or non-pay private parking facility;
 - (5)** Any facility number that may be assigned by the operator;
 - (6)** The amount of the penalty demanded;
 - (7)** Appropriate instructions describing deadlines and acceptable methods of payment;
 - (8)** Any additional fees that may be added if not paid within 30 days; and

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- (9) A statement that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the operator have been unsuccessful.
 - f. The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
 - g. Such other information relating to the purposes of this Section as the Director may require.
- 2. The Director shall reject any incomplete application, or any application received without the nonrefundable registration fee of \$100.00 for each pay and park, or non-pay private parking facility.
- 3. The Director shall review the operator's proposed penalty notice and the proposed 15 day notice letter, and approve or reject them. Rejected documents shall be returned to the applicant for amendment and resubmission. There shall be no additional registration fee for resubmission. If such documents have previously been approved by the City, it shall not be necessary to resubmit them with each new location application.
 - a. The notice of demand for payment form shall not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The penalty fee notice form shall be subject to the review and approval of the City Attorney's Office.
- 4. The Director shall inspect the pay and park, or non-pay private parking facility for which an application has been made. If the Director determines that a facility complies with all of the requirements of this Section, the Director shall issue a registration to the operator for such facility. If it is determined that the facility does not comply with the requirements of this Section, the application shall be denied and returned to the applicant together with a statement of the requirements with which the facility fails to comply. If an application is denied, the applicant may resubmit the application without payment of additional fees at any time within 60 days if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of fees may be made with respect to each facility. If upon such reapplication, the registration is again denied, the applicant must file a new application accompanied by the required fee.

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5. The registration shall be dated as of the first day of the month in which the registration is issued, and shall expire one year from that date.
 6. Reporting Changes. Changes in information contained in the operator's application shall be filed with the Director prior to implementation of such changes.
 7. Renewal. The Bureau shall send renewal notices to all registered operators not less than one month prior to the expiration date. A renewal form requesting any changes in the registered information shall be provided. Registrations shall be renewed upon submission of the completed renewal form and payment of the nonrefundable \$100.00 fee for each facility. Any registration not renewed within 30 days after the expiration date shall be invalid and a new application shall be submitted with a \$100.00 registration fee and approved before operations may resume.
 8. Non-assignability. A registration issued or renewed pursuant to the provisions of this Section shall not be assignable or otherwise transferable.
- G.** Payment device. Payment devices shall be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.
- H.** Pay and Park signage requirements. The operator of a pay and park facility shall post and maintain:
1. At each entrance to the facility, a sign with the words "PAY TO PARK, ALL HOURS" or when the pay and park facility has posted operating hours other than 24 hours a sign with the words "PAY TO PARK POSTED HOURS" in letters not less than 7 inches high and 4 inches wide. The signs shall be reflectorized. The center of such signs shall be no lower than 42 inches from the ground. The signs shall be visible and unobstructed by any tree, shrub, bush or any other obstacle. The signs shall be no more than 10 feet from the entrance and shall be located within 2 feet of the property line of the facility; and,
 2. When a "PAY TO PARK POSTED HOURS" sign has been placed on the facility in accordance with this section, a sign or signs at each entrance of the parking facility indicating the exact hours that the parking facility shall be operated as a pay and park facility, in letters not less than 3 inches high and 2 inches wide. The signs shall be reflectorized. The center of such signs shall be no lower than 42 inches from the ground. The signs shall be visible and unobstructed by any tree, shrub, bush or any other obstacle. The signs shall be no more than 10 feet from the entrance and shall be located within 2 feet of the property line of the facility; and,

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- 3.** A sign or signs visible from every vehicle entrance of the facility with the words "PAY HERE" in letters not less than 10 inches high and 4 inches wide indicating the location of the payment device. The signs shall be reflectorized and, during hours of operation, shall be sufficiently illuminated before dawn and after dusk so that they are readily visible to a person of normal vision from every vehicle entrance; and
 - 4.** At each location where payment may be made, a sign or signs stating:

 - a.** A complete list of all applicable charges for parking or storage and posted hours when a "PAY TO PARK POSTED HOURS" sign has been placed on the facility in accordance with this section;
 - b.** That proof of payment must be placed in the vehicle so that it is clearly displayed and visible through the windshield; and
 - c.** If vehicles are subject to being towed away or impounded, or are subject to penalty fees, the sign shall so state and shall include the phone number to be called for the release of vehicles. It shall be unlawful to tow away or impound any vehicle for nonpayment of parking charges unless such signs are posted and maintained.
 - d.** The signs under this Subsection shall be in letters not less than 2 inches high and 2 inches wide. The signs shall be reflectorized and, during hours of operation before dawn and after dusk, shall be sufficiently illuminated so that they are readily visible to a person of normal vision.
- I.** Non-pay private parking signage requirements. The operator of a non-pay private parking facility shall post and maintain:
- 1.** At least one sign shall be posted and readily visible at each entryway into the parking lot, not more than 10 feet from the public right of way or street edge. Such signs shall:

 - a.** Be posted so that the center of the sign is not more than eight (8) feet nor less than four (4) feet above the ground; and
 - b.** Be at least 18" x 24" in size; and
 - c.** State that parking is prohibited, reserved or otherwise restricted; and

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- d. State who is authorized to park, define the limitations on parking and the hours during which parking is restricted; and
 - e. State that parking in violation of posted restrictions may result in assessment of a penalty fee up to \$32.00, or towing and storage of a vehicle at the vehicle owner's expense; and
 - f. Be maintained so as to remain unobstructed by any tree, shrub, bush, vehicle or other obstacle.
 - 2. When a private parking facility is shared by multiple business operations, parking spaces shall be marked, or signs posted, so as to indicate which spaces are reserved for each business.
- J. Assessment of Penalty fees.
 - 1. Nonpayment of parking fees at pay and park facilities. The parker shall pay the required parking fees upon parking the vehicle. The parker shall place the proof of payment in the vehicle so that it is clearly displayed and visible through the windshield.
 - a. The registered operator of a pay and park facility may assess and collect a penalty fee from any parker found to have parked without paying the required parking fees upon parking the vehicle and without placing the proof of payment in the vehicle so that it is clearly displayed and visible through the windshield.
 - b. It shall be unlawful to assess and collect a penalty fee at any unattended pay and park lot located within the City of Portland unless:
 - (1) The operator has complied with the requirements of this Section for registration of the location as a pay and park facility, and
 - (2) The facility is in compliance with the provisions of this Section, and
 - (3) The facility is equipped with a payment device.
 - 2. Penalty assessments for unauthorized parking at non-pay private parking facilities. The operator of a non-pay private parking facility may assess and collect a penalty fee from any parker found to have parked without authorization or for a period longer than authorized.

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- a.** It shall be unlawful to assess and collect a penalty fee at a non-pay private parking facility unless:

 - (1)** The operator has complied with requirements of this Section for registration of the location as a non-pay private parking facility, and
 - (2)** The facility is in compliance with all provisions of this Section.

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

 - 1.** When a registered operator finds a vehicle parked at a registered pay and park facility without payment of the parking fees as required, and without the proof of payment in the vehicle placed so that it is clearly displayed and visible through the windshield, the registered operator may affix a notice of demand for payment of a penalty fee to the vehicle.
 - 2.** When a vehicle is found parked at a non-pay private parking facility without authorization, the registered operator may affix to the vehicle, in a prominent location, a penalty notice demanding payment of a penalty fee.
 - 3.** The notice of demand for payment in a form approved by the Director, shall be processed as follows:

 - a.** A copy shall be affixed to the vehicle,
 - b.** A record of the notice shall be retained by the registered operator for not less than one year, and
 - c.** All records of penalty fee notices shall be available to the Director upon request.
 - 4.** Within 15 days of issuing the initial notice of demand for payment, the registered operator shall mail a second notice advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating the amount demanded, the method of payment, and the schedule of increases for continued non-payment. The notice shall also provide space for the recipient to inform the registered operator that the person to whom the notice was sent is not the current registered owner of the vehicle, and a statement that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve any disputes with the registered operator have been unsuccessful.

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If one or more of the following occur, the registered operator shall have an additional 15 days to mail the second notice:

- a. The vehicle has not been registered by the current owner;
 - b. The vehicle is not registered in Oregon or Washington;
 - c. The vehicle is rented; or
 - d. The registered owner has moved leaving no forwarding address.
5. The registered operator may add a one time administrative fee to the amount of the penalty fee to recover costs actually incurred by the registered operator in obtaining the name and address of the registered vehicle owner. The notice to the registered owner shall indicate whether an administrative fee of no more than the amount charged by the Department of Motor Vehicles for vehicle owner information has been added to the penalty fee.
6. The designated penalty fee for vehicles parked on pay and park facilities without payment of parking fees, or parked on non-pay private parking facilities without authorization, shall not exceed the following amounts:
 - a. Not more than \$16.00 if paid within 30 days of the mailing date of the notice.
 - b. Not more than \$32.00 if paid after 30 days from the mailing date of the notice.
7. On tickets issued at pay and park facilities, the registered operator may add an amount equivalent to the applicable parking fee, provided that this parking fee is paid by the operator to the owner of the facility.
- L. Unlawful to impound vehicles. It is unlawful for any person to tow away any vehicle parked at any registered pay and park facility, or at any registered non-pay private parking facility without the permission of the parker unless:
 1. The vehicle has been parked at the facility without the payment of the required parking fees or without authorization for a period in excess of 24 hours after the period for which parking fees have been paid or authorization has been given; or
 2. The vehicle is parked on the facility in such a manner as to clearly impede vehicular ingress or egress to and from designated parking stalls or the

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facility itself, or is parked in any area which is clearly and conspicuously designated by signs or other traffic control devices as areas in which parking is restricted or forbidden; or

3. The vehicle is parked at any of the registered operator's registered pay and park or non-pay private parking facilities, and;
 - a. Within the previous 2-year period, the vehicle was parked at any of the registered operator's registered pay and park or non-pay private parking facilities without payment of parking fees, or authorization, three times or more; and
 - b. During that time registered operator affixed and mailed the notices of demand for payment provided for in Subsections 7.24.020 J; and
 - c. Three or more penalty fees remain unpaid; and
 - d. The registered operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle shall be towed if the vehicle is again parked at a registered pay and park, or non-pay private parking facility. The notice shall also state the total amount due for outstanding penalty fees, the issue date and parking lot location for each outstanding penalty fee, the method of payment, the name, address and phone number of the registered operator, and that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the registered operator have been unsuccessful. The operator shall retain a copy of each notice for not less than one year and make such copies available upon request of the Director. The notice shall be in a form approved by the City Attorney's Office; and,
 - e. Such towing is performed in compliance with PCC 7.24.010 Towing of Vehicles from Private Property.

M. Complaint Handling Procedures.

1. The operator, while dealing with the complaints of parkers relating to notices of demand for payment of penalty, shall practice courtesy and professionalism, in accordance with the following procedures:
 - a. The registered operator shall be available, both by telephone, fax and e-mail, to the public during normal business hours to accept

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and respond to public complaints. The registered operator shall respond to telephone messages within 24 hours of receipt or the next business day, if received on a weekend or holiday.

- b.** The registered operator shall respond in writing to written complaints within 10 days.
 - c.** The registered operator's written response shall include the mailing address and phone number of the Bureau of Licenses and a statement that the parker may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the registered operator have been unsuccessful.
 - d.** All efforts to collect the penalty fees and related amounts shall be suspended upon a complaint being filed with the operator or the Director, pending final resolution.
 - e.** Penalty fees shall not increase from the time a complaint is received by the operator or the Director, pending final resolution.
 - f.** The registered operator shall cancel the penalty fee if the parker provides evidence within 30 days of issuance that the parking fee payment was made, or that the parker was authorized to park, or if the parker provides evidence of a valid handicapped parking permit.
 - g.** The registered operator shall notify appropriate credit agencies immediately upon canceling any penalty fee.
- 2.** The Director shall, upon receipt of a complaint, conduct an investigation.
- a.** Upon a finding by the Director or Licenses' staff that a penalty fee is invalid, the registered operator shall immediately cancel, and cease all efforts to collect, the penalty fee and refund any payments that have been made.
 - b.** If the investigation determines that a violation of this Section has occurred, the Director shall initiate remedies provided in this Section.
 - c.** The Director shall not investigate complaints by parkers regarding the issuance of a notice of demand for payment of penalty fees filed any time after 90 days from receipt of the first mailed demand for payment.

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- N.** Maintenance of records. The operator shall keep and maintain records of all penalty fees , any transactions relating to collection of past due accounts, written warnings, requests for vehicle towing, and any other transactions or written complaints relating to penalty fees or the impoundment of vehicles for a period of at least one year.
- O.** Insurance required.
- 1.** As a condition of registering a pay and park or non-pay private parking facility under this section, the operator shall hold the City of Portland, its officers, and employees free and harmless, defend and indemnify the City for any claims for damage to property or injury to person which may be occasioned by any work and/or services furnished or carried on under the terms of registration.
 - 2.** Registered operators shall provide and maintain commercial general liability insurance covering any and all claims for damage to property or personal injury, including death, and automobile damage which may arise from operations under the registration.
 - a.** Such insurance shall provide coverage for not less than \$200,000 for personal injury to any person, \$500,000 aggregate, and \$50,000 for each occurrence involving property damage, or in lieu of such coverage, a single limit insurance policy of not less than \$500,000 covering any number of claims arising out of any single occurrence.
 - b.** The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.
 - c.** The insurance shall be without prejudice to coverage otherwise existing.
 - d.** The insurance shall name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insured, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.

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- e. The coverage must apply as to claims between insured on the policy.
- f. The insurance shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the City Auditor.
- g. The adequacy of the insurance shall be subject to the approval of the City Attorney.
- h. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the City.

P. Prohibitions. No operator shall:

- 1. Charge any fee not approved by the Director or in excess of the maximum fees established by the Director.
- 2. Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute the validity of a penalty fee or relieving the operator from responsibility for the condition of the vehicle.
- 3. Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a pay and park or non-pay private parking facility.
- 4. Park within 1,000 feet of a registered facility for the purpose of covert observation in order to assess penalty fees. Neither shall a registered operator station any observer in a pay and park or non-pay private parking facility for the purpose of monitoring and issuing tickets unless the monitor provides a verbal warning to parkers leaving their cars or unless signs are posted clearly warning that the lot has on-site monitoring and the hours during which monitoring occurs.
- 5. Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle.

Q. Remedies. Upon the failure of any person to comply with any of the requirements of this Section, the Director may exercise the following authority and may apply one or more of the following remedies:

- 1. Suspension or revocation. The Director may suspend a registration of any pay and park or non-pay private parking facility if investigation reveals

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any substantial violation of the requirements of this Section. A substantial violation is a violation that has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension shall be effective from the registered operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation shall be immediately effective upon the receipt of written notice by the registered operator.

- a.** If a pay and park or non-pay private parking facility registration has been revoked, the registered operator may not re-register the location for a period of two years from the date of the revocation.
 - 2.** Civil Penalty. If investigation reveals any substantial violation of the requirements imposed by this Section, the Director may impose a civil penalty of up to \$500 for each such violation.
 - 3.** Public nuisance. Any pay and park or non-pay private parking facility maintained in violation of this Section is hereby declared to be a public nuisance. The Director may request that the City Attorney bring an action or suit to abate such nuisance in any court with jurisdiction to hear such action or suit.
- R.** Appeals. Any registered operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.

7.24.030 Locking Parked Cars.

It is unlawful for the operator or an employee of a public parking lot to close and leave the lot without first removing the keys from any vehicle remaining upon the lot. It is unlawful for the operator or employee to close and leave the lot prior to the posted time of closing without locking any vehicle remaining on the lot. If no closing time is posted it shall be unlawful for the operator or an employee to close and leave the lot without locking any vehicle remaining on the lot. The operator of any lot where the operator or employee removes keys to any location other than the lot itself shall post and maintain a sign on the premises stating where and during what hours keys may be obtained when the lot is not attended. The sign shall be placed in a location meeting the requirements of signs giving notice of impoundment fees required by Section 7.24.010 F. of this Code.

CHAPTER 7.26

REGULATION OF PAYDAY LENDING

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

Sections:

- 7.26.010 Purpose
- 7.26.020 Definitions
- 7.26.030 Permits
- 7.26.040 Administrative Authority
- 7.26.050 Payment of Principal Prior to Payday Loan Renewal
- 7.26.060 Cancellation of Payday Loan
- 7.26.070 Payment Plan for a Payday Loan
- 7.26.080 Remedies
- 7.26.090 Appeals
- 7.26.100 Complaints
- 7.26.110 Severability

7.26.010 Purpose

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

7.26.020 Definitions

As used in this Chapter unless the context requires otherwise:

- A. “Borrower” means a natural person who receives a payday loan.
- B. “Cancel” means to annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.
- C. “Director” means the Director of the Revenue Bureau.
- D. “Payday Lender” means a “lender” in the business of making payday loans as defined in ORS 725.600.

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- E.** “Payday Loan” means a payday loan as defined by state law.
- F.** “Principal” means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

7.26.030 Permits

Within 60 days of the effective date of the ordinance enacting this Chapter, any Payday Lender operating in the City of Portland shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Portland and shall be renewed annually. The application shall be in a form to be determined by the Director. The Director shall require the Payday Lender to report its fee schedule in the Payday Lenders permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Portland. The annual cost for the permit shall be \$1,500.00, payable to the City of Portland; this permit is in addition to the City of Portland business license required by PCC 7.02.

7.26.040 Administrative Authority

- A.** The Director is authorized and directed to enforce all provisions of this Chapter. The Director shall have the power to investigate any and all complaints regarding alleged violations of this Chapter. The Director may delegate any or all authority granted under this Section to any Revenue Bureau officer, employee or agent.
- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying this Chapter. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
 - 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.
 - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
 - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue

Bureau and the Office of the City Auditor in compliance with PCC 1.07.030. Copies of all current rules shall be available to the public upon request.

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

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

7.26.050 Payment of Principal Prior to Payday Loan Renewal

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

7.26.060 Cancellation of Payday Loan

- A. A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:
 1. Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and
 2. Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.
- B. A Payday Lender shall disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

7.26.070 Payment Plan for a Payday Loan

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

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- B.** A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.
- C.** After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.
- D.** The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.
- E.** The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for early payment on the payment plan.
- F.** A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Chapter. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Chapter.

7.26.080 Remedies

- A.** Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Director may impose a civil penalty of up to \$1,500.00 for a substantial violation of this Chapter or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.
- B.** Civil penalties shall be payable to the City of Portland.
- C.** Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.
- D.** No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

7.26.090 Appeals

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

7.26.100 Complaints

The Director shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules.

- A. The Director may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Director shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.
- B. The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the Director by telephone or in writing within two (2) business days from initial contact by the Director.
- C. If the proposed resolution is satisfactory to the Director, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Director.
- D. If the proposed resolution is not satisfactory to the Director, the Director shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided by PCC 7.26.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by PCC 7.26.090.

7.26.110 Severability

If any provision of this Chapter, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Chapter and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the Chapter shall be severed.

