

UPDATE INFORMATION SHEET

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

Vols. I & II – Portland City Code

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

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

Update Packet Enclosed	June 30, 2008
Previous Update Packet	March 31, 2008

CODE OF THE CITY OF PORTLAND, OREGON
Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
2nd Quarter 2008 (June 2008)

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issued prior to March 23, 1988, the annual administration fee will henceforth be seventy-five cents per 1,000 dollars of the outstanding principal, billed yearly in advance. On bonds issued prior to March 23, 1988, the Portland Development Commission and applicants of outstanding issues may enter into an agreement to pay a one-time fee in lieu of the annual administration fee.

1. For refunding bonds issued under ORS Chapter 280 for economic development projects, if the one-time issuance fee has been paid in accordance with subsection (b) for the bonds being refunded, and the Portland Development Commission determines the refunding will not generate additional ongoing administration costs, the fee or an equitable portion thereof may be waived. Nothing in this subsection (1), however, should be construed to eliminate or limit the applicant's responsibility to pay all fees and expenses of the City and the Portland Development Commission described in subsection (a) of this section in connection with issuing the refunding bonds.

5.72.110 Bond Issuance.

Upon receipt of the recommendation of the Portland Development Commission, the Council may by ordinance authorize the issuance of bonds in an amount equal to the costs of the proposed project, pursuant to Chapter 772, Oregon Laws of 1977, if it determines that the proposed issue meets the requirements of said Act and this Chapter.

5.72.120 Reporting Requirements.

- A. Beginning no later than 12 months following the issuance of bonds by the City, and continuing annually for a period as long as the bonds are outstanding, the Portland Development Commission shall require each project owner of the assisted project to submit a written report which describes:
 1. Number of current employees by job category.
 2. Total assessed value and property taxes paid during the most recent period for the assisted facility or facilities.
- B. In addition to the foregoing, owners of multi-family projects assisted under this Chapter are required to report annually the number of residential units occupied by individuals or families who, at the date of reporting, have low or moderate incomes.

**TITLE 5
REVENUE AND FINANCE**

Chapter 5.74

ACQUISITION OF PUBLIC ART

(Replaced by Ordinance No. 161537,
amended by Ordinance Nos. 168591 and 179869, effective February 10, 2006.)

Sections:

- 5.74.010 Purpose.
- 5.74.020 Definitions.
- 5.74.030 Dedication.
- 5.74.040 Public Art Trust Fund.
- 5.74.050 Siting.
- 5.74.060 Guidelines.
- 5.74.070 Ownership.
- 5.74.080 Decisions.
- 5.74.090 Implementation.

5.74.010 Purpose.

It is the purpose of this Chapter and the policy of the City of Portland to dedicate two percent of the total Eligible Costs or two percent of the total Eligible Funds of all Improvement Projects (whichever is less) to the selection, acquisition, fabrication, installation, maintenance, management, deaccessioning, community education, documentation and registration of Public Art.

5.74.020 Definitions.

(Amended by Ordinance No. 178946, effective January 7, 2005.)

A. As used in this Chapter:

1. Improvement Project means any project paid for wholly or in part by a Participating Bureau in which the Participating Bureau's contribution of Eligible Funds equals \$50,000 or more for the construction, rehabilitation, remodeling, improvement or purchase for a public use of any building, structure, park, public utility, street, sidewalk or parking facility or any portion thereof within the limits of the City of Portland.
2. Maintenance and repair does not constitute an Improvement Project.
3. Improvement Projects which are developed privately and leased back to the City of Portland are not exempt from the provisions of this Chapter.
4. The purchase of improved or unimproved property by the Portland

**TITLE 14
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14A.50.070 Advertising on Streets.

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

14A.50.110 Misuse of a Public Restroom.

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

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

14A.50.120 Misuse of a Public Drinking Fountain.

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

14A.50.130 Misuse of Reservoirs.

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

Chapter 14A.55

PARADE EVENT MARKING

(Added by Ordinance No. 181684,
effective April 18, 2008.)

Sections:

- 14A.55.010 Access to Public Property for Parade Event.
- 14A.55.020 Enforcement and Notice of Violation.
- 14A.55.030 Penalties.
- 14A.55.040 Administrative Review.
- 14A.55.050 Appeals to the Code Hearings Officer.
- 14A.55.060 Further Appeals.
- 14A.55.070 Additional Regulations.

14A.55.010 Access to Public Property for Parade Event.

- A.** It is unlawful to paint, tape, or otherwise mark public property or place objects in the right-of-way for the purpose of reserving space for a parade event.

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- B.** City of Portland may remove unauthorized materials left on public property or the right-of-way.
- C.** Camping overnight, to reserve a space in the public right-of-way along side the parade route, may be allowed as set forth in administrative rule. Overnight camping under this section is a limited exception to Portland City Code 14A.50.020 and 14A.50.030.

14A.55.020 Enforcement and Notice of Violation.

- A.** The Director of the Bureau of Development Services, or designee, upon determining that a violation of this code or administrative rule has occurred, may issue a notice of violation by direct delivery of said notice to the violator.
- B.** The violator shall, upon receipt of a notice of violation, correct the violation and pay to the City a civil penalty as set forth in Portland City Code 14A.55.030.

14A.55.030 Penalties.

Violations of this Chapter may be punishable by fines as follows:

- A.** A \$100 fine for the first violation;
- B.** A \$500 fine for each subsequent violation.

14A.55.040 Administrative Review.

A person, who is issued a notice of violation, may challenge the findings in the notice by requesting an administrative review from the Bureau of Development Services.

14A.55.050 Appeals to the Code Hearings Officer.

A determination issued pursuant to Portland City Code 14A.55.040 may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code.

14A.55.060 Further Appeals.

All appeals from the Code Hearings Officer's determination pursuant to Portland City Code 14A.55.050 shall be by writ of review as authorized by Portland City Code 22.04.010 and ORS 34.010 – 34.100.

14A.55.070 Additional Regulations.

The Bureau of Development Services is authorized to promulgate administrative rules and take other actions reasonable and necessary to enforce this Chapter.

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Chapter 14A.60

WEAPONS AND EXPLOSIVES

Sections:

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

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

- A.** It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the firearm.
- B.** It is unlawful for any person to knowingly possess or carry a firearm and that firearm's clip or magazine, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the clip or magazine.
- C.** The following are exceptions and constitute affirmative defenses to a violation of this Section:
 - 1.** A police officer or other duly appointed peace officers, whether active or honorably retired.
 - 2.** A member of the military in the performance of official duty.
 - 3.** A person licensed to carry a concealed handgun.
 - 4.** A person authorized to possess a loaded firearm while in or on a public building under ORS 166.370.
 - 5.** A government employee authorized or required by his or her employment or office to carry firearms.
 - 6.** A person summoned by a police officer to assist in making arrests or preserving the peace, while such person is actually engaged in assisting the officer.

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

14A.60.020 Discharge of a Firearm.

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

- A.** It is unlawful for any person to discharge a firearm in the City or upon its boundaries.

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- B.** This Section does not apply to:
1. A person discharging a firearm in the lawful defense of person or property;
 2. A person discharging a firearm on a public or private shooting range, shooting gallery, or other area designed, built, and lawfully operating for the purpose of target shooting;
 3. A person conducting an athletic contest who fires blank ammunition toward the sky;
 4. A person authorized to fire blank ammunition as part of military or police ceremonies;
 5. A person authorized by permit of the Chief of Police to discharge blank ammunition for a lawful purpose;
 6. Hunter safety instructors of the Oregon State Game Commission or their pupils who are engaged in hunter safety training classes sponsored by the Commission;
 7. A police officer in the performance of official duty;
 8. Employees or contractors of the Port of Portland engaged in flight safety hazard abatement at and around Portland International Airport to comply with FAR Part 139.337.

14A.60.030 Tear Gas and Stun Guns.

- A.** For the purposes of this Section, the following definitions apply:
1. Tear gas, mace, pepper mace, or any similar deleterious agent: a sternutator, lacrimator, or any substance composed of a mixture of a sternutator or lacrimator, including, but not limited to chloroacetophenone, alpha-chloroacetophenone, phaenylchloro-methylketone, orthochloro-benzalmalononitrile, oleoresin capsicum, or any chemical or combination of chemicals, whether in liquid, solid form, or gas capable of generating offensive, noxious or suffocating fumes, gases, or vapor capable of producing temporary discomfort, permanent injury, paralysis, immobilization, tears, nausea, or other illness.
 2. Tear gas weapon: includes but is not limited to any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or

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explosion will cause or permit the release or emission of tear gas or oleoresin capsicum, mace, pepper mace or other similar deleterious agent.

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

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14A.60.040 Explosives and Bottle Bombs.

- A.** The following definitions apply to this Section:
- 1.** Explosive: any substance or material that on ignition by heat, impact, friction, or detonation will explode with such force as to injure a person or damage property in the immediate vicinity of the explosion.
 - 2.** Bottle bomb: any sealed device containing dry ice (CO₂) or other chemically reactive substances assembled for the purpose of causing an explosion by chemical reaction.
- B.** It is unlawful for any person, other than a peace officer or member of the armed forces of this State or of the United States acting in the performance of official duty, to possess or have under his or her control an explosive or bottle bomb.
- C.** This Section does not apply to the possession or use of explosives or bottle bomb by a police officer or member of the armed forces of this State or of the United States, members of regularly organized fire departments while in the performance of their official duties, or where otherwise authorized by Federal Law, Oregon Law, or this Code.

Chapter 14A.70

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

Sections:

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

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- 14A.70.100 Inspection of Premises Permitted for Social Games.
- 14A.70.110 Notice of Social Games Required.
- 14A.70.120 Unlawful Amusement Games and Concessions.

14A.70.010 Definitions.

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

- A.** "Chain letter or pyramid scheme" includes, but is not limited to the following:
 - 1.** Any system, scheme, or device, operated by letters, circulars, cards, or other written or printed instrumentality, or orally, or by any other system, whereby it is represented that upon surrender of any sum of money or any other thing of value, a person may receive in return money or any other thing of value in an amount greater than the sum or value surrendered; or
 - 2.** Receipt of money or other thing of value in a sum greater than the value of the money, or other thing of value surrendered, dependent either wholly or in part, upon that person's surrendering money or any other thing of value; or
 - 3.** Determination of when persons shall receive a greater sum of money or other thing of value, effected by any system or scheme where the names of persons surrendering any sum of money or other thing of value are arranged so that the payment, donation, or contribution to them depends upon a scheme whereby their names appear at the top or other designated place upon a list according to the number order or rotation of such persons who have, or who may thereafter surrender any sum of money or other thing of value in order to participate.
- B.** "Contest of chance" means any contest, game, gaming schemes, or gaming device in which the outcome materially depends upon an element of chance, notwithstanding that the contestants' skill may also be a factor.
- C.** "Gambling" shall have the same definition as provided in ORS 167.117(7).
- D.** "Lottery" means a game in which:
 - 1.** The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated as winning ones; and

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2. The winning chances are to be determined by a drawing or by some other similar method; and
 3. The holders of the winning chances are to receive something of value.
- E.** "Social game" means a game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game.
- F.** "Something of value" means any money, item of value, or any form of credit or promise directly or indirectly contemplating transfer of money or thing of value or any interest.

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

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

14A.70.030 Unlawful Chain Letter or Pyramid Scheme.

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

14A.70.040 Social Games Authorization Limited.

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

- A.** No house player, house bank, or house odds exist; and
- B.** There is no house income from the operation of a social game; and
- C.** The game cannot be observed from a public right of way; and
- D.** Persons under 18 years of age are not permitted in the room or enclosure where the social game takes place; and
- E.** A valid permit issued pursuant to this Chapter is conspicuously displayed in the room or enclosure where the social game takes place; and

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- F.** The room or enclosure where the social game takes place is open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation; and
- G.** No player shall bet more than \$1 in money or other thing of value in any one game, and the amount awarded the winner of a game shall not exceed \$1 in money or other thing of value multiplied by the number of players in the game.

14A.70.050 Social Games Permit Required.

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

14A.70.060 Social Games Permit Application Process.

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

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

14A.70.070 Social Games Permit Issuance, Denial.

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

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

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

- A.** The permit required under this Chapter may be temporarily suspended for up to 30 days or revoked by the Bureau of Licenses for any reason that would be grounds for denial of an application for a permit. Additionally, such permit may be suspended or revoked when investigation reveals that:
1. Any violation of the provisions of this Chapter or any violation of federal or State law or City ordinance relating to minors, theft, fraud, gambling, obscenity, controlled substances, prostitution, or alcoholic beverages has occurred on or in such premises, or that any such violation was connected in time and manner with the operation of such premises and occurred within the proximity of same; or
 2. Conducting of social games in such location as authorized by the permit causes disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other similar problems in the area around the permitted premises.

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- B.** Suspension or revocation shall become effective 5 days after the Bureau makes reasonable attempts to notify the permittee in writing of the grounds for revocation or suspension. If the permittee gives notice of appeal to the Bureau prior to the effective date of the revocation or suspension, suspension or revocation shall not become effective until the appeal is finally determined. If the permittee cannot be found after a reasonable effort to locate him or her has been made, then such notice may be sent by certified mail to the permit address, or posted at the same, and shall be deemed acceptable alternative means of service in lieu of personal service.
- C.** On a case-by-case basis, depending upon the severity of the violation and the likelihood of continued unlawful activity on such premises, in lieu of suspending or revoking a permit or to reduce the penalty period involved, with the concurrence of the permittee and the Chief of Police, the Director may order a fine of up to \$500 per violation of this Code to be paid to the City's General Fund. Failure to pay the fine within 30 days shall be grounds for revocation or suspension of the social games permit.

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

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

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

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

All persons who have been issued permits pursuant to this Chapter shall permit entry to premises where social games are conducted to any member of the Bureau of Licenses or

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any officer of the Bureau of Police, upon presentation of official identification, for the limited purpose of inspecting the premises and any activities, records, or devices involved in such games to ensure compliance with this Chapter. Failure to permit an authorized inspection shall be grounds for suspension or revocation of the involved social games permit.

14A.70.110 Notice of Social Games Required.

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

14A.70.120 Unlawful Amusement Games and Concessions.

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

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

Chapter 14A.80

MINORS

Sections:

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

14A.80.010 Curfew.

- A. It is unlawful for any minor to be in or upon any public property or public right of way between the hours specified in this Section, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or

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unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right of way during the hours specified in this Section. For minors under the age of 14 years who have not begun high school, curfew is between 9:15 p.m. and 6 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, the curfew is between 10:15 p.m. and 6 a.m. of the following morning. For children 14 years of age or older who have begun high school, curfew is between 10:15 p.m. and 6 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, curfew is between 12 midnight and 6 a.m. of the following morning.

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

14A.80.020 Truancy Reduction.

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

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- C.** If a police officer has reasonable suspicion to believe that a minor is in violation of this Section, the officer is authorized to detain the minor and make reasonable inquiry regarding a potential violation of Subsection B of this Section.
- D.** If a police officer has probable cause to believe that a minor is in violation of this Section, the officer is authorized to take the minor into protective custody pursuant to ORS 419B.150.

14A.80.030 Unlawful Tattooing of a Minor.

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

14A.80.040 Unattended Minors in Vehicles.

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

Chapter 14B.10

BURGLARY AND ALARM SYSTEMS

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

Sections:

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

14B.10.010 Purpose and Scope.

- A.** The purpose of this chapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems, to prevent unnecessary police emergency response to false alarms, and thereby contribute to the protection of the emergency response capability of the City.

- B.** This chapter governs burglary and, robbery alarm systems, requires permits, establishes fees, provides for fines for excessive false alarms, provides for discontinuation of police response to alarms, provides for punishment of violations and establishes a system of administration.

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14B.10.020 Definitions.

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

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

14B.10.030 Alarm User Permits Required.

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

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

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

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

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

14B.10.050 Burglary and Alarm System Fines.

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

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

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

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

14B.10.060 No Response to Excessive Alarms.

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

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

14B.10.070 Special Permits.

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

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

14B.10.080 User Instruction.

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

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

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

14B.10.100 Hearing.

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

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

14B.10.110 Sound Emission Cutoff Feature.

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

14B.10.120 Confidentiality and Statistics.

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

14B.10.130 Enforcement and Penalties.

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

14B.10.140 Liability.

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

Chapter 14B.20

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

Sections:

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

14B.20.010 Drug-Free Zones.

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

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2. Essential needs: food, physical care, and medical attention.
 3. Reside: to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
 4. Travel: the movement on foot or within or upon a vehicle within a drug-free zone from one point to another without delay other than to obey traffic control devices.
- B.** Drug-free zones are those areas of the City as designated by the City Council under Chapter 14B.20 of this Code, which are areas where the number of arrests where there was probable cause to believe a person has committed any of the offenses enumerated in Section 14B.20.030 for a twelve (12) month period within the 18 months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City that are not located within a drug-free zone.

14B.20.020 Designation of Drug-Free Zones.

(Amended by Ordinance No. 180884, effective April 11, 2007.)

- A.** If the City Council designates an area meeting the criteria of Section 14B.20.010 of this Code to be a drug-free zone, Council shall do so by ordinance. The designation shall be valid for a period of three (3) years.
- B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the period referred to in section 14B.20.020 A., as to whether there is a need to re-configure the drug-free zones enumerated in 14B.20.070.
- C.** This Chapter, and the procedures and exercise of exclusion authority it contains, are valid until September 30, 2007.
- D.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the expiration of this Chapter as to whether there is a need to re-authorize this Chapter.

14B.20.030 Civil Exclusion.

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

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

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

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

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

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

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

14B.20.035 Violation of an exclusion - penalties.

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

14B.20.040 Issuance of Exclusion Notices.

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

14B.20.050 Procedure.

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

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

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

14B.20.060 Appeal, Review and Variances.

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

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

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Section 14B.20.030, and that the conduct supporting the exclusion occurred within a drug-free zone.

9. At the hearing on an appeal of a one (1) year conviction-based exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in Subsection A. of Section 14B.20.030, and that the conduct supporting the conviction occurred within a drug-free zone.
10. At the hearing on an appeal of a denial of a request for a variance as provided in 14B.20.060 C.5.a., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
11. At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in 14B.20.060 C.5.b., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
12. At the hearing on an appeal of a revocation or amendment of a variance as provided in 14B.20.060 C.5.c., the City shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment.
13. At the hearing on an appeal of a ninety (90) day exclusion, the following shall be prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Section 14B.20.030 A.:
 - a. A determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial ninety (90) day notice of exclusion was issued for violation of any of the offenses enumerated in Section 14B.20.030 A.; or
 - b. An accusatory instrument charging the person to whom a ninety (90) day notice of exclusion was issued, for violation of any of the offenses enumerated in Section 14B.20.030 A.
14. At the hearing on an appeal of a one (1) year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Section 14B.20.030 A., shall be

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conclusive evidence that the described conduct occurred, but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a drug-free zone.

D. VARIANCES. Variances modify an exclusion, and shall be granted, denied, amended or revoked in accordance with the following provisions:

1. All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a drug-free zone.
2. All Police Bureau Precincts shall receive and process requests for Drug-Free or Prostitution Free Zone variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station.
3. Variance. The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in 14B.20.050 B., the Chief of Police and/or designees shall grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within the drug-free zone only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

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

1. The excluded person provided false information in order to obtain the variance;
2. There is probable cause to believe the person has committed any of the offenses enumerated in Section 14B.20.030 A. in the drug-free zone subsequent to the issuance of the variance;

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3. The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;
4. If the person presents new circumstances that would support amending the variance; or
5. A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to 14B.20.060 B.1. unless the excluded person appeals the determination by following the procedures in 14B.20.060 A.5.c.

14B.20.070 Listing of Drug-Free Zones.

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

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

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Salmon Street; thence easterly along the south curb line of S.W. Salmon Street until it intersects with the west curb line of S.W. 14th Avenue; thence southerly along the west curb line of S.W. 14th Avenue until it intersects with the south curb line of S.W. Columbia Street; thence easterly along the south curb line of S.W. Columbia Street until it intersects with the west curb line of S.W. 13th Avenue; thence southerly along the west curb line of S.W. 13th Avenue until it intersects with the south curb line of S.W. Market Street; thence easterly along the south curb line of S.W. Market Street to a point where the extension of the south curb line of S.W. Market Street intersects with the east curb line of S.W. Naito Parkway; thence easterly from that point continuing in a direct line due east to the west shore of the Willamette River; thence northerly along the west shore of the Willamette River until it intersects with the south edge of the Hawthorne Bridge; thence easterly along the south edge of the Hawthorne Bridge until it intersects with the east edge of the area known as the East Bank Esplanade, including the circular ramp on the east end and south side of the Hawthorne Bridge; thence northerly along the east edge of the area known as the East Bank Esplanade, including all of its floating walkways, until it intersects with the south side of the East Bank Esplanade pedestrian overpass to N.E. Lloyd Boulevard; thence easterly along the south edge of the area known as the East Bank Esplanade pedestrian overpass, including the walking ramp, until it intersects with the west curb line of N.E. Lloyd Boulevard; thence southeasterly along the south curb line of N.E. Lloyd Boulevard until it intersects with the west curb line of N.E. Martin Luther King Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Boulevard until it intersects with the north curb line of N.E. Davis Street; thence westerly along the north curb line of N.E. Davis as it crosses N.E. 3rd Avenue and projects in a straight line to a point on the west curb of N.E. 2nd Avenue; thence southerly along the west curb line of N.E. 2nd Avenue as it passes under the Burnside Bridge, including the entire Burnside Bridge, until it intersects with the south curb line of S.E. Belmont Street; thence easterly along the south curb line of S.E. Belmont Street until it intersects with the east curb line of S.E. 12th Avenue; thence northerly along the east curb line of S.E. 12th Avenue as it crosses E. Burnside Street and becomes N.E. 12th Avenue; thence northerly along the east curb line of N.E. 12th Avenue until it intersects with the south curb line of N.E. Lloyd Boulevard; thence easterly along the south curb line of N.E. Lloyd Boulevard until it becomes N.E. 16th Avenue; thence northerly along the east curb line of N.E. 16th Avenue until it becomes N.E. 15th Avenue; thence northerly along the east curb line of N.E. 15th Avenue until it intersects with the north curb line of N.E. Halsey Street; thence westerly along the north curb line of N.E. Halsey Street until it intersects with the west curb line of N.E. Martin Luther King Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Boulevard until it intersects with the north curb line of N.E. Multnomah Street; thence westerly along the north curb line of N.E. Multnomah Street as it merges onto the Steel Bridge; thence westerly along the north edge of the Steel

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Bridge to a point above the west shore of the Willamette River and continuing down to the point of the beginning.

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

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curb line of N.E. Ainsworth Street until it intersects with the east curb line of N.E. 10th Avenue; thence northerly along the east curb line of N.E. 10th Avenue until it intersects with the north curb line of N.E. Portland Boulevard; thence westerly along the north curb line of N.E. Portland Boulevard until it intersects with the west curb line of N.E. 6th Avenue; thence southerly along the west curb line of N.E. 6th Avenue until it intersects with the north curb line of N.E. Portland Boulevard; thence westerly along the north curb line of N.E. Portland Boulevard until it intersects with the west curb line of N.E. Martin Luther King Jr. Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Jr. Boulevard until it intersects with the north curb line of N.E. Ainsworth Street; thence westerly along the north curb line of N.E. Ainsworth Street as it crosses N. Williams Avenue and becomes N. Ainsworth Street; thence westerly along the north curb line of N. Ainsworth Street until it intersects with the west curb line of N. Missouri Avenue; thence southerly along the west curb line of N. Missouri Avenue until it intersects with the north curb line of N. Killingsworth Street; thence westerly along the north curb line of N. Killingsworth Street until it intersects with the west curb line of N. Concord Avenue; thence southerly along the west curb line of N. Concord Avenue, including all of the Going Street Pedestrian Bridge until it intersects with the south curb line of N. Skidmore Street; thence easterly along the south curb line of N. Skidmore Street until it intersects with a point extending in a straight line from the west curb line of N. Missouri Avenue where it meets Interstate 5; thence southerly along the west curb line of N. Missouri Avenue to the point of beginning.

Chapter 14B.30

PROSTITUTION-FREE ZONES

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

Sections:

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

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14B.30.010 Prostitution-Free Zones.

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

14B.30.020 Designation of Prostitution-Free Zones.

(Amended by Ordinance No. 180885, effective April 11, 2007.)

- A.** If the City Council designates an area meeting the criteria of Section 14B.30.010 of this Code to be a prostitution-free zone, Council shall do so by ordinance. The designation shall be valid for a period of three (3) years.
- B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the period referred to in section 14B.30.020 A., as to whether there is a need to re-configure the prostitution-free zones enumerated in 14B.30.070.
- C.** This Chapter, and the procedures and exercise of exclusion authority it contains, are valid until September 30, 2007.
- D.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the expiration of this Chapter as to whether there is a need to re-authorize this Chapter.

14B.30.030 Civil Exclusions.

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

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

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

14B.30.035 Violation of an exclusion - penalties.

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

14B.30.040 Issuance of Exclusion Notices.

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

14B.30.050 Procedure.

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

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whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in 14B.30.060 B.

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

14B.30.060 Appeal, Review and Variances.

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

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

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preponderance of the evidence that the denial was in accordance with this Section.

11. At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in 14B.30.060 C.5.b., the City shall have the burden to show by a preponderance of the evidence that the amendment was in accordance with this section.
12. At the hearing on an appeal of a revocation or amendment of a variance as provided in 14B.30.060 C.5.c., the City shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment.
13. At the hearing on an appeal of a ninety (90) day exclusion, the following shall be prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Subsection 14B.30.030 A.:
 - a. A determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial ninety (90) day notice of exclusion was issued for violation of any of the offenses enumerated in Subsection 14B.30.030 A.; or
 - b. An accusatory instrument charging the person to whom a ninety (90) day notice of exclusion was issued, for violation of any of the offenses enumerated in Subsection 14B.30.030 A.
14. At the hearing on an appeal of a one (1) year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Subsection 14B.30.030 A., shall be conclusive evidence that the described conduct occurred but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a prostitution-free zone.

D. VARIANCES. Variances modify an exclusion, and shall be granted, denied, amended, or revoked in accordance with the following provisions:

1. All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion

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only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a prostitution-free zone.

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

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

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

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14B.30.070 Listing of Prostitution-Free Zones.

The following descriptions shall comprise the boundaries of the prostitution-free zones listed, and the prostitution-free zones shall include the entire area on and within the listed boundaries.

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

Boulevard to the east curb line of N.E. 122nd Avenue; thence northerly along the east curb line of N.E. 122nd Avenue to a point 500 feet north of the north curb line of N.E. Sandy Boulevard; thence westerly following a line that is at all times parallel to and 500 feet from the north curb line of N.E. Sandy Boulevard until it intersects with the west curb line of N.E. 82nd; thence southerly along the west curb line of N.E. 82nd to the point of beginning.

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IMPOUNDMENT AND INVESTIGATION FOR DUII

Sections:

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

14B.40.010 Impoundment.

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

14B.40.020 Investigation.

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

14B.40.030 Administration and Fees.

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

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Chapter 14B.50

FORFEITURE

Sections:

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

14B.50.010 Certain Vehicles as Nuisances.

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

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

14B.50.020 Forfeiture Proceedings.

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

14B.50.030 Prostitution.

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

14B.50.040 Gambling.

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

Chapter 14B.60

**CHRONIC
NUISANCE PROPERTY**

Sections:

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

14B.60.010 Definitions.

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

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

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

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

14B.60.020 Violation.

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

14B.60.030 Procedure.

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

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

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

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Commissioner in Charge and the City Attorney.

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

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

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

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

14B.60.050 Summary Closure.

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

14B.60.060 Enforcement.

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

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

14B.60.070 Attorney Fees.

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

Chapter 14B.70

SHORT TERM MOTEL RENTAL

Sections:

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

14B.70.010 Definitions.

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

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

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

14B.70.020 Rental of Rooms

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

14B.70.030 Procedure.

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

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

14B.70.040 Appeals Process

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

14B.70.050 City Remedies.

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

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Chapter 14B.80

GRAFFITI NUISANCE PROPERTY

Sections:

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

14B.80.010 Declaration of Purpose.

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

14B.80.020 Graffiti Nuisance Property.

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

14B.80.030 Definitions.

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

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

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

14B.80.040 Procedures.

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

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

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

C. Appeal

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

D. Removal of Graffiti

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

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

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- (2) Warrants. The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.
- (3) Grounds for Issuance of Graffiti Abatement Warrants; Affidavit.

 - (a) Affidavit. A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.
 - (b) Cause. Cause shall be deemed to exist if there is reasonable belief that a graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.
- (4) Procedure for Issuance of a Graffiti Abatement Warrant.

 - (a) Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - (b) Issuance. If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions

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

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

(5) Execution of Graffiti Abatement Warrants.

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

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

E. Graffiti Abatement Consent Forms.

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

Chapter 14B.85
GRAFFITI MATERIALS AND SALES

(Added by Ordinance No. 181231,
effective September 28, 2007.)

Sections:

- 14B.85.010 Definitions
- 14B.85.020 Sales and Display of Graffiti Materials.
- 14B.85.030 Civil Penalties.
- 14B.85.040 Criminal Penalties.

14B.85.010 Definitions.

For the purposes of this Chapter, the terms used in this Chapter shall be defined as provided in this Section:

- A. Manager:** means the Manager is the City official, or designated representative, responsible for the administration of the Graffiti Nuisance Abatement program under Chapter 14B.80.

- B. Paint pen.** A tube, marker, or other pen-like instrument with a tip of one-quarter (1/4) inch in diameter or greater that contains paint or a similar fluid and an internal paint agitator.
- C. Graffiti material.** Any can of spray paint, spray paint nozzle, paint pen, glass cutting tool, or glass etching tool or instrument.
- D. Spray paint.** Any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.
- E. Spray paint nozzle.** A nozzle designed to deliver a spray of paint of particular width or flow from a can of spray paint.

14B.85.020 Sale and Display of Graffiti Materials.

- A. Picture Identification and Tracking.**
 - 1. Any person who owns, conducts, operates, or manages a business where graffiti materials are sold shall obtain current and acceptable identification when selling graffiti material to any person. The purchaser shall sign a sales form that tracks the graffiti material by lot number. The seller completing the transaction shall initial the sales form, confirming that the purchaser is presenting acceptable identification that belongs to and is the same person as the purchaser. The entire sales form is subject to disclosure pursuant to Oregon Public Records Law.
 - 2. The seller shall maintain a log of all sales of graffiti materials. The log shall include the names of purchasers, a description of the graffiti material sold to the purchaser, the invoice or sales form number for the sale and the date of the sale. The seller shall maintain the log for a period of two years from the date of the sale. Upon presentation of official identification, any representative of the Portland Police Bureau or any designated representative of the Manager may enter the business location of a business where graffiti materials are sold to ensure compliance with the provisions of this Chapter. The inspection shall be for the limited purpose of inspecting the business location, and the log maintained by the seller to determine compliance with the requirements of this Chapter. Any inspection under this Section shall be authorized to occur only during normal business hours of the business location.
 - 3. For purposes of this Chapter, “acceptable identification” shall mean either a valid driver’s license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or a valid government-issued

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identification card and a second piece of identification one of which has a photograph of the purchaser. The employee completing the transaction must visually confirm that the photograph on the identification document is of the person presenting the identification and to whom the graffiti materials are being sold.

- B. Display and Storage.** As of November 1, 2007, it shall be unlawful for any person who owns, conducts, operates, or manages a business where graffiti materials are sold or who sells or offers for sale any graffiti material to store or display, or cause to be stored or displayed graffiti material in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition. This Ordinance shall not be construed to preclude or prohibit the storage or display of graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

14B.85.030 Civil Penalties.

- A.** The Manager may file a complaint with the Code Hearings Officer, as provided under Section 22.03.020, for any violation of the provisions of this Chapter, asking the Code Hearings Officer to impose civil penalties as provided in this Section. Having made a determination to ask that the Code Hearings Officer to impose civil penalties as provided by this Section, the Manager shall give the person written notice of the determination by causing notice to be served upon the person at their business or residence address. Service of the notice shall be accomplished by mailing the notice by regular mail, or at the option of the Manager, by personal service in the same manner as a summons served in an action at law. Mailing of the notice by regular mail shall be prima facie evidence of receipt of the notice. Service of notice upon the person apparently in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the business owner.
- B.** The Code Hearings Officer may impose civil penalties of up to \$5,000 for any person's first violation of this Chapter. The Code Hearings Officer may impose civil penalties of up to \$15,000 for second violations of this Chapter by the same person. The Code Hearings Officer may impose civil penalties of up to \$25,000 for third or additional violations of this Chapter by the same person.
- C.** In determining the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Code Hearings Officer shall consider:
- 1.** The extent and nature of the person's involvement in the violation;

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2. The economic or financial benefit accruing or likely to accrue as a result of the violations;
 3. Whether the violations were repeated or continuous, or isolated and temporary;
 4. The magnitude and seriousness of the violation;
 5. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
 6. Any other factors the Code Hearings Officer may deem to be relevant.
- D.** The Manager's decision to file a complaint under subsection A seeking civil penalties for any violations of this Chapter shall be an exclusive choice of remedies for enforcement of the requirements of this Chapter for those violations. In such cases, no criminal penalties may be imposed under Section 14B.85.040.

14B.85.040 Criminal Penalties.

Except as provided in Section 14B.85.030, the intentional or knowing violation of any provision of this Chapter is punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

Chapter 14B.90

SECONDHAND DEALERS

(Chapter replaced by Ordinance No. 181303,
effective October 26, 2007.)

Sections:

- 14B.90.010 Purpose.
- 14B.90.020 Definitions.
- 14B.90.030 Permit Required.
- 14B.90.035 Minimum Standards.
- 14B.90.040 Application for Permit.
- 14B.90.050 Issuance and Renewal of Permit.
- 14B.90.060 Permit Fees.
- 14B.90.070 Subsequent Locations.
- 14B.90.080 Reporting of Secondhand Dealer Transactions.

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- 14B.90.090 Regulated Property Sale Limitations.
- 14B.90.100 Tagging Regulated Property for Identification.
- 14B.90.110 Inspection of Property and Records.
- 14B.90.120 Prohibited Acts.
- 14B.90.130 Civil Penalties.
- 14B.90.140 Revocation or Suspension of Permit.
- 14B.90.150 Appeals.
- 14B.90.170 Authority of Director to Adopt Rules, Procedures and Forms.

14B.90.010 Purpose.

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

14B.90.020 Definitions.

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

- A. "Acceptable identification" means either a current driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or two current United States, state or local government-issued identification cards, one of which has a photograph of the seller.
- B. "Acquire" means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a Dealer and a private party seller; leases; trade-ins; loans; and abandonments. Any acquisition of regulated property by a Dealer will be presumed to be an acquisition on behalf of the Secondhand Dealer business. Notwithstanding the foregoing, "acquire" does not include:
 - 1. Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon; or
 - 2. Memoranda between a Dealer and a person engaged in the business of selling regulated property.

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- C. "Business Location" means any physical location where the Dealer conducts business.
- D. "Chief of Police" means the Chief of the Portland Police Bureau or his or her designee.
- E. "Criminal arrests or convictions" refers to any offense defined by the statutes of the State of Oregon or ordinances of the City of Portland, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Portland, as specified herein, will be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or Portland ordinance provisions.
- F. "Dealer".
 - 1. Means any:
 - a. Sole proprietorship, partnership, limited partnership, family limited partnership, 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 and that:
 - b. Either:
 - (1) Acquires regulated property at or from business locations within the City of Portland, or on behalf of such a business regardless of where the acquisition occurs, or
 - (2) Offers for sale regulated property.
 - 2. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an "Occasional Secondhand Dealer." The term "Dealer" in this Chapter and all regulations herein refer to Secondhand Dealers, Occasional Secondhand Dealers and Pawnbrokers unless specifically stated otherwise.
 - 3. "Dealer" does not include:

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- a. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)3 organizations; or
 - b. A person whose only business transactions with regulated property in the City of Portland consist of the sale of personal property acquired for household or other personal use; or
 - c. A person whose only business transactions with regulated property in the City of Portland consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.
- G. "Director" means the Director of the Portland Revenue Bureau or his or her designee.
- H. "Held Property" means any regulated property that cannot be sold, dismantled or otherwise disposed of for a proscribed period of time as more specifically enumerated in 14B.90.090.
- I. "Investment purposes" means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.
- J. "Medication" means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.
- K. "New" means anything conspicuously not used.
- L. "Pawnbroker" means any business required by Oregon Revised Statute 726.040 to hold an Oregon pawnbroker's license. Pawnbrokers are required by Chapter 14B.90 to have a Secondhand Dealer Permit. As a Dealer all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this Chapter unless otherwise stated.
- M. "Person" means a natural person.
- N. "Principal" means any person who will be directly engaged or employed in the management or operation of the Secondhand Dealer business, including any owners and any shareholders with a 5% or greater interest in the company.

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- O.** "Receive" means to take property into the inventory, possession, or control of a Dealer.
- P.** "Regulated property" means property of a type that has been determined by the Portland Police Bureau to be property that is frequently the subject of theft, including new items as defined in this section as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. A list of regulated property is included in the Administrative Rules and may be updated at any time in order to enhance the Bureau's ability to reduce property crimes and recover stolen goods.
- Q.** "Remanufactured" means that an item has been altered to the degree that the main components are no longer identifiable as the original item.
- R.** "Seller" means any person who:

 - 1.** Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or
 - 2.** Donates or abandons items of regulated property.
- S.** "Trade Show" means an event open to the public, held in a venue other than a Dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property. Events commonly known as flea markets or swap meets, in which goods of many types are exhibited, sold or traded, are not considered trade shows for the purpose of this Chapter.
- T.** "Transaction Report" means the record of the information required by 14B.90.080, transmitted to the Police Bureau by the means required in the Administrative Rules.
- U.** "Used" means anything that has been put into action or service.

14B.90.030 Permit Required.

- A.** No person or business shall engage in, conduct or carry on a secondhand dealer business in the City without a valid Secondhand Dealer Permit issued by the Revenue Bureau.
- B.** Upon acquiring or offering for sale more than 50 items of regulated property during any one-year period, an Occasional Secondhand Dealer shall apply for and

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obtain a Secondhand Dealer Permit before acquiring any more items of regulated property.

- C. Any person or business that advertises or otherwise holds him/herself out to be acquiring or offering for sale regulated property within the City will be presumed to be operating as a Dealer subject to the terms of Chapter 14B.90.
- D. The sale of regulated property at events commonly known as "garage sales," "yard sales," or "estate sales," is exempt from these regulations if all of the following are present:
 - 1. No sale exceeds a period of 72 consecutive hours; and
 - 2. No more than four sales are held at the same location in any twelve-month period.

14B.90.035 Minimum Standards.

- A. No person or business may operate as a Dealer within the City of Portland unless the person or business maintains a fixed physical business location.
- B. Dealers shall comply with all applicable federal, state, and local regulations.

14B.90.040 Application for Permit.

- A. An applicant for a Secondhand Dealer Permit shall complete and submit an application (including required personal history forms) that sets forth the following information:
 - 1. The name, address, telephone number, birth date and principal occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;
 - 2. The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
 - 3. The web address of any and all web pages used to acquire or offer for sale regulated property on behalf of the Dealer, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the Dealer.
 - 4. Written proof that all principals are at least 18 years of age;

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5. Each principal's business occupation or employment for the 3 years immediately preceding the date of application;
6. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 14B.90;
7. A brief summary of the applicant's business history in any jurisdiction including:
 - a. The business license or permit history of the applicant; and,
 - b. Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation.
8. Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, 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.
 - a. If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;
 - b. If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;
9. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;

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10. All arrests or convictions of each principal enumerated in paragraphs 1 through 7 of this Section;
 11. Upon request, principals and employees shall submit to the Portland Police Bureau the following information: fingerprints, passport size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the Portland Police Bureau;
 12. Any other information that the Director may reasonably feel is necessary to accomplish the goals of this Chapter.
- B.** The Dealer shall notify the Revenue Bureau of any changes in the information required in Section A within ten business days.
- C.** New employees of Dealers shall complete and submit the personal history form as required in Section A of this Subsection. Employees may not acquire regulated property until all required information has been reviewed and approved by the Portland Police Bureau. The criteria used to review a new employee will be the same as those used in the review of an initial application in 14B.90.050 B.
- D.** The personal and business information contained in the application forms required pursuant to Section 14B.90.040 A. are subject to the requirements of the Oregon Public Records Law, ORS 192.410 et seq.

14B.90.050 Issuance and Renewal of Permit.

- A.** Upon the filing of an application for a Dealer permit and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant and all principals and employees listed according to the requirements in Section 14B.90.040 A. The Director shall issue the permit within 90 days of receiving the application if no cause for denial exists.
- B.** Except as provided in Section 14B.90.050 C. the Director shall deny an application for a Dealer Permit if any of the following apply:
1. The applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90; and

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- a. the license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to Chapter 14B.90; or
 - b. the business has been found to constitute a public nuisance and abatement has been ordered.
 2. Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any section of Section 14B.90. The offenses include:
 - a. Any felony.
 - b. Any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses.
 3. The Director finds by a preponderance of the evidence that the applicant or any principal or employee has committed any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 14B.90.120;
 4. The Director finds by a preponderance of the evidence that the applicant or any principal or employee who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 14B.090;
 5. Any statement in the application is false or any required information is withheld; or
 6. The Director finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90 or any laws or statutes equivalent to the provisions of Chapter 14B.90, and the business has violated applicable State, Federal or local requirements, including permitting requirements.
- C. Notwithstanding Section 14B.90.050 B., the Director may grant a permit after consulting with the Chief of Police despite the presence of one or more of the enumerated factors if the applicant establishes to the Director's reasonable satisfaction that:

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1. The behavior evidenced by such factor is not likely to recur; or,
 2. The behavior evidenced by such factor is remote in time; or,
 3. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 14B.90.
- D.** Dealer permits are valid for a term of one year and expire on the first anniversary of their issuance. The permits are nontransferable and are valid only for a single business location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Revenue Bureau for approval at least 14 days prior to the change.
- E.** Dealer permits must be displayed at the business location in a manner readily visible to patrons.
- F.** Upon denial of an application for a Dealer's permit, the Director shall give the applicant written notice of the denial.
1. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.
 2. Mailing of the notice will be prima facie evidence of receipt of the notice.
 3. The denial will be effective the date the notice is sent.
- G.** Denial of a permit may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance with Section 14B.90.150.

14B.90.060 Permit Fees.

Every Dealer shall complete and submit all required forms to the Revenue Bureau and pay a nonrefundable fee as required by the Administrative Rules.

14B.90.070 Subsequent Locations.

- A.** Dealers must file an application for a permit for a subsequent or additional business location with the Revenue Bureau and pay a non-refundable fee as set forth in the Administrative Rules of Chapter 14B.90, provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Section 14B.90.040 A.2.

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- B.** Permits issued for subsequent or additional business locations will be subject to all the requirements of this Chapter, and the term of the permit issued for a subsequent or additional location will expire on the same date as the initial permit.

14B.90.080 Reporting of Secondhand Dealer Transactions.

- A.** Dealers shall provide to the Portland Police Bureau all required information as described in the Administrative Rules for each regulated property transaction (not including sales). The Chief of Police may designate the format for the transfer of this information and may direct that it be communicated to the Special Property Investigations office by means of mail, the internet, or other computer media.
 - 1.** In any such case that the Chief directs that the information be transmitted via computer media, the Chief may also direct the system that will be utilized in order to ensure conformity among all Dealers.
 - 2.** If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, Dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a Dealer must submit a written request for additional time to the Chief of Police before the deadline.
 - 3.** Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.
- B.** The Portland Police Bureau will provide all Dealers with transaction report forms at cost until 60 days after such time that the Chief of Police directs a change in the reporting method. The Chief of Police may specify the format of the transaction report form. The Chief of Police may require that the transaction report form include any information relating to the regulations of this Chapter. Dealers may utilize their own forms, in lieu of those supplied by the Portland Police Bureau, if the Chief of Police has approved such forms. The Declaration of Proof of Ownership will be considered to be included in references in this Chapter to the transaction report form, as appropriate.

14B.90.090 Regulated Property Sale Limitations.

- A.** Regulated property is subject to the following limitations:
 - 1.** Holding Period: Regulated property acquired by any Dealer must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan

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transactions are exempt from the 30-day hold requirements of 14B.90.090 because of the redeemable nature of the loans and the holding requirements in ORS 726. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of 14B.90.090 remain in effect.

2. Requirements of held property: All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Revenue Bureau or Police Bureau. Held property must be kept at the business location during this holding period so that it can be inspected during normal business hours (as provided in Section 14B.90.110). Held property, other than property on Police Hold, may be held in a place within public view, as long as the other requirements of A.2 are met.
 3. Held property requirements do not apply if:
 - a. The property is received from a Dealer regulated by the City of Portland who has already satisfied the holding requirements of this Chapter and the Dealer records the original transaction report number on the transaction report completed for the new transaction, or
 - b. If a customer, who originally purchased property from a Dealer, returns it to that Dealer with the original receipt.
- B.** Notwithstanding Section 14B.90.090 A., the Director may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in the Administrative Rules.
- C.** Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any Dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of subsection A.2 above. The hold may be extended an additional 30 days upon notice provided to the Dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime.

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The Dealer shall comply with the hold notice and notify the Portland Police Bureau Special Property Investigations unit of the hold notice not later than five calendar days from the day the notice was received, either by telephone, fax, email, or in person. A Dealer must notify the Special Property Investigations office of their intent to dispose of any item of regulated property under Police Hold at least 10 days prior to doing so.

1. A Police Hold area must meet the following criteria:
 - a. Located out of public view and access, and
 - b. Marked "Police Hold," and
 - c. Contain only items that have been put on Police Hold.
 2. Dealers may maintain up to three Police Hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on Police Hold.
 3. If it is not possible or practical to move an item to or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on Police Hold and kept from public view and access.
- D.** Upon probable cause that an item of property is the subject of a crime, the Chief of Police may take physical custody of the item or provide written notice to any Dealer to hold such property for a period of time as determined by the Chief of Police, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in A.2 of this subsection, and will be maintained in the Police Hold area unless seized or released by the Police. Seizure of property will be carried out in accordance with Oregon Revised Statutes.
- E.** If a Dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the Dealer shall continue to hold the property at the business location for a period of 90 full days after acquisition. The Dealer must notify the Portland Police Bureau by writing "90 day hold" next to the item on the transaction report or by an electronic means approved by the Portland Police Bureau. The held property must conform to all the requirements found in A.2 of this subsection.

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- F. If a Dealer receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the Portland Police Bureau by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.
- G. If a peace officer seizes any property from a Dealer; the Dealer must notify the Portland Police Bureau of the seizure not later than five calendar days from the day the seizure occurs. The Dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Police Bureau may be given by telephone, fax, email, or in person.

14B.90.100 Tagging Regulated Property for Identification.

Dealers shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that item or be referenced to the transaction report required by the Portland Police Bureau or assigned by the approved reporting method described in the Administrative Rules. After the holding period has expired, the transaction number must remain identifiable on the property until the sale of the property.

- A. After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.
- B. After the applicable holding period has expired, items that are remanufactured need not remain tagged.

14B.90.110 Inspection of Property and Records.

Upon presentation of official identification, a Dealer shall allow any representative of the Portland Police Bureau or the Revenue Bureau to enter the business location to ensure compliance with the provisions of Chapter 14B.90. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this Chapter and the Administrative Rules. Except by mutual agreement with the Dealer or by court order, any inspection under this Section may occur only during the Dealer's normal business hours.

14B.90.120 Prohibited Acts.

- A. It is unlawful for any person regulated by Chapter 14B.90:
 - 1. To receive any property from any person

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- a. Known to the principal, employee or Dealer to be prohibited from selling by a court order,
 - b. Under the age of 18 years unless the person's parent or guardian complete the applicable information on the Declaration of Proof of Ownership,
 - c. About whom the principal, employee or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another who meets the above criteria;
 2. To receive property prohibited by this Chapter or the Administrative Rules, including
 - a. Medications;
 - b. Gift cards, in-store credit cards, or activated phone cards;
 - c. Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible.
 3. To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen, except as allowed by the Administrative Rules. A later determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a Dealer has violated this subsection.
- B. Any violation of Section 14B.90 is punishable, upon conviction, by a fine of not more than \$500 and a jail sentence of up to six months.

14B.90.130 Civil Penalties.

- A. The Director may assess civil penalties in an amount up to \$500 for each violation of Chapter 14B.90.
- B. Procedure.
 1. The Director, having made a determination to seek civil penalties as provided by this Section, shall give the Dealer written notice of the determination.

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2. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
3. Mailing of the notice will be prima facie evidence of receipt of the notice.
4. The civil penalty will be due ten days from the date of the notice unless such civil penalty is appealed in accordance with Section 14B.90.150.

14B.90.140 Revocation or Suspension of Permit.

- A. Along with the other regulatory enforcement authority granted under this Chapter, the Director may, after consulting with the Chief of Police, revoke or suspend any permit issued pursuant to this Chapter:
 1. For any cause that would be grounds for denial of a permit; or
 2. Upon a finding that any violation of the provisions of this Chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the Dealer or any principal or employee engaged or employed in the management or operation of the business location; or
 3. A lawful inspection has been refused; or
 4. If payment of civil penalties has not been received by the Revenue Bureau within ten business days after the penalty becomes final; or
 5. If any statement contained in the application for the permit is false.
- B. The Director, upon revocation or suspension of any permit issued pursuant to this Chapter, shall give the Dealer written notice of the revocation or suspension.
 1. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
 2. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.
- C. Revocation will be effective and final ten days after the giving of notice unless the revocation is appealed in accordance with Section 14B.90.150.

- D. Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

14B.90.150 Appeals.

- A. Any Dealer or person whose initial application or renewal application for a Dealer permit has been denied, or whose permit has been revoked or suspended, or who has been directed to pay a civil penalty by the Director, may appeal the action of the Director to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of the Portland City Code. Requests for appeal hearings must be filed with the Revenue Bureau.
- B. The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the Director under this Chapter, will stay the effective date of the action until the Code Hearings Officer issues an opinion.

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

- A. The Director may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B. Adoption of Rules.
 - 1. The Director may adopt rules pertaining to matters within the scope of this Chapter.
 - 2. Before the Director adopts a rule, a public hearing must be conducted. The Director must give notice of the public hearing in a reasonable manner not less than ten nor more than 30 days before the hearing. The notice must include the place and time of the hearing; where copies of the full text of the proposed rules may be obtained; and a brief description of the proposed rules.
 - 3. The Director will consider oral and/or written testimony during the public hearing. The Director shall adopt the proposed rule, modify, or reject the proposed rule, based on the testimony received. Unless otherwise stated, all rules are effective upon adoption by the Director and will be kept on file at the Bureau. Copies of all rules will be made available to the public upon request.
 - 4. Notwithstanding paragraphs 2 and 3 of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure

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to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

Chapter 14B.100

**LIQUOR LICENSE
RECOMMENDATIONS**

Sections:

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

14B.100.010 Purpose.

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

14B.100.020 Delegation of Application Recommendation Authority.

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

14B.100.030 Application Procedure.

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

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

 - 1. All required forms are properly completed and in order; and
 - 2. The applicant has obtained a valid City business license; and
 - 3. The processing fee has been paid. Fees shall be in the maximum amount allowed by Oregon law and shall be nonrefundable.
- C.** The Office of Neighborhood Involvement shall forward liquor license applications to the Chief of Police with a copy of the City of Portland Liquor Outlet Information form to the Bureau of Licenses within one business day of receipt.
- D.** Except for applications for new licensed premises for railroads, public passenger carriers or boats, health care facilities, or all OLCC wholesale type licenses, in addition to the posting of a conspicuous notice on the licensed premises as required by the OLCC, ONI shall:

 - 1. Notify the following persons by mail that an application has been filed:

 - a.** Property owners and property occupants within 300 feet of the proposed licensed premises;
 - b.** The neighborhood association within whose boundaries the licensed premises will be located.
 - 2. Post the proposed new licensed premises with a notice indicating the process for public comment.
 - 3. Request a response in writing from the neighborhood association, property owners and property occupants and allow at least 20 days after the mailing or posting of notification as provided in this Section, to provide a response in writing to ONI. ONI shall notify any person who responds pursuant to this Section of the recommendation made by the Chief of Police to the OLCC.

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- E.** The Chief of Police shall conduct an investigation of each application for the purpose of determining the recommendation that shall be made to the OLCC. In addition to the information required by the OLCC application forms, the Chief of Police is authorized to require from the applicant any other pertinent information that the Chief of Police deems appropriate.
- F.** The Chief of Police shall coordinate with ONI and the City Noise Control Officer prior to issuance of a recommendation to determine if there is substantial neighborhood concern or opposition to the application, or if there is evidence that noise is or will be a significant and persistent problem at the licensed premises.

 - 1.** If the Chief of Police finds that there are valid grounds to make an unfavorable recommendation to OLCC as provided by Oregon liquor laws, the Chief of Police shall forward an unfavorable recommendation directly to the OLCC.
 - 2.** If there is substantial neighborhood concern or opposition to the application, or there is evidence that noise is or will be a significant and persistent problem at the licensed premises, but the Chief of Police, because of time constraints or other factors, does not find sufficient basis for an unfavorable recommendation as provided by Oregon liquor laws, the Chief of Police shall forward a no endorsement recommendation directly to the OLCC, with supporting documentation of neighborhood concern or opposition and/or evidence of noise as provided by ONI, and shall request that the OLCC hear testimony from the neighborhood. ONI shall coordinate neighborhood testimony for OLCC hearings.
 - 3.** If the Chief of Police finds no basis for an unfavorable recommendation as provided by Oregon liquor laws, and there is no substantial neighborhood concern or opposition or evidence that noise is or will be a significant and persistent problem at the licensed premises, the Chief of Police shall forward a favorable recommendation directly to the OLCC. The Chief of Police may also attach conditions or restrictions to a favorable recommendation, such as allowing sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other conditions or restrictions consistent with the Oregon liquor laws.
- G.** The Chief of Police shall notify the applicant of the recommendation.
- H.** The process for renewal applications shall be as provided by this Section except that the notification requirements of Subsection D shall not apply.

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- I. If ONI believes a good neighbor agreement will alleviate substantial neighborhood concern or opposition, ONI shall attempt to work with the licensed premises and the neighborhood to achieve a good neighbor agreement. ONI shall notify the Chief of Police and the OLCC of any completed good neighbor agreements, or, of its attempts to achieve a good neighbor agreement, in the event ONI is unable to complete a good neighbor agreement within a reasonable period of time.

14B.100.040 Reconsideration of Applications.

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

14B.100.050 Notification of OLCC Proceedings.

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

14B.100.060 Impact Areas.

- A. It shall be the responsibility of the Chief of Police to review, from time to time, the locations, types and quantities of liquor licenses that have been issued for premises located in geographical areas, neighborhoods or sectors of the City. If the Chief of Police, upon inquiry, or at the request of citizens or groups finds: that some area of the City is saturated with certain types of licensed premises selling or serving alcoholic beverages and that the placement of additional licensed premises within that area will likely be deleterious to that area; or, that excessive criminal acts, traffic congestion, or litter problems are present or will increase due in part to the licensed premises; or, additional licensed premises are not justified by public interest or convenience, then the Chief of Police shall make a recommendation to Council that the area be designated as an impact area, and that liquor licenses of certain types should not be granted or renewed in that area for a specific period of time, or until the number of current licenses is reduced to the point that licensed premises can be permitted that will not be deleterious to the area, or, will not lead to additional criminal acts, traffic congestion or litter problems, or, are justified by public interest or convenience.

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- B.** If Council declares an area to be an impact area based upon findings that valid grounds exist as provided by Oregon liquor laws, the Chief of Police shall notify OLCC so that OLCC may ensure that liquor license applicants are put on notice of the impact area.
- C.** Within any area declared to be an impact area as provided by this Chapter, the Chief of Police is authorized, on behalf of Council:

 - 1.** To present an unfavorable recommendation to the OLCC on any application for a new licensed premises located in the impact area; or,
 - 2.** To present a favorable recommendation for any existing licensed premises located in the impact area, subject to certain conditions or restrictions, such as allowing liquor sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other restrictions consistent with the Oregon liquor laws.
- D.** Impact area recommendations shall not apply to licensed premises wherein the sale of alcoholic beverages is incidental to full service restaurant facilities, with meals prepared on the licensed premises, provided that the liquor license applicant(s) and the restaurant owner(s) are one and the same.
- E.** The following areas are declared by Council to be impact areas:

 - 1.** Burnside District Impact Area. The Burnside District, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Burnside District is defined as that area bounded by the Willamette River on the East and North, by NW Ninth Avenue to West Burnside Street, by West Burnside Street to SW Fourth Avenue, by SW Fourth Avenue to SW Ankeny Street, by SW Ankeny Street to the Willamette River.
 - 2.** Central Eastside Industrial District Impact Area. The portion of the Central Eastside Industrial Area, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For the purposes of this Section, the Central Eastside Industrial Area is defined as that area bounded by the Banfield Freeway to the North, by SE 12th Avenue to the East, by SE Clay Street to the South, and by the Willamette River on the West.
 - 3.** Inner North/Northeast Neighborhood Impact Area. The Inner North/Northeast Neighborhood, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed

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premises. For purposes of this Section, the Inner North/Northeast Neighborhood is defined as that area bounded by NE Columbia Blvd. on the North, NE Broadway Blvd. on the South, and Interstate 5 on the West. The area's boundary on the East is NE 42nd Avenue from NE Columbia Blvd. to NE Prescott Street, NE 23rd Avenue from NE Prescott Street to NE Mason Street, NE 21st Avenue from NE Mason Street to NE Fremont Street and NE 7th Avenue from NE Fremont Street to NE Broadway Blvd.

Chapter 14B.110

**AMUSEMENT DEVICES,
GAMES AND MACHINES**

Sections:

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

14B.110.010 Purpose.

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

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14B.110.020 Definitions.

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

- A.** “Amusement device” means any machine, device, or game, including foosball or table soccer games, billiards or pool tables, shuffleboard, shooting gallery devices, miniature bowling games, electronic games of skill, video games, and other similar machines, devices, or games:
1. Which are made available for display or operation; and,
 2. Which require the payment of money or other valuable consideration.
 3. “Amusement device” shall not include:
 - a. Ping pong tables, music devices, vending machines, or any rides where no element of chance, bonus, or prize is involved; or
 - b. Video lottery games, game terminals and equipment operated directly by the Oregon Lottery Commission as a state agency.
- B.** “Amusement Center” means any location where a person makes seven or more amusement devices available for operation or play at any one time, but excluding any location that:
1. Derives at least 50 percent of its gross income from the sale of food; or,
 2. Possesses a current, valid license authorizing the on-premises consumption of alcoholic beverages; or,
 3. Is operated primarily as a movie theater, bowling alley, skating rink, or other similar establishment, which displays or operates amusement devices only during the hours that such establishment makes its primary service or activity available to the public.
- C.** “Director” means the Director of the Portland Bureau of Licenses, or his or her designee.
- D.** “Display or operation” means to make any amusement device available to the public for use or play, for the purposes of displaying or exercising skill or for amusement, at any public or private location.
- E.** “Location” means any business establishment, public or private club, association, or any other site where a person makes any amusement device available for

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display or operation, excepting only private residences in which such amusement devices are available only for display or operation at no cost to the player.

- F. “Person” means any real person, or any partnership, association, corporation, or other form of business organization.

14B.110.030 Authorization.

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

14B.110.040 Permits Required for Certain Amusement Devices.

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

14B.110.050 Permits Required, Fees.

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

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

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- B.** It shall be unlawful for any owner of an amusement center to display or make available for operation any amusement device described in Subsection 14B.110.040 without first obtaining a valid Amusement Center Permit. Amusement Center Permits shall be classified with nonrefundable fees according to the number of devices at the location as set forth above.
- C.** In lieu of all other permits required by this Chapter, any person may make any amusement device described in Section 14B.110.040 available for display or operation, for one continuous time period not exceeding 90 days in any calendar year, by obtaining a Temporary Location Permit, which shall require the payment of a nonrefundable fee of \$250.
- D.** All permits issued under this Chapter, except Temporary Location Permits, shall be valid for the calendar year of issue, and shall expire on December 31 of that year. All permits shall contain information regarding the permittee's identity. No permit issued under this Chapter shall be transferable or assignable under any circumstances.
- E.** No provision in this Chapter shall be construed to permit the use of any amusement device in violation of State or federal law, or of any of the other provisions of this Code other than those specifically referred to herein.

14B.110.060 Permit Application, Issuance, Denial.

- A.** Applications for all permits required by this Chapter shall be made to the Bureau of Licenses on forms provided by the Bureau of Licenses. The applicant shall provide all the information relating to the purposes of this Chapter required on the form by the Bureau of Licenses. Failure to provide any information requested on this form may be cause to deny the requested permit.
- B.** The Director shall approve issuance of permits after payment of the required fee, completion of the application form and following an investigation of the applicant. However, the Director shall deny a permit application if:
 - 1.** The applicant has been convicted of any offense related to minors, juveniles, gambling, obscenity, controlled substances, prostitution or alcoholic beverages;
 - 2.** Any person has been convicted of any offense relating to minors, juveniles gambling, obscenity, controlled substances, prostitution or alcoholic beverages occurring at the location for which the permit is to be obtained;
 - 3.** Any statement in the application is found to be false;

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4. The applicant has been a principal owner, operator, manager or supervisor of an amusement location and the activities or patrons of such business caused a significant increase in harassing, disorderly or violent acts, criminal activity, vandalism, litter, liquor law violations, noise or traffic congestion in or around such business;
 5. In the Director's opinion, after investigation of the proposed location of an amusement location, the proposed site would be reasonably likely to result in an increase in those acts noted in part (4) of this Subsection;
 6. The business operation as proposed by the applicant would not comply with all applicable requirements of this Code, including, but not limited to, the Building, Health, Planning and Zoning and Fire Codes of the City;
 7. The permitted amusement center would be located within 100 feet of any residential zone established by the Planning and Zoning Code or any location within 500 feet of any public or private elementary, junior high or high school or playground, this distance to be measured in a straight line without regard to intervening structures or obstacles from the nearest point of the school property or residential zone to the nearest point of the structure in which the permitted amusement devices would be operated; or,
 8. The proposed location of the business operation requiring a Location Permit, would be a detriment to the immediate vicinity due to congregation of pedestrian or vehicular traffic.
- C. Notwithstanding Subsection B. above, the Director with the concurrence of the Chief of Police may issue a conditional permit if the applicant establishes to the Director's satisfaction that:
1. The behavior evidenced by such factor is not likely to recur;
 2. The behavior evidenced by such factor is remote in time; or,
 3. The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Chapter.
 4. Under this Subsection, the Director may only issue a permit containing conditions directed at ensuring that such factor shall not recur.

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- D.** Denial of a permit may be appealed by the applicant by filing written notice of an appeal as provided in Section 14B.110.140.

14B.110.070 Requirements of Permit Holders.

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

3. Any significant increase in litter, noise, vehicular or pedestrian traffic congestion, or other locational problems in the area around such business.

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

- A. Any person issued permits under this Chapter, or who controls any location in which a permitted amusement device is located, shall permit any Bureau of Licenses' representative or Bureau of Police officer upon presentation of official identification, to enter such location for the limited purposes of inspecting all records, amusement devices and premises regulated under this Chapter, to which the public has access, to ensure compliance with the provisions of this Chapter.
- B. Inspections under this Section shall be authorized only during normal business hours.
- C. Failure to permit an inspection authorized under this Section shall be grounds for suspension or revocation of any permit required under this Chapter.

14B.110.090 Prohibited Conduct.

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

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- G. It shall be unlawful for any person to operate an amusement center without having a permit issued pursuant to this Chapter.

14B.110.100 Permit Suspension, Revocation.

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

14B.110.110 Violations, Sealing Prohibited Amusement Devices.

- A. Upon a determination that any provision of this Chapter has been violated, the Director shall issue a written Notice of Violation and assess civil penalties. The notice shall state the nature of the violation, the date of the violation, and the date by which such violation must be corrected and any civil penalties which must be paid to prevent the amusement device from being sealed. The person responsible for the violations shall be allowed 5 days in which to correct the violation.
- B. Sealing of Amusement Devices.

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

14B.110.120 Civil Penalties.

- A. The Director may impose civil penalties for violations of the provisions of this Chapter according to the following schedule:
1. Sealed amusement device removed from location: the penalty shall be up to \$50 per amusement device.

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2. Failure to obtain proper location permit: the penalty shall be up to \$50 per amusement device.
3. The unlawful removal of seal from amusement device: the amusement device shall be subject to seizure and destruction pursuant to Section 14B.110.110.

B. Calculation of Civil Penalties.

1. In calculating the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Director shall consider:
 - a. The extent and nature of the person's involvement in the violation;
 - b. The economic or financial benefit accruing or likely to accrue as a result of the violations;
 - c. Whether the violations were repeated or continuous, or isolated and temporary;
 - d. The magnitude and seriousness of the violation;
 - e. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
 - f. Any other factor the Director deems to be relevant.
2. The Director shall provide notice of the assessment of civil penalties in the Notice of Violation under Section 14B.110.110 A.

C. No person assessed a penalty under this Section shall be issued a permit under this Chapter until all such penalties have been paid in full.

D. Civil penalties imposed pursuant to this Section shall be the only penalties authorized for such violations.

E. Any person assessed a penalty may, within 10 days of receiving such written order, file a written notice of appeal as provided in Section 14B.110.140.

14B.110.130 Criminal Penalties.

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

14B.110.140 Appeals.

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

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

Chapter 14B.120

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

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

Sections:

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

14B.120.010 Purpose.

The Oregon Legislature has authorized Oregon cities and counties to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments serving

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alcoholic beverages, ORS 147.164. In adopting the provisions of this Chapter, the City Council's intent is to provide for reasonable time, place and manner regulations of the nuisance aspects of those establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. By requiring that the nuisance violations be brought before the Code Hearings Officer, the City Council's intent is that there will be specific findings made regarding the occurrence of adverse effects. The City Council also intends that the remedies imposed by the Code Hearings Officer under the authority of this Chapter will solely address the time, place and manner aspects of the nuisance activities. In addition, to create the most effective program, this Chapter establishes the Responsible Neighbor Program. The purpose of the Responsible Neighbor Program is to encourage the owners of establishments serving alcoholic beverages to act to ensure that the operation of their establishment does not create nuisances and thereby negatively impact neighborhood livability.

14B.120.020 Definitions.

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

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

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4. Drinking on public rights of way, unless officially authorized, as prohibited by City Code Section 14A.50.010.
5. Interference with vehicle ingress and egress as prohibited by City Code Section 14A.50.035.
6. Alcoholic beverage violations in parks, as prohibited by City Code Section 20.12.040, where the violation relates to a specific licensee.
7. Discharge of a firearm at the establishment, as prohibited by City Code Section 14.A.60.020.

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

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

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

14B.120.030 Nuisance Activity Violations.

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

14B.120.040 Notice.

- A.** The Director and the Chief of Police shall appoint a Liquor License Team to review and substantiate the occurrences of nuisance activities.
- B.** If the Director or the Chief of Police determines that a nuisance activity has occurred at an establishment, the Director or the Chief of Police will send a written notice to the licensee. The notice shall contain a description of the nuisance activity, the date and the time of its occurrence.
- C.** Upon determining that there is reasonable belief that three nuisance activities have occurred in violation of Section 14B.120.030, the Director or the Chief of Police shall send written notice to the licensee. The written notice shall contain at least the following information:
 1. The street address or legal description of the establishment, as reflected in the records of the Oregon Liquor Control Commission.

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2. A concise statement setting forth the date and time of nuisance activities, and the possible remedies that may be imposed under this Chapter by the Code Hearings Officer; and,
 3. A request that the licensee provide a written response within ten (10) business days either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.
- D.** If the licensee's response does not satisfy the Director or the Chief of Police's concerns, they may attempt to develop a nuisance abatement plan with the licensee. The Director or the Chief of Police may file a complaint with the Code Hearings Officer as provided under Section 14B.120.060 if:
1. The licensee refuses to actively and meaningfully participate in the process of developing a nuisance abatement plan; or,
 2. The effort by the Director or the Chief of Police to develop a nuisance abatement plan with the licensee fails.

14B.120.050 Nuisance Abatement Plan.

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

14B.120.055 Responsible Neighbor Program.

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

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

14B.120.060 Enforcement.

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

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

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14B.120.070 Hearings.

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

14B.120.080 Remedies.

If the Code Hearings Officer determines that three or more nuisance activities have occurred at an establishment, as provided in Section 14B.120.030, the Code Hearings Officer shall make findings regarding the occurrence of the nuisance activities and any related adverse effects. Time, place and manner abatement remedies imposed by the Code Hearings Officer to address the occurrence of the nuisance activities may include any of the following:

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

Chapter 14C.10

POLICE DUTIES TO INVENTORY PROPERTY

Sections:

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

14C.10.010 Purpose.

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

14C.10.020 Definitions.

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

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

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

14C.10.030 Inventories of Impounded Vehicles.

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

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

14C.10.040 Inventories of Persons In Police Custody.

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

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

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Chapter 14C.20

**POLICE BUREAU PROPERTY/
EVIDENCE DIVISION DUTIES**

Sections:

- 14C.20.010 Maintenance of Property/Evidence Division.
- 14C.20.020 Receipts for Property.
- 14C.20.030 Records.
- 14C.20.040 Evidence Property.
- 14C.20.050 Reserved.
- 14C.20.060 Found Property.

14C.20.010 Maintenance of Property/Evidence Division.

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

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

14C.20.020 Receipts for Property.

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

14C.20.030 Records.

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

14C.20.040 Evidence Property.

- A. All property received by the property/evidence division as evidence shall be held

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subject to use as evidence in the appropriate court(s). Upon final disposition of the case(s) for which such property was seized as evidence, the Bureau of Police shall make a reasonable attempt to return all lawful property still held by the property/evidence division to its legal owner or rightful possessor.

- B.** The Bureau of Police shall make a reasonable attempt to give notice to the legal owner or rightful possessor that the property will be released to him or her. The notice shall state that the legal owner or rightful possessor has 60 days within which to claim the property at the Bureau of Police. All property received from the property/evidence division requires the signature of the legal owner or rightful possessor.
- C.** Upon attempted notice, if property is not claimed within 60 days, the property may be disposed of by the Bureau of Police in the manner provided by law. The return of undisputed claims for money equal to or in excess of \$100.00 shall first be deposited into the General Fund and then shall be paid out from said Fund to the legal owner or rightful possessor. Payment on disputed claims shall be authorized either by an appropriate court order approved by the City Attorney or by ordinance.

14C.20.060 Found Property.

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

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Chapter 14C.30

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

Sections:

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

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

- A.** Whenever a threat to the public health or safety is created by any emergency, a Portland police officer may restrict or deny access to any persons to the area where such threat exists, for the duration of such threat, when the officer reasonably believes the presence of such persons would constitute a danger to themselves or others or would substantially interfere with the performance of the police or other emergency services. For purposes of this Section, an emergency includes, but is not limited to an escaped prisoner, a natural disaster, a fire, an explosion, an accident, a riot, the presence of an armed person, a hostage incident or a bomb threat.
- B.** Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of criminal acts, a police officer may restrict or deny access to any area.
- C.** As used in this Section, "restrict or deny access" means that a police officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

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- D. It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Subsections (A) or (B) above, unless such person has specific statutory authority, or the permission of the on-scene ranking police officer, to be within such area.
- E. In accordance with the authority granted by this Section, and in consideration of the law enforcement and emergency services needs involved, provision shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

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

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

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

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

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

14C.30.040 Seizure and Disposition of Weapons.

- A. The Bureau of Police may seize and take possession of any dangerous or deadly weapon that is possessed unlawfully, or used unlawfully, or used for an unlawful purpose. The weapon shall be held subject to disposal as provided in this Section.
- B. If it is determined that the weapon was not possessed, carried, or used unlawfully, the weapon shall be released to the lawful owner if he or she files a timely written claim with the Bureau.
 - 1. A claim is timely if it is filed:
 - a. Within 60 days after the weapon was seized, if it was not held for use as evidence, or

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

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

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

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

- F.** Decisions of the City Traffic Engineer regarding the issuance of vehicle permits may be appealed to the Code Hearings Officer according to the provisions of Title 22 of the Portland City Code.

16.20.605 All Traffic Laws Apply to Permit Holder.

All permit holders and permitted vehicles are subject to all traffic laws and regulations not explicitly superseded by the permit.

16.20.610 Media Permit.

(Amended by Ordinance No. 176394, effective April 17, 2002.) A media permit allows parking in any area designated by the permit. This permit may be issued to a radio or television station and to a newspaper. The permit may contain restrictions as deemed necessary by the City Traffic Engineer.

16.20.620 Commercial Permit.

A commercial permit allows parking in any area designated by the permit. The permit may contain restrictions as deemed necessary by the City Traffic Engineer.

16.20.630 Delivery Permit.

A delivery permit allows parking in any area designated by the permit. This permit may contain restrictions deemed necessary by the City Traffic Engineer.

16.20.640 Disabled Person Permit.

(Amended by Ordinance Nos. 166575, 170923, 179141, 181507 and 181914, effective June 11, 2008.)

- A.** A vehicle with an official disabled person registration plate, while transporting a disabled person, or a vehicle while transporting a person with an official disabled person placard issued by a state Department of Motor Vehicles, may park:
- 1.** In any space designated for a vehicle with a disabled person parking permit for any amount of time (subject to on-street storage regulations);
 - 2.** In any metered or nonmetered space with a designated time limit of 30 minutes or more for any amount of time without fee; or
 - 3.** In any metered or nonmetered space with a designated time limit of less than 30 minutes for a period of time not to exceed the designated time limit with fee, if applicable, except in any space reserved for special types of vehicles or activities; e.g., truck loading zones, carpool zones, area parking permit areas.
- B.** A vehicle with a program placard issued under ORS 811.607 may park as provided under ORS 811.637.

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C. Penalties:

- 1.** Unlawful use: if a person is not a disabled person and is not transporting the holder of a disabled parking permit to or from the parking location and the person uses a disabled parking permit to exercise parking privileges under this Section, that person commits unlawful use under Oregon Revised Statutes.
- 2.** Misuse: if a driver uses a disabled parking permit for any purpose other than exercising the privileges granted, the driver commits permit misuse under Oregon Revised Statutes.

D. A vehicle with an official disabled persons permit issued under ORS 811.602, 811.603, 811.604, 811.605, 811.606, 811.607, 811.608, and 811.609, or by the authority of another state, may park as provided under ORS 811.637.

E. Penalties:

- 1.** Invalid use of a disabled persons parking permit occurs if:
 - a.** Driver uses a disabled parking permit that has been previously reported lost or stolen,
 - b.** Has been altered, was issued to a person who is deceased at the time of the citation,
 - c.** Has not been issued under ORS 811.602, or by the authority of another state,
 - d.** Is a photocopy or other reproduction of a permit,
 - e.** The permit is displayed without the permit number and expiration date clearly displayed

F. Parking privileges for vehicle parking utilizing Section 16.20.640 will be extended under Senate Bill 716 Section 7 (3). All regulations within this Section will be granted and enforced; this Section will expire on December 31, 2008.

16.20.645 Wheelchair User Disabled Person Parking Permit.
(Added by Ordinance No. 181507, effective January 1, 2008.)

A. A vehicle with a "Wheelchair User" placard or decal issued by a state Department of Motor Vehicles, while transporting a disabled person, or a vehicle while transporting a person with a "Wheelchair User" placard or decal, may park:

16.40.260 Appeals.

(Amended by Ordinance Nos. 171759 and 173369, effective May 12, 1999.)

- A.** Appeals to the Code Hearings Officer, pursuant to the provisions of Chapter 22.10 of this Code, may be made by any person assessed a civil penalty for violating any provision of Chapter 16.40 or any regulation or order of the Taxicab Board of Review, including any person operating as a taxicab company or driver without a taxicab company or driver permit, or any taxicab company, taxicab driver, or applicant for a taxicab driver permit:
1. Whose application for a taxicab driver's permit or renewal of a taxicab company or driver's permit has been denied by the Supervisor;
 2. Whose permit has been revoked or suspended by the Supervisor;
 3. Who has been directed to pay a civil penalty in lieu of suspension by the Supervisor; or
 4. If the Supervisor has suspended the company's authority to operate any vehicle under its permit, when enforcing regulations adopted by the Taxicab Board of Review.
- B.** Any person aggrieved by a decision of the Board, pursuant to Section 16.40.225, regarding the number of taxicabs a taxicab company may operate, or adopting regulations pursuant to Section 16.40.120, may appeal such action to Council as follows:
1. A person appealing the Board's action shall, within 10 days of such action, file a written notice of appeal with the City Auditor and provide a copy of such notice to the Supervisor.
 2. The City Auditor shall fix the time for the appeal to be heard by the City Council, place the hearing of the appeal upon the calendar of the Council, and notify the appellant and the Supervisor of the time fixed no less than 5 days prior to that time.
 3. The appellant shall be entitled to appear personally and by counsel and to present such facts and arguments as may tend to support his appeal.
 4. The Supervisor shall be present at the hearing, representing the Board, and if requested by the Council, shall explain the reasons for and present facts and arguments in support of the act appealed from.

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5. The Council shall take such action upon the appeal as it sees fit and such action by the Council shall be final.
6. The action of the Board shall be stayed pending the outcome of an appeal properly filed pursuant to this Subsection.

16.40.300 Rates and Payment for Services.

16.40.310 Rates.

(Amended by Ordinance Nos. 170221, 175876, 179369 and 181736, effective April 9, 2008.)

- A. Every taxicab company shall file with the Supervisor a schedule of rates to be charged for the services of taxicabs it operates.
- B. The rate schedule filed with the Supervisor may contain special rates for zone fares, ride sharing, taxi pooling, jitney service, fixed route service, or any other special services offered by the company.
 1. Each rate schedule shall also include a meter-based fare that shall not exceed the maximum fare established in Subsection 16.40.310 C. of this Section.
 2. The fare schedule shall also require that the passenger or passengers shall pay an airport gate fee not to exceed the amount charged by the Port of Portland for trips originating at the Portland International airport.
- C. The following schedule of rates shall be the maximum fare which shall be charged and collected for the transportation of passengers in taxicabs for trips within the City and within 3 airline miles from the City limits:
 1. An initial charge of \$2.50, for one passenger, and waiting time at a rate of \$30.00 per hour or proportionate fraction thereof;
 2. Subsequent to the initial charge provided for in Subsection 16.40.310 C.1., the maximum charges shall not exceed \$2.30 per mile, divided in a manner approved in advance by the Supervisor and waiting time subsequent to the initial charge provided in Subsection 16.40.310 C.1. shall be at the rate of \$30.00 per hour or proportionate fraction thereof;
 3. For each extra passenger, \$1.00 additional charge; and

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4. The Taxicab Board of Review shall develop an index for considering the raising or lowering of maximum meter-based rates no less frequently than every two years.
- D. Except as provided in Subsections 16.40.310 B.1. and 16.40.310 B.2. or as otherwise specified in the rate schedule, where passengers board or leave the cab at different points, the last person leaving the cab is responsible for the entire fare. Passengers may make whatever arrangements for payment of the fare between themselves that they desire. One flag drop shall be made at the beginning of the trip but not again until all passengers have been delivered to their respective destinations.
- E. Where a passenger is being transported, no extra charge is to be made for transporting any items belonging to that passenger, including personal luggage and aids necessary for travel by disabled persons, if those items fit within the interior of the taxicab, including the trunk, each item can be carried by a single person, and all such items can be carried by the passenger or passengers and the driver in a single trip to the taxicab.
- F. No charge is to be made for time lost or distance traveled while the taxicab is disabled. No charge is to be made for traveling empty while en route to pick up a passenger, unless the person requesting the taxicab refuses to hire it after it arrives, in which case an amount equal to the minimum charge on file as specified in Subsection 16.40.310 C.1. of this Section may be made.
- G. A taxicab company may make written contractual arrangements to charge rates other than those specified in the filed rate schedules, provided that these contracts not be made effective prior to filing with the Supervisor in the same manner as prescribed for rate schedules.
- H. A clear and complete summary of the rate schedule filed with the Supervisor, pursuant to Section 16.40.310 A., shall be printed on a rate card to be posted in a conspicuous place in the passenger compartment of every taxicab, and a summary of the meter rate in a form approved by the Supervisor shall be placed in a manner to be visible from the outside of every taxicab. The form of the rate summaries shall be subject to the review and approval of the Supervisor prior to their being posted. When a change of rate schedule is filed with the Supervisor, the taximeter, rate card, and rates posted shall be converted for every taxicab as soon as practicable. The rates posted shall not vary from those used in the taximeter in any taxicab in service.
- I. No person shall charge, or cause or allow any person to charge any fare other than the applicable fare from rate schedules posted on the taxicab or from contracts approved by the Supervisor.

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- J.** It is unlawful for any person to refuse or fail to pay the applicable fare for a taxicab after hiring or requesting that taxicab. In the event of a dispute over a fare, the passenger shall pay the fare demanded by the driver. The driver shall give the passenger a receipt noting the amount of the fare and a description of the trip. The passenger may apply for a refund of any overcharge and ask that the driver be disciplined.

16.40.500 Service Quality.

16.40.510 Minimum Standards for Taxicab Service Companies.

(Amended by Ordinance Nos. 177794, 178526 and 178705, effective August 25, 2004.)
Any taxicab company operating under permit to do business issued under this Chapter, shall comply with the following minimum standards:

- A.** An office open and staffed for a minimum of 8 hours a day, 5 days a week.
- B.** A dispatch system in operation 24 hours each day capable of providing reasonably prompt service in response to requests received by telephone.
- C.** Facilities and personnel sufficient to insure that every taxicab operated by the company complies with the requirements of this Chapter.
- D.** Not less than 15 taxicabs, with two thirds of the fleet to be operational at all times, to provide service on a City-wide basis in accordance with the Supervisor's regulations adopted pursuant to Section 16.40.120.
- E.** Insurance policies in force sufficient to meet the requirements of Section 16.40.730 and to protect the company to the same limits of liability.
- F.** A taxicab company shall not refuse to respond to any request for taxicab service received from a location within the City.
- G.** Each driver shall maintain a log in which a record of every trip shall be kept, in a form approved by the Supervisor. The taxicab company shall maintain the log for at least 1 year after the last entry therein.
- H.** Digital security camera systems shall be installed in every permitted taxicab. Companies shall own and be responsible for maintenance of digital security camera systems and records produced by digital security camera systems. Each company shall keep current an inventory of the digital security camera systems in the company's fleet according to administrative regulations adopted by the Board.

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- I.** In the event a taxicab ceases to be utilized by a taxicab company, or a driver-owner of a taxicab, the responsible taxicab company shall remove the digital security camera system from the taxicab to be decommissioned. The taxicab company shall retain the digital security camera system and install it in any replacement taxicab. If the decommissioned taxicab is not replaced, the responsible taxicab company shall retain the digital security camera system until otherwise instructed by the Supervisor. The responsible taxicab company shall report any removal and/or reinstallation of a digital security camera system in writing to the Supervisor within twenty four hours of removal or reinstallation of the digital security camera system.
- J.** In the event a taxicab is sold or otherwise transferred from one taxicab company or one driver-owner to another, the digital security camera system shall remain with the taxicab and the responsible taxicab company shall report the sale or transfer of the taxicab in writing to the Supervisor within twenty four hours of sale or transfer.
- K.** Taxicab companies shall perform inspection and testing of the digital security camera systems on a regular basis according to product specifications or administrative regulations adopted by the Board.
- L.** Taxicab companies shall provide each of their taxicab drivers with a standardized driver safety training program, approved in advance by the Supervisor. Taxicab companies shall provide taxicab drivers with a signed statement certifying successful completion of the program. Taxicab companies shall require drivers to successfully complete the standardized driver safety program, and demonstrate successful completion by production of a certified signed statement, prior to allowing any driver to operate a taxicab. Taxicab companies shall provide the safety training and require drivers to repeat the training annually, or as otherwise required by administrative regulations adopted by the Board.
- M.** Each taxicab company shall have an effective policy that prohibits smoking of any substance and the use of tobacco in any form by drivers or passengers in taxicabs.

 - 1.** Each permitted taxicab shall display a warning sign, in a form and location approved by the Supervisor, including details of the prohibition, fines for violating the prohibition and a contact telephone number for complaints.
 - 2.** Taxicab companies found to be in violation of this prohibition shall be subject to civil penalties as provided elsewhere in this Chapter.

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3. If civil penalties have been assessed against a taxicab driver for a violation of this section, the taxicab company shall be prohibited from assessing additional penalties against the taxicab driver for the same incident.
4. In the event that a passenger persists in using tobacco after warning by the taxicab driver in violation of this prohibition, the passenger may be subject to denial of service, provided such denial does not jeopardize the safety of the passenger.

16.40.520 Identification.

Every taxicab shall prominently display on the outside of the vehicle, on both sides, the full name of the taxicab company, the cab number, the telephone number of that company where service can be requested, and the word “taxi” or “cab.” Every taxicab shall be painted in the colors of that company. No two taxicab companies shall have the same colors. The colors of taxicab companies shall be subject to the approval of the Board.

16.40.530 Complaints.

- A. Every taxicab shall have posted in a prominent place within the passenger compartment the following notice: “The driver of this taxicab is required by the Portland City Code to give a receipt for services provided to any passenger who requests one. If you have a complaint about a taxicab, contact the taxicab company (name, address, phone number) or the Taxicab Regulation Supervisor(mailing address), (phone number).” The size, shape, color, type of material, size of characters, location of the notice, or other relevant factors shall be subject to the Supervisor’s approval.
- B. The Supervisor shall have the power to investigate any and all complaints concerning possible violations of this Chapter or regulations adopted hereunder.

16.40.540 Items Lost and Found.

Taxicab drivers shall examine their cabs at the end of each shift and turn over any items left by a passenger within the cab to the taxicab company. The taxicab company shall maintain a written record of all items turned over to it. This record shall contain a description of the item, the date it was turned in, the cab in which it was found, and the driver who turned in the item. The item shall be examined and the owner identified and notified, if possible. If the item is claimed, a record shall be made of the name and address of the claimant. No item shall be disposed of, other than by return to its owner, within 90 days of the date it is turned in, and if disposed of a record must be made of its disposition.

16.40.550 Conduct of Drivers.

(Amended by Ordinance Nos. 177794 and 178705, effective August 25, 2004.) No taxicab driver shall:

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- A.** Allow another person to use his driver's permit;
- B.** Operate any taxicab while consuming, or while under the influence of alcohol, or in a careless or reckless manner or in a manner contrary to the laws of this City or the State of Oregon;
- C.** Operate any taxicab while consuming, or while under the influence of drugs, unless such drugs are available commercially over the counter, or are being taken pursuant to a doctor's prescription, and, in any case, such drug usage does not impair the driver's ability to operate the taxicab;
- D.** Use a taxicab in the commission of any crime;
- E.** Use profane or obscene language offensive to the passenger while operating a taxicab;
- F.** Smoke any substance or use tobacco in any form, inside a permitted vehicle;
 - 1.** Violation of this prohibition by any driver shall result in the following sanctions:
 - a.** First offense, a letter of warning;
 - b.** Second offense, civil penalty of \$100.00;
 - c.** Subsequent offenses, temporary suspension of driver permit.
- G.** Charge a fare higher than that authorized by this Chapter for passenger transportation or defraud a passenger in any way;
- H.** Be discourteous to a passenger;
- I.** Drive a passenger to his destination by any other than the most direct and safe route, unless requested to do so by the passenger;
- J.** Refuse to transport to his requested destination any passenger of proper demeanor who requests services or is assigned by a taxicab service company when the taxicab is not already in service, and who is able to demonstrate the ability to pay the fare; nor,
- K.** Refuse to issue a receipt for a fare paid if one is requested.

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- L. Fail to utilize, tamper with, damage, disturb, remove or disable a digital security camera system in a taxicab.
- M. Fail to immediately notify the taxicab company if a digital security camera system in a taxicab driven by the driver is or appears to be damaged, stolen or inoperative.

16.40.600 Private for Hire Transportation Safety Fund.

(Added by Ordinance No. 177794, effective September 12, 2003.)

- A. The Private for Hire Transportation Safety Fund (Safety Fund) is hereby created.
- B. The Safety Fund shall be administered by the Board. The Board shall have the authority to determine appropriate expenditures of the Safety Fund for driver, passenger and vehicle safety improvements for the industries regulated by this Chapter.
- C. The Safety Fund shall be funded initially by the City with an interagency loan, guaranteed by revenues generated as provided by Sections 16.40.220 A.2., 16.40.240 C.2., 16.40.920 E.2 and 16.40.930 B.2.b. After the loan for the Safety Fund is repaid, revenues generated by Sections 16.40.220 A.2, 16.40.240 C.2, 16.40.920 E.2. and 16.40.930 B.2.b shall accumulate in the Safety Fund and shall be used as provided by Section 16.40.600.
- D. Until the loan is repaid, not less than 85% of the revenues allocated by Sections 16.40.220 A.2, 16.40.240 C.2, 16.40.920 E.2 and 16.40.930 B.2.b shall be used to reduce the debt on the loan. Until the loan is repaid, not more than 15% of the revenues allocated by Sections 16.40.220 A.2, 16.40.240 C.2, 16.40.920 E.2 and 16.40.930 B.2.b shall be used to support the non-capital costs associated with administration, maintenance, operation and replacement of driver, passenger and vehicle safety improvements authorized by the Board. After the loan is fully repaid, not less than 85% of revenues allocated by Section 16.40.220 A.2, 16.40.240 C.2, 16.40.920 E.2 and 16.40.930 B.2.b shall be applied to the Safety Fund for distribution of grants authorized by the Board, and not more than 15% of revenues shall be applied to support the non-capital costs associated with administration, maintenance, operation and replacement of driver, passenger and vehicle safety improvements authorized by the Board.
- E. The Board shall disperse Safety Fund revenues only by grant. The grant process shall be in accordance with administrative regulations adopted by the Board. Utilization of digital security camera system grants by taxicab companies shall be restricted to the cost of purchase of digital security camera systems plus a uniform amount sufficient to subsidize installation of digital security camera systems as determined by the Board.

- F.** The Board shall utilize the Safety Fund to maintain a minimum supply of fifteen digital security camera systems to replace damaged, stolen or inoperative digital security camera systems. However, taxicab companies shall remain responsible for the cost of replacement of any damaged, stolen or inoperative digital security camera systems if the result of the negligence of the taxicab company or its drivers.
- G.** The Bureau of Licenses shall store replacement digital security camera systems, and shall administer distribution of replacement digital security camera systems.

16.40.700 Public Protection and Safety.

16.40.710 Equipment.

(Amended by Ordinance Nos. 175503 and 177794, effective September 12, 2003.)

- A.** Every taxicab shall be equipped with a taximeter in accurate operating condition, with a lighted face which can be easily read at all times by passengers. Every taximeter shall be inspected and certified at installation, at change in rate, and within 1 year of the last inspection. A certificate of inspection shall be issued by a qualified taximeter repair service upon each inspection. Such certificate of inspection shall include:
 - 1.** The identifying number of the taximeter;
 - 2.** The make, model and license number of the taxicab in which the taximeter is installed;
 - 3.** The name of the taxicab company;
 - 4.** The date of inspection;
 - 5.** A certification that the taximeter has been inspected and approved as operating within the limits of accuracy as specified by this Section and on the basis of rates on file with the Supervisor under Section 16.40.310;
 - 6.** The signature of the individual making the certification; and
 - 7.** A copy of the certificate shall be kept on file in the office of the taxicab company.
- B.** No taxicab shall be operated with a taximeter which does not operate within the following limits of accuracy: Plus or minus 150 feet in 1 mile and 5 seconds in 1 minute of waiting time. A certificate of inspection may be examined or a

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taximeter reinspected by any police officer or the Supervisor at any time during normal business hours.

- C. Every taxicab shall be equipped with a top light.
- D. Every taxicab will be equipped with such safety equipment as is required by state or federal law, this Code, or by the Board's Regulations. Every taxicab shall be equipped with seat belts or other restraining devices for every passenger.
- E. Taxicabs authorized to operate by the City pursuant to Section 16.40.225 A., shall be equipped with taxicab plates.
- F. Digital Security Camera Systems.
- G. Signage in a visible location within taxicabs which says: YOU ARE ON CAMERA. IT IS A FELONY IN OREGON TO ASSAULT A TAXICAB DRIVER.

16.40.720 Safety Inspections and Certification.

The Board shall establish safety and quality standards to be met by every taxicab. Every taxicab shall be:

- A. Kept clean;
- B. Kept in good appearance and good repair;
- C. Properly equipped;
- D. Kept in a safe condition; and,
- E. Equipped with all pollution control equipment and safety devices originally installed by the manufacturer, and such equipment and devices shall be kept in good working order.

16.40.730 Insurance.

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

- A. No person shall operate any vehicle as a taxicab unless that vehicle is covered by liability insurance providing coverage of not less than \$200,000 for personal injury to any person, \$500,000 for each occurrence, 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 all claims per occurrence. A certificate of insurance coverage, evidencing insurance coverage in compliance

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with this Section, shall be filed with the Supervisor. The adequacy of such insurance coverage shall be subject to the approval of the City Attorney.

- B.** The limits of insurance coverage required under this Section shall be subject to the statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the taxicab company permit.
- C.** Insurance policies for all vehicles operating as taxicabs shall contain a provision that the policy will not be reduced in coverage or canceled without 30 days prior written notice to the Supervisor.
- D.** The Board may consider proposed alternatives to the insurance requirements of this Section, such as deposit of securities, letters of credit or self-insurance, (as provided in ORS 825.166 and 825.168). Alternatives to insurance may occur only if the level of coverage shall not be reduced, and the public safety and well being will not be effected. The adequacy of proposed alternative insurance coverage shall be subject to the approval of the City Attorney before the alternative to insurance may become effective.
- E.** Policies in existence at the effective date of this Section which provide for notice to the Supervisor need not be modified until time for their renewal.
- F.** Failure to maintain adequate insurance as required under this Section shall be cause for immediate suspension or revocation of a taxicab company permit by the Supervisor.

16.40.800 Criminal Provisions.

16.40.810 Criminal Penalties.

The violation of the following provisions is punishable upon conviction by a fine of not more than \$500 or imprisonment for not more than 6 months or both:

- A.** It is unlawful to tamper with a taximeter or to conduct any fraudulent scheme with the intent to charge any person a fare greater than that allowed by this Chapter.
- B.** It is unlawful for any person to knowingly falsify any application, certification, report, or document of any kind required by this Chapter.
- C.** It is unlawful for any person to operate a taxicab without a current, valid taxicab driver's permit to do so issued pursuant to this Chapter.
- D.** It is unlawful for any person to operate a taxicab company without a current, valid taxicab company permit, issued pursuant to this Chapter.

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- E. It is unlawful for any passenger to violate the provisions of Section 16.40.310.J.

16.40.900 Definitions.

(Replaced by Ordinance No. 176282; amended by 177794, effective September 12, 2003.) As used in City Code Sections 16.40.900 through 16.40.950 and in regulations adopted by the Taxicab Board of Review pursuant to these sections, the terms defined below shall have the meanings provided in this section, unless the context requires otherwise:

- A. “Limited Passenger Transportation” means providing specialized transportation services by motor vehicle for hire other than as a taxicab, to passengers to or from points within the jurisdiction of the City, including but not limited to or Specially Attended Transportation, Executive Sedan Transportation or Shuttle Transportation.
1. “Shuttle Transportation” means transportation provided in a motor vehicle:
- a. over a fixed route and time schedule; or,
 - b. other than on a fixed route and time schedule for:
 - (1) transportation originating at Portland International Airport; or,
 - (2) transportation originating in the City of Portland where the destination is Portland International Airport; and,
 - (a) only if the shuttle operator has a valid Port of Portland permit; and,
 - (b) the shuttle operator provides regular, ongoing transportation service with a vehicle used exclusively for shuttle service.
2. “Executive Sedan Transportation” means a form of luxury transportation provided by vehicles for hire that utilizes standard size, top of the line or luxury sedan vehicles. Specific vehicles otherwise not in compliance with this definition may be permitted if approved in writing by the Taxicab Board of Review.
3. “Specially Attended Transportation” means providing regular, ongoing specialized transportation services for passengers with special needs, not otherwise requiring emergency medical transportation by ambulance.

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- B.** “Person” means any individual, partnership, joint venture, association, club, trust, estate, corporation, or other form of business organization recognized by Oregon Law.
- C.** “Private For Hire Transportation Board of Review” (Board) has the same meaning as set forth in City Code Section 16.40.010.

16.40.910 Authority of the Private for Hire Transportation Board of Review.

(Replaced by Ordinance No. 176282; amended by 177794, effective September 12, 2003.)

- A.** The Board shall adopt, by regulation, a uniform set of conditions that shall apply to all limited passenger transportation permits by category. In exercising this authority, the Board shall consider the public safety, health, welfare and convenience.
- B.** The Board shall enforce the regulations by monitoring the performance of all limited passenger transportation permits. In order to carry out this monitoring duty, the Board may make reasonable inspections and tests, and require reports and records, as the Board may deem necessary to protect the public safety, health, welfare and convenience. The Board may delegate its responsibility to perform inspections and tests, and to require reports and records to the Supervisor or other City staff.

16.40.920 Permits for Limited Passenger Transportation Vehicles.

(Replaced by Ordinance No. 176282; amended by 177794 and 178705, effective August 25, 2004.)

- A.** No person shall provide limited passenger transportation without a vehicle permit.
- B.** The Supervisor shall review applications for limited passenger transportation vehicle permits and grant or deny the applications within 90 days of receipt of the applications.
- C.** Except for the initial permitting period for limited transportation providers who have not previously been permitted, vehicle permits shall be issued for a period not to exceed one year.
- D.** Each person operating a limited passenger transportation service shall complete and file an application form, checklist and vehicle inspection form with the Supervisor, and pay an application fee of \$155 per vehicle, payable to the City of Portland, for each vehicle to be permitted. The application fee is non-refundable.

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If the permit is granted, the application fee shall become the permit fee for the first term.

- E.** The fee shall be allocated as follows:

 - 1.** \$100 shall be deposited into the City's General Fund, and used for the administration and enforcement of Chapter 16.40.
 - 2.** \$55 shall be deposited into the Private for Hire Transportation Safety Fund.

- F.** All limited passenger transportation vehicle permits are subject to revocation by the Supervisor upon expiration of the term of the permit if there is inadequate demand for service to justify renewal of the permit. The Supervisor shall develop uniform standards that shall apply to revocation of vehicle permits based on inadequate demand.

- G.** All limited passenger transportation providers shall comply with the permit conditions and any applicable administrative regulations of the Board. Violation of any of the conditions shall result in denial of an application for a vehicle permit or in revocation of an issued vehicle permit. In the event of revocation of a vehicle permit due to violation of permit conditions, the applicant or permittee shall be barred from reapplication for a vehicle permit for a period of 180 days from the date of revocation.

- H.** Limited Passenger Transportation vehicle permit renewal. Permittees shall pay a renewal fee in the amount of \$155 per year for each permitted vehicle. Payment is due no later than December 31 of the year preceding renewal. If permittee fails to pay the renewal fee or provide other renewal information by December 31 of the year preceding renewal, the vehicle permit shall be deemed abandoned and the vehicle permit shall become void on January 1 of the renewal year. Any voided vehicle permit shall not be renewable in a subsequent year, and any permittee whose vehicle permit has become void shall be required to complete the initial application process if the permittee wants a vehicle permit in the future.

- I.** The renewal fee shall be allocated as provided by Section 16.40.920 E.

- J.** Each limited passenger transportation permit holder shall have an effective policy that prohibits smoking of any substance and the use of tobacco in any form by LPT drivers or passengers in LPT vehicles.

 - 1.** Each permitted LPT vehicle shall prominently display a warning sign, in a form and location approved by the Supervisor, including details of the

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prohibition, fines for violating the prohibition and a contact telephone number for complaints.

2. In the event that a passenger persists in using tobacco in violation of this prohibition, the passenger may be subject to denial of service, provided such denial does not jeopardize the safety of the passenger.

16.40.930 LPT Drivers.

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

A. Prohibitions.

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

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- (2) Second offense, civil penalty of \$100.00;
- (3) Subsequent offenses, temporary suspension of driver permit.

- 8. No LPT driver shall defraud a passenger in any way.
- 9. No LPT driver shall be discourteous to a passenger.
- 10. No LPT driver shall refuse to issue a receipt for a fare paid if one is requested.

B. Permit Application.

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

C. Review of Permit Applications.

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

permit, or notify the applicant and the sponsoring company that the application is denied or that additional time is needed to process the application.

D. Permit Denial.

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

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- E.** Issuance of Permit. If the Supervisor's review indicates that the application should be approved and an LPT driver permit granted based on the application, the applicant's driver background and criminal activity record, and if none of the factors listed in Section 16.40.930 D.1.a. to e. is present, the Supervisor shall provide the applicant with a printed identification card containing the permit number and expiration date and the driver's name and photograph.
- F.** Identification Cards.
1. The LPT driver's identification card shall be posted in a prominent place within the passenger compartment of the LPT vehicle.
 2. The LPT driver shall display his or her identification card upon request to any passenger, police officer, the Supervisor or the Supervisor's designee.
 3. The identification card shall be in possession of the LPT driver at all times the LPT driver is driving an LPT vehicle.
 4. The Supervisor may issue a replacement identification card if presented with convincing evidence that the original identification card has been lost or destroyed. The fee for issuance of a replacement identification card is \$15.00.
- G.** Permit Term. Permits shall be issued for a term not to exceed one year. All permits shall expire on December 31 of each year.
- H.** Permit Renewal.
1. An LPT driver permit may be renewed upon the payment of a renewal fee of \$70.00 on or before December 1 of each year.
 2. If the LPT driver fails to pay the renewal fee or provide required information by December 1 of the year preceding renewal, the permit shall be deemed abandoned and the permit shall be void on January 1 of the renewal year. Any voided permit shall not be renewable in a subsequent year, and any LPT driver whose permit has become void shall be required to complete the initial application process, and pay \$70.00, to obtain another LPT driver permit.
 3. Renewal fees shall be allocated as provided by Section 16.40.930 B.2.

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

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immediate suspension, and information concerning the appeal process.

- e. If after response by the alleged violator the Supervisor determines that no violation has occurred, the violation shall be dismissed and the permit shall be reinstated.
 - 2. **Term.** The immediate suspension shall be effective upon actual notification by the Supervisor, or no later than ten (10) days following issuance of the notice of immediate suspension. An immediate suspension shall remain in effect until the alleged violation is dismissed, or if the violation is sustained, until imposition of revocation.
- J.** **Permit Revocation.** An LPT driver permit may be revoked by the Supervisor at any time if the LPT driver commits any act which would be grounds for denial of an initial permit. Permits that have been revoked during their term are not renewable. An LPT driver whose LPT driver permit has been revoked shall be required to successfully complete the initial application process to obtain another LPT driver permit.
- K.** **Civil Penalties.**
- 1. The Supervisor may assess a civil penalty of up to \$500 per day or per occurrence in lieu of revocation against:
 - a. An LPT driver if the Supervisor finds reasonable grounds to believe that the LPT driver has violated any provisions of this Code, regulations of the Board or the conditions of a permit; or
 - b. Any person found to be operating as a limited passenger transportation provider without a limited passenger transportation permit or identification card.
 - 2. In determining whether to impose a civil penalty and how much that penalty shall be, the Supervisor shall consider:
 - a. The extent and nature of the person's involvement in the violation;
 - b. The benefits, economic, financial, or otherwise, accruing or likely to accrue as a result of the violation;
 - c. Whether the violations were repeated and continuous, or isolated and temporary;

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- d.** The magnitude and seriousness of the violation;
 - e.** The City's costs of investigating the violation and correcting or attempting to correct the violation;
 - f.** Whether the facts underlying the violation have been considered in a previous disciplinary proceeding; and
 - g.** Any other factors the Supervisor deems to be relevant.
- L.** Appeals. Any denial of a permit or revocation of a permit resulting from violation of this Code or violation of a condition of a limited passenger transportation permit, or any civil penalty imposed by the Supervisor may be appealed to the Code Hearings Officer pursuant to the provisions of Chapter 22.10 of this Code.
- M.** Savings Clause. The Supervisor may grant an initial application for an LPT driver permit, renew a permit or decide not to revoke a permit if an applicant or LPT driver establishes to the Supervisor's satisfaction that any behavior prohibited by this Chapter, or that would be cause to deny an initial permit, meets any one of the following conditions:
 - 1.** Is not likely to reoccur; or
 - 2.** Is remote in time; or
 - 3.** Occurred under circumstances that diminish the seriousness of the behavior.

The burden of proof of the existence of one or more of the conditions listed in section M.1. to 3. shall be on the applicant or LPT driver.

16.40.940 Civil Penalties.

(Replaced by Ordinance No. 176282, effective March 29, 2002.)

- A.** The Supervisor may assess a civil penalty of up to \$500 per day or per occurrence in lieu of revocation against:
 - 1.** A limited passenger transportation permittee if the Supervisor finds reasonable grounds to believe that the permittee has violated any provisions of this Code, regulations of the Board or the conditions of a permit; or

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2. Any person found to be operating as a limited passenger transportation provider without a limited passenger transportation permit.
- B.** In determining whether to impose a civil penalty and how much that penalty shall be, the Supervisor shall consider:
1. The extent and nature of the person's involvement in the violation;
 2. The benefits, economic, financial, or otherwise, accruing or likely to accrue as a result of the violation;
 3. Whether the violations were repeated and continuous, or isolated and temporary;
 4. The magnitude and seriousness of the violation;
 5. The City's costs of investigating the violation and correcting or attempting to correct the violation;
 6. Whether the facts underlying the violation have been considered in a previous disciplinary proceeding; and
 7. Any other factors the Supervisor deems to be relevant.

16.40.950 Appeals.

(Replaced by Ordinance No. 176282, effective March 29, 2002.)

- A.** Any denial of a permit or revocation of a permit resulting from violation of this Code, or violation of a condition of a limited passenger transportation permit, or any civil penalty imposed by the Supervisor, may be appealed to a committee of the Board. The Board shall appoint a committee to hear appeals. Appeals shall be heard no later than thirty (30) days from the date the appeal is filed. Appeals shall be conducted according to rules of procedure adopted by the Board.
- B.** Any denial of a permit or revocation of a permit resulting from violation of this Code or violation of a condition of a limited passenger transportation permit, or any civil penalty imposed by the Supervisor that is upheld by the committee of the Board after hearing pursuant to PCC 16.40.940.A, may be appealed to the Code Hearings Officer pursuant to the provisions of Chapter 22.10 of this Code.
- C.** Any denial of a permit or revocation of a permit based on inadequate demand may be appealed to the Board. The Board shall hear the appeal at its next regularly scheduled meeting. Appeals to the Board shall be conducted according to rules of procedure adopted by the Board.

D. All appeals initiated under this section shall be final as provided by this section.

16.40.960 No Effect On Taxicab Regulations.

(Added by Ordinance No. 176282, effective March 29, 2002.) Nothing contained in Sections 16.40.910 through 16.40.940 shall in any manner repeal, change or otherwise modify the provisions of City Code Chapter 16.40 applicable to taxicabs.

Chapter 16.48

TAXICAB REGULATIONS

(Added by Ord. No. 139316; new Chapter substituted by Ord. No. 147243; repealed by 165189, reinstated by 165522, and repealed by 165947, Oct. 28, 1992.)

Chapter 16.50

MASS TRANSIT

Sections:

- 16.50.001 Purpose.
- 16.50.100 Designation of Transit Lanes.
- 16.50.200 Prohibited Use of Transit Lanes.
- 16.50.300 Vehicles Permitted in Transit Lanes.
- 16.50.400 Vehicles Allowed In Transit Lanes During Certain Hours.
- 16.50.500 Regulation and Permit Procedure.

16.50.001 Purpose.

This section describes how mass transit lanes are designated, the regulations that apply, and which vehicles may use them.

16.50.100 Designation of Transit Lanes.

Designation of transit lanes will be made by the City Traffic Engineer upon advice of the City Engineer and the Tri-County Metropolitan Service District of Oregon (Tri-Met). Designation will be shown by official signs or markings. Signs or markings will distinguish whether the transit lane may be used by:

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- A. Bus only;
- B. Light rail vehicle only;
- C. Trolley or streetcar vehicle; or
- D. Carpool vehicle only; or some combination of the above.

16.50.200 Prohibited Use of Transit Lanes.

- A. Except as otherwise provided for in this Section, no vehicle may enter upon, park on, or use an officially designated transit lane.
- B. Restrictions on transit lane use will vary depending on whether the lane is designated for light rail, motor bus, trolley, or carpool use.

16.50.300 Vehicles Allowed In Transit Lanes.

The following vehicles may enter upon, stop or park in a transit lane:

- A. A vehicle owned or operated by the Tri-County Metropolitan Transportation District of Oregon.
- B. A vehicle so allowed by the terms of a contract or franchise with the City of Portland or Tri-Met.
- C. A police, fire, ambulance, or outpatient vehicle, if performing emergency services.
- D. A vehicle and equipment engaged in emergency:
 - 1. Towing;
 - 2. Snow removal; or
 - 3. Street, sewer, utility, bus or fire alarm repair.

16.50.400 Vehicles Allowed in Transit Lanes During Certain Hours.

(Amended by Ordinance No. 173627, effective August 4, 1999.)

- A. A vehicle may enter upon and park in a transit lane if the lane is closed by a street closure permit from the City Engineer per 17.44.020 and if the vehicle is specifically authorized to do so by the street closure permit.

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- B.** A vehicle with a travel lane parking permit (16.20.550) or an angle loading permit (16.20.540) may park in a transit lane if authorized to do so by the permit.
- C.** A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use except during the following hours: 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, after giving notification as required by regulations governing the Special Traffic Control District (17.23.050).
- D.** A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use between the hours of 7 a.m. to 9 a.m. and/or 4 p.m. to 6 p.m., Monday through Friday, when specifically allowed during this time by a permit from the City Traffic Engineer. The City Traffic Engineer will notify Tri-Met and the City Engineer before issuing such a permit.
- E.** A vehicle requiring direct access to properties facing a transit lane for ingress/egress or special loading may enter upon and use (but not park in) the transit lane(s) between 7 p.m. and 6 a.m. A permit from the City Traffic Engineer is required for this access between 6 a.m. and 7 p.m.
- F.** A taxicab, for hire vehicle, delivery vehicle, maintenance vehicle, or garbage truck may enter certain transit lanes during times established by the Bureau of Transportation System Management's "Rules and Procedures" Manual.

16.50.500 Regulation and Permit Procedure.

- A.** The Traffic Engineer must notify the Tri-County Metropolitan Transportation District of Oregon of any rule, regulation or permit proposed to be issued under this chapter. The rule, regulation or permit will become effective on a date agreed upon by both parties. In the event of disagreement between Tri-Met and the Traffic Engineer, the City Council will determine whether the rule be adopted or the permit issued based upon the amount of interference to mass transit operations.
- B.** No limitation or prohibition of use herein applies to vehicles on a street intersecting or crossing a transit lane unless it is specifically designated as a transit lane.

**TITLE 16
VEHICLES AND TRAFFIC**

Chapter 16.60

MOTOR VEHICLE FUELS

(Added by Ordinance No. 180313,
effective August 11, 2006.)

Sections:

- 16.60.010 Definitions.
- 16.60.020 Biofuel Requirements.
- 16.60.025 Additional Regulation in the 122nd Avenue Subdistrict.
- 16.60.030 Exemptions.
- 16.60.040 Enforcement and Notice of Violation.
- 16.60.050 Penalties.
- 16.60.060 Disclosure.
- 16.60.070 Additional Regulations.

16.60.010 Definitions.

(Amended by Ordinance No. 180671, effective January 12, 2007.) As used in this Chapter, the following terms shall be defined as provided in this section:

- A.** “B5 Fuel” means a fuel mixture consisting of 5% Biodiesel and 95% Diesel Fuel.
- B.** “B10 Fuel” means a fuel mixture consisting of 10% Biodiesel and 90% Diesel Fuel.
- C.** “B20 Fuel” means a fuel mixture consisting of 20% Biodiesel and 80% Diesel Fuel.
- D.** “Biodiesel blend stock” means 100% biodiesel fuel utilized for the purpose of blending with diesel fuel.
- E.** “Biodiesel fuel” means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM).
- F.** “Biofuel” means any fuel that is derived from plant or animal matter that meets the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM) as determined by the Director of the Bureau of Development Services under Section 16.60.020.D. For the purposes of this Chapter, Biofuel shall include Biodiesel and Ethanol.

TITLE 17
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17.28.065 Bicycle Parking.

(Added by Ordinance No. 177028; amended by 178173, effective March 5, 2004.) Bicycle parking in the right-of-way adjacent to multifamily, commercial, institutional, employment, or industrial land uses helps to achieve the City's goal of making the bicycle an integral part of daily life in Portland. Bicycle parking in the right-of-way provides convenient, accessible, and clearly visible parking in areas where buildings are generally built to the sidewalk.

- A.** As a part of street improvements adjacent to developing or redeveloping property, the City Engineer may, where determined appropriate and practicable, require one or more bicycle racks.
- B.** The location and type of rack shall be determined by the City Engineer based on sidewalk width, location of other elements in the right-of-way, and adjacent land uses.
- C. Bicycle Parking Fund.** An owner of a building without surface parking, or without parking or open areas within 50 feet of the main entrance may choose to pay a fee to the Office of Transportation Bicycle Parking Fund in lieu of short-term bicycle parking required by Table 266-6 in Title 33, Planning and Zoning. The Office of Transportation will use the collected fees to install bicycle parking and associated improvements in the right-of-way.
 - 1.** Authority. The City Council delegates authority to the Manager of the Bureau of Transportation Engineering and Development (BTE&D) to adopt administrative rules and procedures necessary to implement provisions of this section. All rules pursuant to this authority shall be filed with the Office of City Auditor and be available for public inspection.
 - 2.** Calculation of required fund contributions. Applicants must contribute the cost to purchase, install and maintain bicycle parking and associated improvements. The cost to purchase, install, and maintain bicycle parking will be adjusted annually as determined by the City Engineer.
 - 3.** Pavement. The Bicycle Parking Fund fee is due to be paid upon issuance of a building permit. The Manager of BTE&D is authorized to refund the Bicycle Parking Fund fee where the development approved by building permit is not constructed and the building permit is cancelled.
 - 4.** Width of Sidewalk Corridor. The sidewalk corridor where bicycle parking is to be installed must meet or exceed the width recommended in the Pedestrian Design Guide for installation of bicycle parking. In no case may bicycle parking, installed through the Bicycle Parking Fund be placed in a sidewalk corridor of less than 10 feet in width.

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17.28.070 Owners to Repair Sidewalks and Curbs - Notice to Repair.

After a sidewalk has been improved or constructed, either alone or in combination with a curb, the owner of land abutting the street area in which the sidewalk has been constructed shall be responsible for maintaining such sidewalk and curb in good repair. If the City Engineer finds that any such sidewalk or curb needs repair, he shall post a notice on the adjacent property headed "Notice to Repair Sidewalk" (or curb) which shall in legible characters direct the owner, agent, or occupant of the property immediately to repair the sidewalk or curb, or both in a good and substantial manner in accordance with the plans, specification and regulations of the City. The City Engineer shall file with the Auditor an affidavit of the posting of the notice, stating the date when and the place where the same was posted. After filing, the Auditor shall send by mail a notice to repair the sidewalk or curb, or both, to the owner, if known, of such property, or to the agent (if known) of the owner, directed to the post office address of the owner or agent when known to the Auditor, or if the post office address is unknown to the Auditor, the notice shall be directed to the owner or agent at Portland, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of the property, or mistake in address shall not invalidate said notice, but in such case the posted notice shall be sufficient.

17.28.080 Permit for Sidewalk and Curb Repairs.

After notice to repair defective sidewalk or curb, or both, has been posted, the owner, agent or occupant shall make the repairs within 20 days from the date of posting. Any person desiring to repair a defective sidewalk, curb or both, either before or after notice to repair has been posted, shall first obtain a permit for which no fee will be charged. The permit shall prescribe the kind of repair to be made, the material to be used, and specifications therefor, including the location and size. Any person desiring to construct or reconstruct sidewalk or curb, or both, shall first obtain a permit therefor and pay the fees elsewhere prescribed in Chapter 17.24.

17.28.090 Repair by City.

If the owner, agent or occupant of any lot, part thereof or parcel of land which has been posted with notice to repair a sidewalk or curb, or both, shall fail, neglect or refuse to make repairs within the period of 20 days after posting, the City Engineer may as soon as the work can be conveniently scheduled, make the repairs, and the cost shall be determined and assessment made as provided in this Chapter.

17.28.100 Driveways Defined.

As used in this Chapter, the following terms shall have the meaning as set forth below.

- A. "Driveway" means a concrete way for vehicular traffic extending from the roadway to the property line across a sidewalk, whether or not such sidewalk is improved, for the purpose of providing access to parking or maneuvering space on abutting property.

- B. “Residential driveway”** means a driveway serving a one or two family residence.
- C. “Commercial driveway”** means a driveway serving any property except a one or two family residence.

17.28.110 Driveways - Permits and Conditions.

(Amended by Ordinance Nos. 177028 and 179845, effective January 20, 2006.) Upon appropriate application and payment of fees, as provided in Chapter 17.24, the City Engineer may issue a permit to construct a driveway in the street area subject to the following conditions:

- A.** All driveways shall be constructed according to plans, specifications, and any special conditions fixed by the City Engineer.
- B.** Location. No portion of a driveway, excluding ramps if required, shall be located closer than 25 feet from the corner of a lot where two streets intersect.
- C.** Width of driveways. A permit to construct a driveway in the street area is subject to the following width provisions:

1. Residential driveway:

Private Property Frontage	Minimum Width	Maximum Width
50 ft. or less	9 ft.	20 ft.
51 ft. to 75 ft.	9 ft.	25 ft.
76 ft. to 100 ft.	9 ft.	30 ft.

If more than one driveway is desired for frontage up to 100 feet the maximum width of driveways shall be 15 feet with not more than two such driveways permitted within such frontage, provided however, that no less than 5 feet of straight curb must separate service driveways regardless of ownership. Each 100 feet of frontage, or fraction thereof, under single ownership shall, for purposes of this Chapter, be considered a separate frontage.

2. Commercial driveway:

Private Property Frontage	Minimum Width	Maximum Width
50 ft. or less	10 ft.	20 ft.
51 ft. to 100 ft.	20 ft.*	30 ft.

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*A commercial driveway for a residential use that provides access for 10 parking spaces or less can be a minimum width of 10 feet, provided the access is on a local service street and will be designed to allow forward motion of all vehicles. However, the City Engineer or City Traffic Engineer may establish conditions regarding width that are deemed necessary to ensure the safe and orderly flow of pedestrian and vehicular traffic. These conditions are based on evaluation of speeds, volumes, sight distance, and any other transportation factors that are relevant.

If more than one driveway is desired for frontage up to 100 feet, the maximum width of driveway shall be 20 feet with not more than two such driveways permitted within such frontage; provided, however, that no less than 5 feet of straight curb must separate service driveways under one ownership. Each 100 feet of frontage or fraction thereof under single ownership shall for purposes of this Chapter be considered a separate frontage.

3. Driveways shall be measured lengthwise with the sidewalk on the property line side, and such measurement shall not include the width of ramps extending to the regular sidewalk grade. Ramps, if required, do not constitute part of required minimum or allowed maximum width. Determination of the need or appropriateness of ramps shall be within the sole discretion of the City Engineer.
 4. Any driveway at variance with these width limitations shall not be permitted unless the City Engineer specifically approves or requires the same. Any applicant requesting a driveway at variance with these standards shall provide such information as the City Engineer may require in support of the application. The City Engineer may establish conditions deemed necessary to insure the safe and orderly flow of pedestrian and vehicular traffic and the decision of the City Engineer as to the widths and location of driveways shall be final and conclusive.
 5. The City Engineer may require joint or shared use of a driveway by two properties in separate ownership. The City Engineer may recommend such conditions regarding the number and use of driveways necessary to ensure the safe and orderly flow of traffic, preserve on-street parking, and reduce pedestrian conflicts.
- D.** The City Engineer may refer any driveway permit application to the City Traffic Engineer and/or the Oregon Department of Transportation as appropriate, for a review of the location and width. The City Traffic Engineer shall recommend such conditions and limitations regarding the location and operation of driveways

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as are in his or her judgment necessary to insure the safe and orderly flow of pedestrian and vehicular traffic and preserve on-street parking.

- E.** The City Engineer may require any applicant for a driveway permit to provide evidence that the proposed driveway will access legal parking and maneuvering space on property as set forth in Title 33, Planning and Zoning regulations. The City Engineer may refuse to issue a permit if the applicant cannot show evidence that on-property parking and maneuvering space is in compliance with Title 33, Planning and Zoning regulations.
- 1.** If the City Engineer finds that a property owner is permitting access where a properly constructed driveway does not exist, the City Engineer may post notice and require termination of access or construction of a driveway in accordance with the requirements of this Chapter.
- F.** Revocability of driveway permits.
- 1.** The City Engineer may revoke any driveway permit or require the modification of any driveway if:
 - a.** The area occupied by the driveway is needed for the public convenience;
 - b.** Continued operation of the driveway interferes with the safe and orderly flow of pedestrian or vehicular traffic; or
 - c.** The abutting owner has failed to comply with all specifications and conditions of the permit; or
 - d.** The driveway does not access legal parking and maneuvering space on abutting property.
 - 2.** The Council may revoke any driveway permit if they deem such action will be in the public interest.
- G.** Enforcement powers. Within 20 days of written notice from the City Engineer to close or modify a driveway, the abutting property owner shall obtain any required permits and make the required corrections. If the abutting owner fails to make the required corrections within 20 days, the City may perform the required work at the expense of the abutting property owner and the cost shall be determined and assessment made as provided in this Chapter.

17.28.120 After Construction Driveways Deemed Part of Sidewalk.

After a driveway has been constructed, it shall be deemed a part of the sidewalk whether

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or not there is a sidewalk improvement extending along the balance of the frontage property, for all purposes of repair or reconstruction. Requirements relating to construction or reconstruction of a sidewalk as provided in this Chapter, shall be applicable to reconstruction of a driveway, except that the property owner shall have no option to petition for a local improvement solely for such purpose.

17.28.130 Reconstruction of Existing Driveways.

If the City Engineer finds that any driveway does not conform to the requirements of this Chapter and should be reconstructed for the protection or convenience of pedestrians or vehicles using the street area, the City Engineer may post notice and require the reconstruction or removal of the driveway. If the abutting property owner fails to make the required corrections within 20 days the City may perform the required work at the expense of the abutting property owner, and the cost shall be determined and assessment made as provided in this Chapter.

17.28.140 City Charges for Construction or Repair of Sidewalks, Curbs and Driveways.

The property owner shall be charged for the construction, reconstruction or repair of sidewalks, curbs and driveways made by the City as follows:

- A. Job move-in. \$50.25 flat rate per job for barricade and clean up work. A job is defined as all sidewalk, driveway and/or curb work performed adjacent to each individual property.
- B. Sidewalk. \$6.50 per square foot unit. The minimum charge per job will be for 9 square feet.
- C. Driveway. \$7.75 per square foot unit. The minimum charge per job will be for 12 square feet.
- D. Curb. \$23.75 per linear foot unit.
- E. Combination jobs. When a job includes any combination of sidewalk, driveway and curb work, the charges will be as follows:
 - 1. Where there are two or more elements of work involving a minimum charge, the charge will be limited to the one work element having the largest minimum charge; and
 - 2. All work involving costs above the minimum charge shall be as provided by this Code Section.
- F. Concrete saw cut. \$4.25 per linear foot unit.

17.32.130 Refusal of Public Sewer Improvement Permit.

(Added by Ordinance No. 173295, effective April 28, 1999.)

- A.** The Chief Engineer may refuse a permit if:
- 1.** In the judgment of the Chief Engineer, the improvement proposed to be made is not suitable in the circumstances or will not be uniform with existing or proposed sewer improvements in the immediate vicinity.
 - 2.** An application is not modified as the Chief Engineer may deem necessary.
 - 3.** The City Engineer has not issued a street opening permit if the sewer is or will be located within a public right-of-way or area to be designated as a public right-of-way.
- B.** The Chief Engineer shall have the authority to refuse issuance of public sewer improvement permits to any individual, corporation or company until the requirements of permits previously issued are complied with. This authority shall include, but not be limited to, denial of a permit when the applicant is delinquent in payment of fees or City charges for work performed for the applicant by the City or when the applicant has failed to complete work on any previously issued permit or permits.

17.32.140 Contents of Permit.

(Added by Ordinance No. 173295, effective April 28, 1999.) Any permit issued for the construction of a public sewer improvement may contain conditions which shall be binding upon the permittee. Such conditions may include prior filing of a performance bond, cash, or other financial guarantee in lieu thereof in an amount not to exceed the engineer's estimate for construction and engineering, insurance, and may include such other requirements as the Chief Engineer finds appropriate in the public interest. The permit shall specify the kind of work and the time in which the same is to be completed.

17.32.150 Fees for Public Sewer Improvement Permits.

(Added by Ordinance No. 173295; amended by Ordinance Nos. 179274 and 181846, effective July 1, 2008.) The City shall recover the costs of engineering and superintendence services in connection with public sewer improvement projects in accordance with hourly labor rates established by general ordinance and rules adopted by the Director of the Bureau of Environmental Services. The Bureau shall recover the costs of engineering and superintendence for all public sewer improvements, whether performed by contract in the name of the City, by private contract between a permittee and a contractor, or directly by the permittee.

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17.32.160 Engineering and Superintendence for Public Sewer Improvements.

(Repealed by Ordinance No. 179274, effective June 24, 2005.)

17.32.170 Work Done Under Permit.

(Added by Ordinance No. 173295; amended by 179274 effective June 24, 2005.)

- A.** All work done under and in pursuance of a permit shall be under the authorization of the Chief Engineer, who shall determine the details of the improvement and whose orders in regard to the improvement and the execution of the same shall be obeyed by the applicant for the permit and by the persons doing the work.
- B.** The Chief Engineer may establish standards for particular types or classes of work to be performed by contractors or by persons permitted to construct facilities in streets, easements, or other public property. Any person constructing the facility shall comply with such standards unless otherwise specifically authorized by the Chief Engineer to deviate from those standards.
- C.** If the specifications or other contract documents are not strictly complied with, the Chief Engineer shall refuse to accept the work. If the work is refused by the Chief Engineer, it shall not thereafter be accepted unless corrected to conform to plans and specifications.

17.32.180 Original Documents Become the Property of the City.

(Added by Ordinance No. 173295, effective April 28, 1999.) Any and all plans, specifications, survey notes or other original documents as required by the Chief Engineer that were either prepared for or produced during the design or construction of a public sewer improvement, become the property of the City and shall be delivered to the Chief Engineer prior to acceptance of the improvement by the Chief Engineer.

17.32.190 Certificate by Chief Engineer.

(Added by Ordinance No. 173295, effective April 28, 1999.) During the course of construction and prior to the issuance of a certificate of completion for a public sewer improvement under this Chapter, the Chief Engineer shall inspect the improvement and determine if the various kinds of work performed are in compliance with the plans, specifications and allowances of the permit as to quality of workmanship. Furthermore, the Chief Engineer shall check the improvement for alignment, proper computation of quantities and conformance with the established grade. If all of the work required is completed and done to the satisfaction of the Chief Engineer, the Chief Engineer shall give a certificate therefor to that effect and that the improvement is accepted, as herein above set forth, and within recorded public rights of way and easements. Otherwise, the acceptance may be made by the Council on the certification of conformity to Code provisions and proper grades filed by the Chief Engineer.

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17.32.200 Record of Permits.

(Added by Ordinance No. 173295, effective April 28, 1999.) The Bureau of Environmental Services shall keep a record of improvements under permit and the issuance of permits under this Chapter, and the date of certificate of approval and acceptance if made.

17.32.210 Removal of Sewer Improvement.

(Added by Ordinance No. 173295, effective April 28, 1999.) In the event the Chief Engineer or the City Council does not accept an improvement made pursuant to permit under this Chapter within 1 year after completion and tender for approval, then the permittee shall remove the same and restore the public area to its prior condition at the permittee's own expense, whenever and to the extent directed by the Chief Engineer and the City Engineer.

17.32.500 Administrative Rules and Procedures.

(Added by Ordinance No. 179274, effective June 24, 2005.)

- A. The Director of the Bureau of Environmental Services may adopt, amend and repeal rules, procedures, and forms pertaining to matters within the scope of this Chapter.
- B. Any adoption, amendment or repeal of a rule pursuant to this section shall require a public review process. Not less than thirty, nor more than forty-five, days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
- C. During the public review, a designee of the Director of Environmental Services shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee; taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director of the Bureau of Environmental Services and shall be filed in the office of the Director of Environmental Services and in the Portland Policy Documents repository described in Chapter 1.07.
- D. Notwithstanding 17.32.500 B. and C., an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the

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specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

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- a. Costs related to nuisance abatement, appeal processing or assessed environmental damage;
 3. All appeals shall include a copy of all relevant documentation, including the Bureau's final determination letter, that is the subject of the appeal. Documentation shall state the basis for the appeal, and shall be filed with the Bureau of Environmental Services which shall initiate the Code Hearings Officer review.
- H. City not liable. Nothing in this Chapter shall be construed to confer liability on the City for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this Chapter.

17.34.120 Records Retention.

(Amended by Ordinance No. 172879, effective November 18, 1998.) All dischargers subject to this Chapter shall retain and preserve for no less than 3 years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. This period of retention may be extended per 40 CFR 493.12(o)(2) when requested by the Director, the Oregon Department of Environmental Quality, or the Regional Administrator of the Environmental Protection Agency during the course of any unresolved litigation regarding the industrial user. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

17.34.130 Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.34.140 Severability.

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

17.34.150 Fees.

(Amended by Ordinance Nos. 173138, 173414 and 181846, effective July 1, 2008.)

- A. The Director of Environmental Services shall set annual fees for all industrial waste discharge permits. In determining these fees, the Director shall consider at least the following factors: process wastewater discharge flow; industrial user classification; permit status (new or renewed); self monitoring frequency; city

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monitoring frequency; regulatory history and the regulatory permits and special requirements.

- B.** Permit fees. Industrial waste discharge permit fees are established, annually, by general ordinance. The fees for each fiscal year are effective July 1, but will be billed as soon after January 1 as is practical. The Director of the Bureau of Environmental Services shall establish by July 1, a cost accounting system to determine the fees based on the actual costs. This accounting system shall be developed with the involvement of the industries charged these permit fees, and these fees will not be charged until the accounting system is in place. The Bureau will review proposed changes to industrial waste permit fees with Council and the Portland Development Commission prior to submitting subsequent sewer rate ordinances.
- C.** The Director shall also have authority to set fees for all non-routine, non-domestic batch discharges to the sewer system. Service fees for such discharges not otherwise addressed in an industrial wastewater discharge permit shall be calculated at a rate per occurrence, in addition to other applicable charges. The rate shall be established, annually, by general ordinance.

17.34.160 Requests for Reconsideration.

A discharger may request the Director of Environmental Services to reconsider any determination made under this Chapter if there is reason to believe that sufficient data or information is available to support a different determination. Any request for reconsideration shall be accompanied by the data and information the discharger used as a basis for the request. The Director of Environmental Services may then revise the initial determination or retain the original determination based upon the submitted request.

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- B.** Unauthorized discharge of septage into the sewer system within the jurisdiction of the City or the Tri-County area is prohibited.

- C.** The City will have full authority to refuse a load, limit the amount of discharge and/or establish necessary restrictions on discharge under the following conditions:
 - 1.** Unacceptable acidic or alkaline strength or corrosive properties;
 - 2.** Septage is from a non-approved source;
 - 3.** Failure to supply complete, accurate and verifiable septage information;
 - 4.** Operator observed inconsistencies between certified contents and actual contents;
 - 5.** Operational or capacity limitations at CBWTP.In the event that septage is rejected by the City, the DEQ shall be immediately notified of such rejection.

17.35.040 Reserved.

17.35.050 Reserved.

17.35.060 Performance Guaranty.

(Amended by Ordinance No. 166674, effective June 23, 1993.) Each applicant, except governmental agencies shall post a performance guaranty in a form including but not limited to a surety bond, penal bond, performance bond, irrevocable letter of credit, pledge of assets, or other form which shall be approved by the City Attorney. The amount will be determined by the conditions of the permit and the number and capacity of the applicant's vehicles. Minimum coverage shall be \$10,000. All changes in personnel and equipment shall be reported to the City within 30 days. The value of the performance guaranty shall be forfeited to the City under any of the following conditions:

- A.** The discharge of septage in violation of 17.35.030;
- B.** The discharge of septage at unauthorized locations in the Tri-County area (or the City of Portland);
- C.** Effective July 1, 1994, failure to make timely payment, pursuant to 17.35.090 B, of charges billed under this Chapter. (Forfeiture of guaranty up to amount of overdue charges only, after notice of intent to demand payment from guarantor.)

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17.35.070 Fee Schedule.

(Amended by Ordinance Nos. 156500, 160886, 162109, 165136, 166674, 167692, 168857, 170190, 171224, 172288, 173414, 175620, 176524, 177530, 178449, 179274, 180189, 181006 and 181846, effective July 1, 2008.)

- A. Discharge permit holders are subject to the following septage discharge fees:
 - 1. Annual Discharge Permit Fee. Fees are to be paid on an annual basis at time of permit application.
 - 2. Discharge Rates. Each delivery received at the plant is subject to discharge rates, which will be applied to full tank capacity of the delivery vehicle. The plant may accept partial loads on a pre-approved basis. Measurement disputes between septage haulers and City personnel will be resolved by a process established by the Director.
 - 3. After-Hours Fee. Deliveries received at the plant outside of normal business hours are subject to an after-hours fee.
- B. Septage discharge fees and rates are adopted, annually, by general ordinance to establish sewer and drainage rates and charges.

17.35.080 Collection and Billing.

(Amended by Ordinance Nos. 166674 and 181483, effective January 18, 2008.) The operator is directed to provide one copy of the load certificate to the permittee, retain two copies of each load certificate executed by permittee, and to convey one copy of each load certificate to the office of the City as may be required by the Office of Management and Finance.

The City shall mail a monthly statement of account to each permittee. Failure to pay the amount shown within 30 days of the date of billing shall result in imposition of interest fees, as named in Title 5, Section 5.48.040, on the amount past due.

17.35.090 Revocation/Amendment of Permit.

(Amended by Ordinance No. 166674, effective June 23, 1993.) All septage discharge permits issued to an applicant by the City may be revoked for any of the following reasons:

- A. Failure to accurately certify the source of a load of septage prior to discharge
 - B. Failure to pay all charges for discharge within 60 days of billing by the City.
 - C. Any act that is named as a cause for forfeiture of the performance guaranty, as outlined in Section 17.35.060.
- Septage permits shall be amended for the following reasons:

1. A change occurs in a permittee's operations that affect the conditions of this Chapter.
2. As required by the applicable State or Federal laws or regulations.

17.35.100 Protecting the Public Interest.

(Amended by Ordinance No. 166674, effective June 23, 1993.) No provision of this Code Section shall be construed to create a right in any individual to a permit, which in the opinion of the City would be inconsistent with the public interest.

No provision of this Code Section shall be construed to create any right in the Tri-County Area to the disposition of septage at a City facility inconsistent with the public interest of the City.

17.35.110 Enforcement.

(Added by Ordinance No. 166674, effective June 23, 1993.)

- A. Violation of any of the requirements of this Chapter may result in enforcement by the Director.
- B. Enforcement mechanisms. In enforcing the requirements of this Chapter, the Director may:
 1. Issue compliance orders.
 2. Institute an action before the Code Hearings Officer.
 3. Cause an appropriate action to be instituted in a court of competent jurisdiction.
 4. Take such other action as the Director deems appropriate.
 5. Appeal of final determination. Upon receipt of a final determination, a permittee may appeal the determination to the code Hearings Officer in accordance with the procedures set out in Chapter 22.10 of the Portland City Code; provided that such an appeal shall include a copy of the final determination that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

Chapter 17.36

SEWER USER CHARGES

(New Section added by Ordinance No.
159085, effective Nov. 10, 1986.)

Sections:

- 17.36.005 Definitions.
- 17.36.010 Sewer User Service Charges.
- 17.36.012 Clean River Incentive and Discount Program.
- 17.36.020 Special Charges.
- 17.36.022 Mid-County Sewer Financial Assistance Program.
- 17.36.025 Stormwater System Development Charge.
- 17.37.027 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.
- 17.36.030 Sewage Service Agreements with Governmental Agencies.
- 17.36.040 Special Provisions.
- 17.36.050 Meters.
- 17.36.060 Extra-Strength Wastewater Charges.
- 17.36.065 Other Charges.
- 17.36.070 Computing and Billing.
- 17.36.080 Certain Installations Unlawful.
- 17.36.090 Identification of Inspectors.
- 17.36.100 Collection.
- 17.36.105 Deposit and Application.
- 17.36.120 Compensation to Bureau of Water Works.
- 17.36.130 Adjustment of Bills.
- 17.36.135 Administrative Rules, Procedures and Forms.
- 17.36.150 Appeal.

17.36.005 Definitions.

(Amended by Ordinance Nos. 159797, 163001, 164262, 165622, 166574, 168793, 169323, 170613, 170717, 173367, 174178, 176561 and 180189 effective July 1, 2006.)
For the purpose of this Chapter, the following definitions shall apply:

- A. "Available sewer". A sewer shall be deemed available to a property when a collector, trunk, or other major public sanitary sewer is in a dedicated street or easement adjacent to, or within the property, and such sewer was designed or intended to provide direct service to the property. For the purposes of this Chapter, a sewer shall not be considered available to a property if an extension of the public sewer is required before a branch can be constructed to the property.

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- B.** “Biochemical Oxygen Demand (BOD)”. This phrase or its abbreviation shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of 5 days at a temperature of 20 Celsius (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register).
- C.** “Composite sample”. A composite sample is a series of individual discrete samples taken at selected intervals based on either an increment of flow or time. The samples are mixed together to approximate the average composition of discharge to the City sewer system. A composite for one day shall consist of a pool of samples, collected over the period of expected discharge during the production day. Where special conditions warrant, the Director may designate an alternative procedure that is acceptable.
- D.** “Director”. Director shall mean the Director of the Bureau of Environmental Services or his or her designated representative.
- E.** “Drainage Service”. Drainage service shall be defined as activities and services related to the planning, engineering, construction and operation and maintenance of drainage facilities that provide stormwater drainage system services.
- 1.** Drainage facilities shall include but not be limited to storm or combined sewers; stormwater storage facilities and stormwater treatment facilities; drainage ditches, sumps, streams, detention ponds, wetlands, ponds, lakes, swales, creeks, or natural drainage ways; or curbs, gutters, or catchment basins within public rights of way, and any other facilities within the City Charter definition of sewer.
 - 2.** Stormwater drainage system services. Stormwater drainage system services are defined as services required to drain and treat stormwater, including: providing drainage for roads serving developed properties, mitigation of flooding and prevention of erosion, improving the water quality of runoff, gathering and conveying runoff from individual properties when the runoff exceeds the capacity of private facilities to handle the water on-site, and protecting properties from contamination by containing hazardous materials spills in the roadway. The method of calculating this measurement shall be as set forth in procedures adopted by the Bureau of Environmental Services.
 - 3.** Impervious area. The area of a property (excluding any part in public use) which does not allow rainwater to percolate naturally into the ground, such as a roof, or a paved driveway, walkway, and parking area. Areas that are covered by porous pavement, brick or other infiltrating materials, ecoroofs, or other stormwater management devices shall be classified as

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impervious areas for billing purposes. Public rights-of-way and areas covered by compacted soils or compacted gravels are excluded from this definition for the purposes of this Section.

4. Drainage service customer. A drainage service customer shall be a person who has the right to possession of a property, and directly or indirectly benefits from stormwater drainage system services provided by the City. Public roads are deemed to be open to the general public, and not in the possession of a person.
- F.** “Dwelling unit”. Any housing unit with sanitary and kitchen facilities either designed or used to accommodate one or more residents, including detached residences, multiple housing units, mobile homes and mobile home spaces. This does not include commercial (transient) housing units such as hotel and motel units; overnight trailer or recreational vehicle spaces; or housing units in institutional care facilities. A single dwelling unit shall be any dwelling unit, as defined above, in a building containing no other dwelling units. This includes units in planned developments, and care facilities classed as a single-family unit by the Building Bureau.
- G.** “Multiple dwelling unit”. Any dwelling unit, as defined above, in a building containing more than one dwelling unit. This includes the dwelling units in commercial buildings containing more than one dwelling unit, houseboats, mobile homes and mobile home spaces where more than one unit exists.
- H.** “Public use”. This phrase shall include the following:
1. Streets dedicated for public use or owned by a city, county, state or other governmental body.
 2. Recreational areas used by the general public which are owned by a school district or other governmental body, but not including buildings or their associated parking lots in such recreational areas.
- I.** “Rolling Average”. The phrase shall mean the average of the 10 most recent monthly averages of valid city- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate unless another period is approved by the Director of Environmental Services.
- J.** “Sanitary sewage”. Sanitary sewage shall include, but is not limited to, domestic wastewater, industrial/commercial process wastewater or contaminated stormwater which is discharged to sewer facilities owned or maintained by the City by permit or approval of the Director and the City has agreed to accept, or as determined by the Director.

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- K.** “Sanitary service customer”. A sanitary service customer shall be a person who has the right to possession of a property, and who causes or permits the discharge of sanitary sewage from property in their possession into sanitary sewer facilities owned or maintained by the City.
- L.** “Temporary connection”. A connection to the sanitary sewer system shall be deemed temporary if the duration of the connection is less than three years and connection and disconnection occur only once. However, for purposes of this definition and determining the applicability of sewer system connection charges, connections to the sanitary sewer system made for the purpose of servicing an environmental remediation activity of less than three years will not be considered a temporary connection unless approved by the Director. In granting a temporary connection the Director shall, at a minimum, consider the nature of the remediation site and type of City sewer(s) available for connection.
- M.** “Temporary structure”. A structure shall be deemed temporary if it is a separate and distinct entity from all other structures and it is created and removed in its entirety, including impervious area associated with the structure, within a continuous period of three years or less.
- N.** “Total Suspended Solids (TSS)”. This phrase shall mean total suspended matter that either floats on the surface or is in suspension in water or wastewater and that is removable by laboratory filtering (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register).
- O.** “Groundwater”. Groundwater is subsurface water that occurs in soils and geological formations that are fully saturated, and which drains to a subsurface structure or is pumped to the surface. Groundwater includes, but is not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction dewatering activities.

17.36.010 Sewer User Service Charges.

(Amended by Ordinance Nos. 159797, 161643, 163001, 164262, 165135, 165622, 166574, 166778, 168893, 169940, 170198, 170717, 173367, 174178, 174508, 174615 and 181846, effective July 1, 2008.) The following sewer user service charges, as authorized by the Charter, are established and made effective. These charges are calculated using rates established, annually, by general ordinance.

- A.** Charges for Sanitary Sewer Services. Except as otherwise provided by this Title, sewer user service charges shall be paid by all sanitary sewage customers who

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cause or permit the discharge of sanitary sewage from a property in their possession into sewage facilities owned or maintained by the City. The charges shall begin upon connection. Charges for sanitary sewer services include sanitary sewer volume charges, account service charges and penalties for non-payment or late-payment of sewer charges and may include other charges as provided for in this Chapter.

1. Dwelling units. Charges for dwelling units shall be based on the volume of sewage discharge to the sanitary sewer system. When discharge meter readings are not available, the Bureau may elect to use the water meter consumption as the calculation for the sanitary sewage discharge. To avoid including irrigation water usage in this calculation, the Bureau will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate shall be made based on the customer class of characteristics as determined by the Director.
 2. Commercial, industrial and all occupancies other than residential. The calculation of the charges for commercial, industrial and all occupancies other than residential shall be based on the amount of incoming water volume as measured by the City water meter or information from the water district serving the property or by a Bureau approved meter that measures actual discharge volume. Discharge meters must meet the current standards for such meters as described by the Director. To establish reduced charges or credit for water not subject to sewer charges, customers must comply with the requirements in Section 17.36.040 "Special Provisions." If a sewer customer does not have a City meter or water district meter measuring the supply of water to the property, the private water supply must be metered in accordance with Section 17.36.040. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be based upon the impervious area producing the contaminated stormwater and the average rainfall or a discharge meter. The discharge will be charged sanitary sewer volume rates.
 3. Combined dwelling units and other. Where dwelling units and other occupancies are combined on the same water supply, the charges for sanitary sewage service shall be computed in the same manner as those for commercial, industrial and all occupancies other than residential.
- B.** Charges for drainage services. Except as otherwise provided by this Title, drainage service charges shall be paid by all drainage service customers who benefit from stormwater drainage system services or drainage facilities owned or

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maintained by the City. The Water account customer is assumed to be the drainage service customer for the purposes of drainage services. If there is no Water account customer, the Bureau of Environmental Services shall determine the drainage service customer.

1. Basis for charge. Drainage fees shall be charged based on each drainage service customer's proportionate share of stormwater drainage system services. For administrative purposes, the user's proportionate share will be assumed to be perfectly correlated with the amount of impervious area on the user's site. Unless the Bureau of Environmental Services measures actual site characteristics, impervious area shall be assumed to be the average impervious area for the customer's class as shown in the most recent rate study.
2. Dwelling units. Unless the City chooses to measure the actual amount of impervious area on a site in the drainage service customer's possession, the City shall assume average dwelling unit characteristics, including impervious area, for each class of dwelling unit. The averages used shall be 2,400 square feet for one or two dwelling units, 3,000 square feet for three dwelling units, and 4,000 square feet for 4 dwelling units. Impervious area for buildings with 5 or more dwelling units shall be measured.
3. Properties other than dwelling units. The drainage service customer's proportionate share of stormwater drainage system services shall be calculated based on the amount of impervious area on that site rounded to the nearest 1000 square feet, and calculated as a multiple of the drainage charge for 1000 square feet of impervious area.
4. Drainage Districts. Payments from Multnomah Drainage District No. 1, Peninsula Drainage District No. 1, and Peninsula Drainage District No. 2 under an Intergovernmental Agreement will constitute payment of monthly stormwater charges by properties within the boundaries of the districts, for purposes of this section.

C. Willamette River/Portland Harbor Superfund Services.

1. The City calculates and collects user charges for services provided by the Willamette River/Portland Harbor Superfund Program based on rates established, annually, by general ordinance.
2. Ratepayers who receive direct or indirect benefit from the public sewer system and City stormwater management services are subject to the user charges. The ratepayer identified on the City utility billing account is

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assumed to be the beneficiary of the program's services and responsible for the user charge. If the property is not subject to other City utility charges, the Director will determine the ratepayer responsible for the user charge.

3. Billing Components. The user charge appears as a single item on the City utility bill, and is the sum of two rate calculations:
 - a. Sanitary Volume. This portion of the user charge is calculated in the same manner as the user charge for sanitary sewer services, based on a Willamette River/Portland Harbor Superfund Sanitary Volume rate established, annually, by general ordinance.
 - b. Impervious Area. This portion of the user charge is calculated in the same manner as the user charge for stormwater management services, based the Willamette River/Portland Harbor Superfund Impervious Area rate established, annually, by general ordinance.

D. Service outside the City:

1. The charges for the use of the City's sewage system from properties outside the City shall be established, annually, by general ordinance.
2. Business, industrial, commercial, and all other non-residential services outside the City:
 - a. The Director may require, and shall have authority to enter into agreements for and on behalf of the City, permitting connection and providing sewer service to commercial and industrial properties outside the City when he/she finds such service feasible and appropriate. The Director shall have authority to conduct such investigations as deemed necessary in connection with the application of any non-residential occupancy to connect with a public sewer under City control. All sewers to be connected under authority of this Subsection shall be first approved by the Director as to design and location. Street opening permits shall be obtained from the appropriate authority in the jurisdiction wherein the sewer is located.
 - b. The Director may require the owner, tenant or lease holder to post a cash or surety bond in the sum of not over \$4,000, as one of the conditions for entering into an agreement allowing connection from commercial or industrial property outside the City. The bond shall be deposited with the City Treasurer and shall be declared

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forfeited upon certificate by the Director, approved by the Commissioner In Charge, in case of delinquency of more than 30 days in the payment of the sewer user service charge.

3. Determination of which property is outside the City. In determining whether any residential or business, industrial, commercial, institutional or other property is to be deemed within or without the City limits where the same are partially within and without, any such property where 66.7 percent or more of the assessed valuation of the same is recorded in the records of the County Assessor as lying beyond the City limits, the property shall be deemed wholly without the City for the purposes of this Section.

17.36.012 Clean River Incentive and Discount Program.

(Added by Ordinance No. 175160, effective January 12, 2001.)

- A. Objectives. The objectives of the Clean River Incentive and Discount Program are to increase ratepayer control over stormwater management charges and to advance City environmental goals. The City shall achieve the objectives of the Clean River Incentive and Discount Program by providing economic incentives, technical assistance, and environmental education to ratepayers who control and manage the quality and quantity of stormwater runoff on their private property.
- B. Authority. The Director of Environmental Services shall have the authority to establish and administer the Clean River Incentive and Discount Program
- C. Administrative Rules, Procedures and Forms.
 1. Upon the recommendation of the Director of Environmental Services, the Bureau of Environmental Services may adopt rules, procedures, and forms pertaining to matters within the scope of this Section.
 2. At a minimum, the rules shall contain the following elements:
 - a. definitions for all terms and concepts that are unique to the Clean River Incentive and Discount Program, unless otherwise referenced in City Code;
 - b. criteria to be used by the City to determine eligibility for Clean River Incentives and Discounts;
 - c. methods for calculating the amount of incentives and discounts to be awarded to eligible applicants;

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

17.36.015 Sewer System 24-Month Payment Plan.

(Added by Ordinance No. 168255; repealed by 170717, effective Dec. 13, 1996.)

17.36.020 Special Charges.

(Amended by Ordinance Nos. 159797, 160911, 164262, 165135, 165654, 166124, 166574, 169323, 170717, 172290, 172556, 172557, 174508, 176524, 177530, 178009, 178449, 179274, 180189 and 181846, effective July 1, 2008.) The following charges are for connection and use of a public sewer under City control, from properties either inside or outside the City. These charges shall be collected upon issuance of a building permit, or where a building permit is not required, upon issuance of a sewer connection permit. These charges are calculated based on rates established, annually, by general ordinance.

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- A. Sanitary System Development Charge. The sanitary system development charge is a fee or charge for connection and use, or increased usage, of sewers and sewage purification systems to be used in connection with the design, construction, acquisition, operation, maintenance, and discharge of contract requirements of the City of Portland for sewage treatment, disposal and purification. The methodology for calculating the sanitary system development charge shall be as set forth in the document *Sanitary and Stormwater System Development Charge Methodology*, adopted annually by ordinance.
1. A customer desiring to connect a building to a sanitary or combined sewer, or to increase the sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer, or to increase flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer shall pay the sanitary system development charges.
 2. The sanitary sewer system development charge will be calculated based on the number of Equivalent Dwelling Units (EDUs). EDUs for nonresidential uses will be calculated from Plumbing Fixture Units (PFUs), taken from the Oregon Plumbing Specialty Code in effect at the time of the permit application. EDUs for groundwater discharges to sanitary or combined sewer will be calculated based on estimated discharge volume, and will be subject to review as described below.
 3. Industrial wastewater. Customers with industrial wastewater discharges will be subject to review of sewer usage within 2 years of occupancy. EDUs will be calculated from the highest six-month average of metered usage over that period. The customer of record will be responsible for EDUs in excess of those paid at the issuance of the permit.
 4. Credit for prior sewer connection. For buildings on sites that were previously connected to the sewer system or that had buildings previously connected to a sanitary sewer, full credit for sanitary system development charges will be allowed for each equivalent dwelling unit purchased under this subsection that existed prior to demolition or disconnection.
 5. Credit for prior sewer user charge payments. When a property owner desires to connect a building to a sanitary sewer, where sanitary sewer user charges have been paid for the building for several years, a credit of \$21 per equivalent dwelling unit for each year of such prior user charge payments from 1949 to 1991 shall be applied toward the sanitary system development charge. No credit shall be allowed for buildings that were wrecked prior to July 1, 1971.

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6. Temporary structures and temporary connections shall not be subject to the sanitary system development charge. However sanitary system development charges, including penalties and interest charges, shall become due and payable from structures or customers that originally were exempted from sanitary system development charges as a temporary structures or temporary connections, but are not removed within 3 years as provided in the definition of temporary structures and temporary connections. Temporary structures and temporary connections are not exempt from paying sewer user fees, including extra strength charges.
 7. Prepayment. An applicant may elect to pre-pay sanitary system development charges by providing a letter of intent to the Bureau of Environmental Services, which includes the parcel description and address if applicable, and the estimated number of EDUs (equivalent dwelling units) to be paid. The applicant may receive a refund at any time of excess EDU's paid (refunds will be based on rates in effect at the time of prepayment and without interest), and applicant must pay for any outstanding EDU's (calculated by the Bureau of Environmental Services) at the time of the building permit, at the rate in effect at that time. After September 15, 1988, no prepayment shall be accepted for connection to be performed more than five years from the date of prepayment.
- B. Line Charge.** The line charge is collected in lieu of assessment and shall be paid prior to when an owner connects a structure's plumbing to a City sewage disposal system.
1. A customer desiring sewer connection and service by a private line or house branch directly to an existing public sewer of any size under City control, when the cost of any adjacent public sewer was not contributed to on behalf of customer's property by assessment for direct service or its equivalent, shall pay a line charge.
The line charge shall be based on the square footage of the property. For properties zoned residential and used predominately for residential purposes, the square footage used for calculating the line charge shall be limited to the lot area within 100 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line shall be considered as continuing 100 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge shall be based on a minimum assumed lot size of 1,200 square feet. When an adjacent, developed lot, as defined in Title 33.910 that is under same ownership, is used in conjunction with a neighboring, developed lot that is connecting to the sewer, the adjacent lot shall be charged a line charge for its frontage as

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described above. This includes but is not limited to improved parking lots, and lots with garages or landscaping.

For all other property, the square footage used for calculating the line charge shall be limited to the lot area within 300 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line shall be considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge shall be based on a minimum assumed lot size of 3,600 square feet.

When a sewer is constructed that can not provide gravity service, the line charge shall be reduced by 50% if the property has gravity service to the first floor only and must install a pump for the basement and 75% of the line charge will be reduced if no gravity service is available for the first floor and the property must install a pump. The adjustment should not exceed the costs associated with the installation of a pump system. Property owners may appeal this determination to the Director, or designee, if the pump costs exceed the line charge adjustment.

2. Other agency sewer. Where a customer within the City or within a City service area desires connection to a sewer of another agency having a contract with the City for such connection, paragraph 1 above shall apply as though the sewer were under City control, unless the contract terms provide otherwise.
 3. Temporary connection. Connection with a public sewer from property inside or outside the City limits under this Subsection shall be deemed temporary and to give no right to permanent connection regardless of lapse of time, and shall be subject to disconnection at the order of the Director whenever it is determined that the property can be served by another sewer which has been designed or engineered to carry the sewage from that property. If a particular property is or has been directly assessed for an alternate sewer available to serve the property, and the property has been connected to an existing sewer with payment of a line charge (formerly direct connection charge), then the current owner of the property will be eligible for refund of the appropriate amount of the line charges paid, without interest, upon his or her application therefor. No refund shall be made unless the property has been directly assessed for a City sewer and such amount placed on the City open lien docket within 7 years of the date of first connecting to the City sewer.
- C. Branch charge. An owner desiring sewer connection and service by a public sewer where the Director determines that branches have been extended from the public sewer during or after its construction, and the property has not paid for the branch through assessment or otherwise, shall pay the branch charge. The charge

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shall be collected prior to the connection being made, in addition to any other sewer connection charges which may be required by the Code of the City. Additional branches that have been requested by the property owner or their representative at the time of sewer design or construction but not used at the time of connection, shall also be charged to the property prior to connection to the public sewer.

- D.** Bond in lieu of payment. When the equivalent dwelling units for a proposed connection (or change) cannot be determined in advance, or when the owner or applicant does not agree with the Director's determination, but only when the occupancy is not adequately defined above, the Director may accept a cash or surety bond in an amount determined by him, and posed by the owner in lieu of immediate payment of the charge. A reasonable time after the connection (or change) is made, but not more than 2-1/2 years, the Director, using water consumption records or other evidence, shall determine the number of equivalent dwelling units and the amount of the system development charges payable. Upon notice, the owner shall pay the system development charges required. If the owner does not pay the charges within 60 days, the bond shall be declared forfeited upon certificate by the Director, approved by the Commissioner In Charge.
- E.** Sampling manhole charge. When a property is subject to an extra strength charge, as determined by the Director, at the owners request the City may install a sampling manhole on the house branch, providing the owner agrees to pay all direct and indirect costs of installing the manhole.
- F.** Deferral of connection charges. Property owners who qualify to defer sewer assessment charges but who want to connect to the system can defer payment of connection charges until such date as the Director may specify by ordinance. The charge in effect at the time of connection shall apply at time of payment. Deferred connection charges shall be delinquent when not paid after a period of 90 days from the date due and shall bear interest and penalties as set forth in Section 17.36.100 of the Code of the City of Portland, Oregon. Property owners may convert the deferral to an installment payment loan. The Director shall establish rules, procedures and forms to govern the administration of the deferral program.

17.36.022 Mid-County Sewer Financial Assistance Program.

(Added by Ordinance No. 165188; Amended by 166162, 166229, 166424, 166750, 167504, 170717, 170952 and 181483, effective January 18, 2008.)

- A.** Purpose and Intent. The purpose of this section is to establish procedures for extending financial assistance to owners of single family residential properties which are subject to the 1986 mandatory sewer order of the Oregon

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Environmental Quality Commission. The City intends to provide financial assistance in order to assure the environmental quality of natural resources, provide stability to single family residential neighborhoods, and minimize financial distress to single family residential property owners caused by mandatory City actions to protect the environment. The City also intends to provide financial assistance in a manner which protects the City's financial condition, secures existing City financial commitments, and complies with City policies relating to urban services, sewer utilities, land use and debt financing.

B. Definitions. For purposes of this section, the following definitions shall be used:

- 1.** "Affected Area" shall mean:
 - a.** Properties located within the geographic area subject to the 1986 order of the Environmental Quality Commission of the State of Oregon issued under ORS 454.305 and properties subject to mandatory connection under PCC 17.33.010 A 4 and assessed or subject to future assessment for sanitary sewer local improvements on or after January 1, 1985.
 - b.** Properties subject to mandatory connection as required by PCC 17.33.010 A 4.
- 2.** "Eligible Property" shall mean:
 - a.** Property which is devoted primarily to Household Living use, within the meaning of PCC Title 33;
 - b.** The development of the property consists exclusively of House or Attached House development, and accessory developments, within the meaning of PCC Title 33;
 - c.** The property is located within the affected area and is also located within the boundaries of the City of Portland or the owner of the property has signed an irrevocable consent to annex the property to the City of Portland or the property meets the eligibility criteria contained in the stipulated judgment approved by the U.S. District Court for the District of Oregon in the case of Hussey et al. v. City of Portland, Civil No. 92-1302 FR; and
 - d.** The property owner is not in violation of the mandatory connection requirements contained in PCC chapter 17.33.

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3. “Owner” shall mean the deedholder(s) of record as shown on the most current records of the County Assessor at the time ownership of a property is determined by the City or other persons who by contract, power of attorney or other legal assignment have authority to financially obligate eligible property for local sewer special charges.
4. “Local Sewer Special Charge” shall mean a charge against benefitted property for the portion of the costs of sewer local improvements charged as described in PCC 17.36.0208 in lieu of a special assessment for the costs of sewer local improvement districts, and include one house branch. Additional house branches, as requested by the property owner, will be charged at the current rate as provided in PCC 17.36.020 D.
5. “Chargeable Area.” Notwithstanding PCC 17.36.020 C, Chargeable Area shall be calculated as follows:
 - a. The line charge shall be based on the area of the property (square feet), and shall be limited to the area within 100 feet of the public rights-of-way or easement line of the sewer, except;
 - (1) The minimum line charge shall be based on a minimum assumed lot size of 1,200 square feet;
 - (2) Land locked or other properties that do not have frontage on a public right-of-way or sewer easement line will be charged for the minimum assumed lot size and sewer service will only be provided to the edge of the right-of-way.
 - (3) All properties receiving the benefits of the Financial Assistance Program will be charged a line charge not less than the current rate at the time of payment for one house branch;
 - (4) For purposes of calculating line charges, the street or easement line shall be considered as continuing 100 feet beyond the end of the sewer or beyond where the sewer turns away from the property. Once the sewer construction is completed, properties that have been charged for line charges outside of the 100 foot area will be eligible for a rebate or credit of the excess charges;
 - (5) For properties situated such that gravity service cannot be provided, Chargeable Area shall be calculated in

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accordance with this subsection and the property owner may request reimbursement at the time the gravity determination is made. The reimbursement shall be based on the difference between the cost of connection if gravity service is provided and the additional connection cost to provide service without full gravity sewer service. This reimbursement shall not exceed 50% of the A Chargeable Area cost if first floor gravity service is provided, or 75% of the total A Chargeable Area cost if no gravity service is provided. A person aggrieved by the determination of the reimbursement may appeal the determination in writing to the Citizens Sewer Advisory Board (CSAB).

- (6) Any property owner aggrieved by the calculation of the A Chargeable Area of their property may appeal in writing to the Citizens Sewer Advisory Board (CSAB). After reviewing the appeal, the CSAB will make a recommendation to the Administrator for the disposition of the appeal.
- (7) These methods of A Chargeable Area calculations will apply to all Mid County Sewer Project properties with sewers constructed as Capital Improvement Projects after May 1, 1992.

- 6. "Sewer Improvement Assistance Program" shall mean the financial assistance provided to owners of eligible property as provided in subsection E of this section.
- 7. "Large Lot Deferral Program" shall mean the financial assistance provided to owners of eligible property as provided in subsection F of this section.
- 8. "Credit for Sub-surface Sewerage Disposal Systems" shall mean the financial assistance provided to owners of eligible property as provided by subsection G of this section.

- C. Applicability and Limitations. The provisions of this section apply to local sewer special charges required by PCC 17.36.020 C, and calculated as set forth in this section. Financial assistance described in this section is limited to owners of eligible property located within the affected area. Nothing in this section shall impair the City's ability to lien benefitted properties to secure compliance with a connection order or to secure financing agreements to pay charges in installments.

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- D.** Authorities and Responsibilities. The following City bureaus and agencies shall be authorized and responsible for implementing the provisions of this section:
1. Bureau of Environmental Services will be responsible for the collection of charges, administration of the large lot deferral program and collection of adequate revenue to finance the program consistent with “cost of service” rate-making methodology as required by State statute.
 2. Office of the City Auditor will assist the Bureau of Environmental Services in administering the large lot deferral program, and will be responsible for the City’s installment payment program.
 3. Office of Management and Finance will provide fiscal guidance in maintaining the fiscal integrity of the Bureau of Environmental Services and implementing the City’s Urban Services Policy.
 4. Office of the City Attorney will provide legal guidance to the Bureau of Environmental Services and the Office of the City Auditor.
- E.** Sewer Improvement Assistance Program. The City shall provide financial assistance to owners of eligible property for the cost of providing sewer local improvements within the affected area. The following procedure shall be used to provide financial assistance:
1. If the owner of an eligible property pays in full or applies for financing to pay in installments local sewer special charges on or before January 8, 1993, the City shall provide a credit for the local sewer special charge in an amount which when deducted from the special charge shall result in a net cost to the eligible property owner no greater than \$.50 per square foot of chargeable area. If the local sewer special charge is less than \$.50 per square foot of chargeable area, no credit shall apply.
 2. If the owner of an eligible property pays in full or applies for financing to pay in installments the local sewer special charge after January 8, 1993, and on or before June 30, 1993, the City shall provide a credit for the local sewer special charge in an amount which when deducted from the special charge shall result in a net cost to the eligible property owner no greater than \$.515 per square foot of chargeable area. If the local sewer special charge is less than \$.515 per square foot of chargeable area, no credit shall apply.
 3. If the owner of an eligible property pays in full or applies for financing to pay in installments the local sewer special charge after January 8, 1993, and on or before December 31, 1993, the City shall provide a credit for

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the local sewer special charge in an amount which when deducted from the special charge shall result in a net cost to the eligible property owner no greater than \$.53 per square foot of chargeable area. If the local sewer special charge is less than \$.53 per square foot of chargeable area, no credit shall apply.

4. If the owner of an eligible property pays in full or applies for financing to pay in installments the local sewer special charge after December 31, 1993, the City shall compute the local sewer special charge as provided in PCC 17.36.020.
 5. If the owner of eligible property applies for financing to pay in installments a local sewer special charge as provided by this sub-section, the resulting loan shall be subject to the same conditions as set forth in PCC Chapters 5.30 and 17.12.
- F. Large Lot Deferral Program. The City shall provide financial assistance to owners of eligible property who have a chargeable area in excess of 7,000 square feet, and who pay in full or apply for financing to pay in installments local sewer special charges prior to December 31, 1993. The following procedure shall be used to provide financial assistance:
1. For the first 7,000 square feet of chargeable area, the owner of eligible property shall pay in full or apply for financing to pay in installments the local sewer special charge as calculated by the City under subsection E of this section.
 2. For the chargeable area in excess of 7,000 square feet, the owner of eligible property may pay in full, apply for financing to pay in installments, or apply for financial assistance to defer the local sewer special charge as calculated by the City under subsection E of this section.
 3. The City shall charge simple interest on deferral loans established under this subsection. Simple interest shall be charged from the loan origination date to the date of payment at an annual interest rate of 5%.
 4. The City may charge a loan origination fee to defray the actual costs of administering a large lot deferral loan.
 5. The deferral loan shall become due and payable in full when title to the eligible property is transferred upon sale, death, or other event, upon application for a building permit to further develop the property. The City shall record a lien on the property in the Docket of City Liens, and record a deed restriction with the appropriate county recorder's office to prevent

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the issuance of any development permits or the approval of any land use applications in connection with the eligible property until the deferral loan is paid in full or financed as provided in 17.36.022(F)(6).

6. When the deferral loan is due, the owner of eligible property may request a waiver of the requirements set forth in subsection 17.36.022(F)(5), and apply to pay in installments the deferral amount, plus all interest and costs, as provided for other local sewer special charges. The application shall be reviewed, and accepted or denied by the City Auditor. The City Auditor shall adopt administrative procedures for reviewing waiver applications. The decisions of the City Auditor are final.
 7. If the owner of eligible property applies for financing to pay a special charge in installments, the resulting loan shall be subject to the conditions as set forth in PCC Chapters 5.30 and 17.12.
- G.** Credit for Sub-surface Sewerage Disposal Systems. The City shall provide a \$500 credit for sub-surface sewerage disposal systems to owners of eligible property who pay in full or apply for financing to pay in installments local sewer special charges described in subsection E of this section on or before December 31, 1993. The credit shall be made in recognition of the investment that such property owners have made in sub-surface sewerage disposal systems. The City shall apply the credit to the local sewer special charges described in sub-section E of this section. If no prior investment in a sub-surface sewerage disposal system has been made, no credit shall apply.
- H.** Credit for Connection Fees. The current sewer connection fee of \$965.00 per Equivalent Dwelling Unit will increase to \$1005.00 on July 1, 1992. The City shall provide a \$40.00 credit for sewer connection fees to owners of eligible property who pay in full or apply for financing to pay in installments local sewer special charges described in subsection E of this section between July 1, 1992 and January 8, 1993. The City shall apply the credit to the local sewer special charges described in sub-section E of this section. If the owner of eligible property pays in full or applies for financing to pay in installments local sewer special charges after January 8, 1993, the connection fee shall be computed as described in 17.36.020 B and no credit shall apply.
- I.** Collection. The City shall secure all obligations of benefitted property established by this section as follows:
1. If a property fails to remain eligible as defined by this Section due to violation of the mandatory connection requirement; financial benefits provided under this Section will be revoked upon the effective date of an order of the Code Hearings Officer. In this event the City shall assess the

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benefitted property for the amount of the financial assistance paid or extended by the City.

2. If a property is in default of any financial obligation established by this section, or has a local sewer special charge which is more than one(1) year past due, the City shall revoke all financial benefits provided under this section, and assess the benefitted property for the amount of financial assistance paid or extended by the City.
 3. All unpaid and deferred local sewer special charges, interest, penalties and collections costs shall be recorded in the Docket of City Liens and shall be a lien against benefitted property. The lien may be foreclosed upon as provided by City Code and State law.
 4. The City may add penalties, interest and collections costs to delinquent payments, as set forth in PCC Chapters 5.30 and 5.31. The amounts shall be determined by ordinance and are subject to change by City Council.
- J.** Owners of property meeting the eligibility criteria contained in the stipulated judgment approved by the U.S. District Court of the District of Oregon in the case of Hussey et al. v. City of Portland, Civil No. 92-1302 FR, may apply for and receive financial assistance pursuant to the terms and conditions contained in said stipulated judgment.

17.36.025 Stormwater System Development Charge.

(Substituted by Ordinance No. 172289; amended by Ordinance Nos. 173274, 173627, 174508, 175620, 176524, 177530, 178449, 179274, 180189 and 181846, effective July 1, 2008.) The stormwater system development charge is a fee or charge for new construction or increased use of stormwater drainage facilities by a property within the City. The methodology for calculating the stormwater system development charge shall be as set forth in the document *Sanitary and Stormwater System Development Charge Methodology*, adopted annually by ordinance.

- A.** Definitions. For purposes of this section, the following definitions shall be used:
1. “Reimbursable City stormwater facilities” means stormwater facilities constructed with sewer ratepayer funds.
 2. “Frontage” means the length of public right of way adjacent to a property, measured in feet.
 3. “Net new impervious area” means the greater of zero and the difference between existing impervious area on a property and impervious area under the proposed use(s) of the property.

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4. “Net new vehicular trips” means the greater of zero and the difference between vehicular trips generated by existing use(s) of the property and vehicular trips generated by the proposed use(s) of the property.
 5. “Transportation SDC Study” means the methodology report entitled *Transportation System Development Charges Rate Study*, dated June 11, 1997 adopted as Exhibit A to Ordinance No. 171301, or as amended.
 6. “ITE Manual” means the manual entitled “An Institute of Transportation Engineers Informational Report - Trip Generation” Fifth Edition (1991) or as amended.
- B.** The stormwater system development charge will consist of two parts: an on-site charge, reflecting use of public facilities handling stormwater flows from individual properties; and an off-site charge, reflecting use of system facilities handling stormwater flows from rights of way.
1. The on-site charge shall be calculated by multiplying the net new impervious area by the rate per thousand square feet of impervious area established, annually, by general ordinance. In the case of groundwater flows directed into stormwater facilities, the charge shall be calculated based on the amount of impervious area necessary to produce an equivalent flow given average rainfall.
 2. The off-site charge will be calculated in two parts: local access, and use of arterial streets. The rates used to calculate these charges shall be established, annually, by general ordinance.
 - a. The local access portion of the off-site charge shall be calculated by multiplying the length of the property’s frontage by the frontage rate per foot. For properties on which there is existing development, and for which a stormwater system development charge has previously been paid, the local access portion will be assumed to have been paid.
 - b. The arterials portion of the off-site charge shall be calculated by multiplying net new vehicular trips by the rate per vehicular trip. Vehicular trips for a particular development shall be determined by the Transportation SDC Study, the ITE Manual, or an alternative study acceptable to the Office of Transportation for purposes of the transportation system development charge.

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- C.** Credits. Credits will be granted against the on-site portion of the stormwater system development charge in one of the following two cases:
- 1.** Credits of up to 100% of the on-site portion of the stormwater system development charge will be granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers, or to the Columbia Slough, provided that the discharge for which the credit is sought does not pass through reimbursable City stormwater facilities, and that the discharge meets all applicable water quality standards. Those applying for this credit must provide adequate documentation to demonstrate that the stormwater for which the credit is being sought flows from the site to those receiving bodies without passing through reimbursable City stormwater facilities. Development using stormwater facilities built under a public works permit, which convey stormwater runoff directly to one of the receiving bodies listed above without passing through other City stormwater facilities, shall be eligible for the up to 100% credit against the on-site charge.
 - 2.** A 100% credit will be granted for areas draining to facilities providing effective on-site retention for a 100 year storm event with a safety factor of two, defined as a rainfall intensity of 8.28" per hour per square foot of impervious area. Those applying for this credit must provide adequate documentation to demonstrate this additional retention capacity, including testing of infiltration facilities, and that on-site flows are directed to these facilities.
 - 3.** No credits will be granted against the off-site portion of the stormwater system development charge.
- D.** The stormwater system development charge shall be collected upon issuance of a building or connection permit. If desired, the applicant may pay these charges directly to the Bureau of Environmental Services after applying for, but before receiving a building permit. However, when the new building takes the place of a structure or impervious area that has existed in the last 7 years, or does not add more than 500 square feet, or is a temporary structure, no development charge shall apply. However, development charges, including penalties and interest charges, shall become due and payable from structures that originally were exempted from development charges as a temporary structure but are not removed within 3 years as provided in the definition of temporary structures. Temporary structures are not exempt from paying draining service charges.
- E.** The City will notify Portland Habilitation Center, the Columbia Corridor Association, and other persons requesting notification under this Section of any proposed changes or amendments to:

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1. the City's stormwater system development charge, including any amendments to transportation-related system development charges that relate to the handling of stormwater;
2. the methodology supporting the City's stormwater system development charge, including any amendments to transportation-related system development charges that relate to the handling of stormwater; and
3. the methodology used to calculate the rate for any services provided by the City concerning stormwater.

For purposes of this Section, notice must be accomplished by mailing written notice to persons on the interested parties list at least 45 days before the first hearing to adopt or amend charges and rates, and the methodology supporting the adoption or amendment shall be available at least 30 days before the first hearing to adopt or amend. The Director will maintain a list of parties requesting notification. Inclusion on this list will require a written request to the Bureau.

17.36.027 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.

(Added by Ordinance No. 179274, effective June 24, 2005.)

- A. The purpose of this section is to reduce the costs of developing permanent affordable housing by waiving sanitary and stormwater system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B. The City shall exempt qualified affordable housing developments from paying all or part of sanitary and stormwater system development charges required by Sections 17.36.020 A. and 17.36.025. Applicant shall apply for exemptions under this Section prior to the date the City issues the first occupancy permit on the new development. The City may reject applications received after the date of the first occupancy permit. Where new development consists of only part of one or more of the uses described in this section, only that portion of the development that qualifies under this Section are eligible for an exemption. The balance of the new development that does not qualify for any exemption under this section shall be subject to the full system development charges. The Applicant has the burden of proving entitlement to exemptions so requested.
- C. To obtain the exemption, the applicant must present to the Bureau of Environmental Services, at the time of Application, documentation from Portland Development Commission that the development qualifies for the exemption.

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- D.** The City shall calculate exemptions in the same manner as other rented and owner-occupied properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section.
- E.** The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both.
- F.** Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of sanitary and stormwater system development charges:

 - 1.** Rental Units: The units receiving an exemption shall be affordable to households earning 60% or less of area median family income at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60% or less of area median family income, as adjusted by household size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area. Such units shall remain affordable for a period of 60 years.
 - 2.** Owner-Occupied Units. The units receiving an exemption shall be affordable to households earning at or below 100% of area median income and shall be sold to persons or households whose incomes are at or below 100% of area median family income, as adjusted by family size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area.
 - 3.** The Portland Development Commission may require that real property covenants be recorded in the deed records for properties receiving exemptions under this section in order to restrict the sales prices and rents to be charged for exempted units, or to provide remedies for failure to restrict units, or both.
 - 4.** For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30% of the gross household income at the level of the rent restrictions. "Affordable" for ownership units means a purchase price for which the sum of debt service and housing expenses including an allowance for utilities and other required ownership fees, when compared to the annual gross income for a family at or below 100% of area median

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family income, adjusted for family size, does not preclude conventional mortgage financing.

5. Per Section 30.01.040, the Bureau of Housing and Community Development and Portland Development Commission are responsible for certifying exemptions to housing developments that meet the income requirements specified in in this Subsection

6. Per Section 30.01.040, the Bureau of Housing and Community Development and Portland Development Commission are responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section.
 - a. In addition specific covenants and agreements required by the City as a condition of approval of an exemption application, qualified rental developments shall adhere to the 60-year affordability requirements for rental housing developments, including qualifying requirements related to rents and occupancy.

 - b. In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, a qualifying ownership project shall comply with applicable recapture or retention covenants,

 - c. In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, the City shall terminate the exemption and make due and payable sanitary and stormwater system development charges for the previously exempt portion of the sanitary and stormwater system development charges at rates in effect at the time the City determines the violation. If the exemption terminates within two years of initial building permit issuance, additional charges will be due and owing. These charges include a processing fee of \$120.00 and carrying charges of 12% per year (1% per month), added to the system development charge rates in effect at the time, charged back to the date the exemption was granted. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

17.36.030 Sewage Service Agreements with Governmental Agencies.

(Amended by Ordinance No. 1666574 May 27, 1993.) The Director shall have authority to enter into sewage service agreements for and on behalf of the City with any sanitary or sewage district or governmental agency authorized to contract on behalf of property

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outside the City but within the district or agency, and to provide for payments to the City by the districts or agency, instead of payments by individual property owners or occupants. Bonds or other securities may be waived by the Director in agreements provided for in this Section. All other provisions of this Title applicable to sewer connections or sewer use or to agreements with individual property owners shall remain in full force and effect.

17.36.040 Special Provisions.

(Amended by Ordinance Nos. 159797, 166574, 170717, 174178, 180189 and 181846, effective July 1, 2008.)

- A.** Establishing reduced charges or credit for water not subject to sewer user charges. Prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter for the purpose of obtaining reduced sewer charges, the owner shall submit a request for approval by the Director. A request for such credit shall include a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water using equipment, and the discharge point. At no time shall a reduced charge or credit be given retroactively (prior to the date of approval); no reduced sewer rate or charge shall be given until the Director has approved the request and the plans and installation. Any meter or method used for calculation of a reduced rate or credit, shall be subject to the administrative or special meter charge for each such meter or method as established, annually, by general ordinance. All meters used to obtain a reduced sewer user charge shall conform to the provisions of Section 17.36.050.
1. Clean water to sanitary or combined sewer charges. When uncontaminated groundwater or other uncontaminated water such as that used for refrigerating or cooling purposes or condensed from steam, and put to no other use, is discharged to a public sanitary or combined sewer under City control, the volume rate used shall be a commercial sewer volume rate as established, annually, by general ordinance, and after approval by the Director.
 2. Clean water to storm only charges. When uncontaminated groundwater or other uncontaminated water such as that used for refrigerating or cooling purposes or condensed from steam, and put to no other use, is discharged to a public separated storm sewer and not connected to a combined sanitary system under City control, the volume rate used shall be a commercial clean water to storm sewer volume rate as established, annually, by general ordinance, and after approval by the Director.
 3. Discharges from publicly owned drinking fountains. Water discharged from publicly owned drinking fountains to a sanitary or combined sewer

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shall be charged a drinking fountain volume rate as established, annually, by general ordinance, and after approval by the Director. Discharges from publicly owned drinking fountains to a public separated storm sewer shall be charged a commercial clean water to storm sewer volume rate.

4. Water not subject to sewer charges. When water is used in a manufactured product such as ice, canned goods or beverages; or for water lost by evaporation or used in irrigation, such water shall not be subject to sewer user charges, after a request for such credit is approved by the Director. After approval by the Director, the owner or other person in control of the premises, shall install meters or provide other Bureau acceptable means of determining the quantity of water so used.
 5. When clean water discharged to a public sewer system is not from a separate metered supply, the owner or other person in control of the premises, after approval by the Director, shall install meters or provide other Bureau acceptable means of determining the quantity of water so used.
- B.** Failure to repair a defective meter within 30 days after notice by the City that the meter is defective revokes the applicability of Paragraphs 1 and 2 of Subsection A. above, and a sewer user charge at the regular rate shall be paid on the full amount of water passing through the supply meter during these 30 days, and the regular sewer rate shall continue in effect until such time as the owner or person in charge of the premises formally notifies the Director that the meter has been repaired. Failure to report quantities of water subject to reduced charge or credit for two consecutive months revokes the applicability of Paragraphs 1 and 2 of Subsection A above, and a sewer user charge at the regular rate shall be paid on the full amount of water passing through the supply meter during these 60 days, and the regular sewer rate shall continue in effect until such time as the owner or person in charge of the premises formally notifies the Director that the reports shall continue. At no time shall a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.
- C.** Meters required. Where private meters are used to determine the amount of water reaching the sewer, the owner or person in charge of the premises shall give City employees the right of access at all reasonable times for the purpose of reading, inspecting or testing the meter. The owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and shall conform to all provisions in this Title. Failure of the owner, his lessee, or others acting under him to maintain the meter in good working order constitutes a violation of this Chapter and during the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the

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basis of three times the normal water usage or in such an amount as deemed proper by the Director.

1. In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or forms a partial supply in addition to that furnished by the water system of the City, the private supply must be metered and any meters so used shall conform to the provisions of Section 17.36.050. Residential properties may elect to be billed based on the characteristics of this class of customer as determined by the Director.
 2. Discharge meters. Where there are several water supplies or various uses of water that would be eligible for credit or charges under the various Sections of this Chapter, upon approval of the Director, a discharge meter may be installed in lieu of several submeters or other measurement methodology.
- D.** Estimating wastewater discharges. Sewer user service charges as provided in this Chapter shall be applicable to all wastewater discharges to the City sewer system regardless of the source. In unusual circumstances where the wastewater is not from a fixed location, such as ships, barges, houseboats and other movable facilities or dwelling units, a method of determining the volume provided by the user shall be used if approved by the Director. Otherwise, the Director shall estimate the volume of water to which sewer user service charges shall apply and this determination shall be final. The rate of charge shall be the same as though the water originated from a local, public or private source.
- E.** Where sewer charges, established, annually, by general ordinance, are inappropriate for the service provided, the Director may establish the appropriate charges based on the unit costs developed in the most recent rate study. The new charge so established shall be filed with the Council Clerk and may be reviewed by the Council on the motion of any member of the Council.

17.36.050 Meters.

(Amended by Ordinance No. 174178, effective March 17, 2000.)

- A.** Meters that are used under the provisions of this Chapter shall conform to the conditions hereinafter set forth. Any meters so used shall have the approval of the Director as to type, maintenance, calibration schedule, size and location before installation. All meters shall register in cubic feet.
- B.** Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water for the purpose of obtaining reduced sewer charges, shall be connected in such a manner as to

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register only that portion of the water supply used for that purpose, and not used for sanitary purposes.

- C. Meters placed below the ground or pavement surface shall have the top of the meter not more than 8 inches below the surface and shall be enclosed in a standard water meter box and cover as used by the Bureau of Water Works of the City. Meters located above the ground or floor level shall not be more than 3-1/2 feet above the ground or floor level.
- D. All meters shall be located in an area that is accessible at all times; the meter shall be so located that no locked door or gate shall be encountered by a City employee when inspecting the meter. No meter shall be located adjacent to dangerous machinery or structural hazard; the extent of such hazards shall be determined by the Director.
- E. Owners of meters for the purpose of calculating sewer user charges shall implement a program to ensure meter accuracy. The program should consider the manufacturer's periodic maintenance and calibration requirements. All maintenance and calibration records shall be retained and available for review by City personnel.

17.36.060 Extra-Strength Wastewater Charges.

(Amended by Ordinance Nos. 159797, 164262, 166574, 174178, 175796 and 181846, effective July 1, 2008.)

- A. Wastewater discharged to a City sewer, either directly or indirectly, is subject to the extra-strength sewage charge if the discharge has a biochemical oxygen demand or a total suspended solids concentration in excess of concentrations determined by the Director. The Director may establish concentrations of other pollutants which are to be subject to extra-strength sewage charges, and for the period until the next rate study, the rates to be charged for exceeding those levels, as established, annually, by general ordinance. Payment of the extra-strength sewage charge does not relieve the discharger of responsibility for all other applicable provisions of Chapter 17.34 Industrial Wastewater Discharges.
- B. Basis of extra-strength sewage charge rates.
 - 1. Monitoring. The average concentration of daily representative samples taken over a representative period of 5 days shall be used to begin an extra-strength sewage charge rate for a rolling average, except when another period is specified by the Director. Samples shall be taken at an approved sampling manhole or other appropriate location, as determined by the Director, so that samples will be representative.

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- a. Self-monitoring. The Director may authorize reporting by users for the purposes of calculating extra-strength sewage charge rates.
 - b. Self-monitoring data. The Director may allow a user to submit monitoring data in support of extra-strength sewage charge rate calculations. Samples of wastewater being discharged into the sewer system shall be representative of the discharge.
 - c. Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge rate be split with the user, as provided for in procedures issued by the Director.
 - d. Analytical procedures. All analytical data submitted for calculating extra-strength sewage charge rates shall be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register.
 - e. Monitoring reports. Self-monitoring reports shall include sufficient information, for purposes of calculating the rolling average for Extra Strength Sewer Charges. At no time shall the number of Extra Strength Sewer Charges slugloads exceed two per calendar year.
 2. Concentration. The concentration of each pollutant in excess of the limits specified in Subsection 17.36.060 A., above shall be used to determine the extra-strength sewage charge rate (in dollars per 100 cubic feet) for the period throughout the time interval between sample periods or as defined by the Director.
 3. Volume. The volume used to bill the extra-strength charge shall be the total metered water supply to the premises. However, where the industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters, and the industrial user provides a meter or other acceptable method of determining the quantity of water not subject to the extra-strength sewage charge, then an appropriate allowance for such other uses shall be made.
- C. Other charge computations. If unusual effluent conditions make calculation by the composite method difficult or impossible, another method of sampling and computation acceptable to the Director and based on the rates established, annually, by general ordinance may be implemented.

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- D.** Billing. Extra-strength sewage charges shall be either included with the Water Bureau's periodic water-sewer bills or shall be billed separately by the City Auditor. Extra-strength sewage charges shall be enforceable and collectable in the same manner as water and sewer charges. In addition, if such charges are not paid within 90 days from and after billing, such nonpayment shall be cause for termination of water and/or sewer services.
- E.** Minimal charges; suspension. The Director may establish a minimum limit for periodic extra-strength charges. The billing for all accounts whose periodic extra-strength sewage charges are below this minimum limit will be suspended until such time as they are found to be higher.
- F.** Adjustments. The Director may sample sewage strength as outlined in this Section and adjust charges where applicable at any time in accordance with the most recent analysis.
- G.** Additional sample requests; fees. Any user subject to rolling average monitoring may request the City to collect samples in excess of the prescribed criteria. Requests for the City to collect additional samples shall be submitted in writing and shall be accompanied by full payment, in accordance with the resampling fees established, annually, by general ordinance.
- H.** Slugloads. The Director may allow the slugload provision as defined in City Code Chapter 17.34 for purposes of Extra Strength Sewer Charges if the following conditions are met:

 - 1. The discharge is non-representative of the industrial discharge;
 - 2. The slugload was reported to the City within 24 hours of the incident;
 - 3. The sample results from the slugload exceeds 3 times the established standard deviation.

Once the Director allows the slugload provision, the City will follow the standard procedure for slugload as defined in City Code Chapter 17.34. The sample results will be used for calculating a single Extra Strength Sewer Charge based on the duration of the slugload and the concentrations of the results. The results will not be used for purposes of calculating the rolling average for Extra Strength Charges. At no time shall the number of Extra Strength Sewer Charges slugloads exceed two per calendar year.

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17.36.065 Other Charges.

(Added by Ordinance Nos. 172288, 176955 and 181846, effective July 1, 2008.) Building plan review fees. The Bureau of Environmental Services collects fees for the review of building plans and land use proposals to ensure compliance with requirements for sewage disposal, stormwater management, and for determining routes of service. Fees shall be established, annually, by general ordinance, and paid at the time the plans or proposals are submitted for review to the Bureau of Development Services.

17.36.070 Computing and Billing.

In cases where City water bills apply, the sewer user service charges provided in this Chapter shall be computed monthly, bimonthly, or quarterly, at the same time as the water bills and added thereto; or otherwise, as may be authorized by the Council. When billed with the water bill, sewer charges shall be due and payable on the dates and at the places provided for the payment of water bills. Where the first water bill, after sewer user service charges become effective, is computed as of a date less than one billing period after the sewer user service charge has become effective, the sewer user service charge shall be prorated according to the portion of the billing period for which it was effective.

No sewer user service charge shall be added to a water bill rendered less than 1 month after the sewer user service charge has become effective, but in such cases the sewer user service charge shall be added to the next water bill rendered thereafter.

In cases where a change of ownership or occupancy of premises occurs, billing of the sewer user service charge may be made along with the billing of the water charge on a fractional month basis, except in cases where actual readings shall be followed for the sewer user charge.

17.36.080 Certain Installations Unlawful.

It is unlawful to so install, change, bypass, adjust, or alter any metering device or any piping arrangement connected therewith as to show the quantity of water reaching the public sewer under City control to be less than actual quantity.

17.36.090 Identification of Inspectors.

Each City employee going upon private premises for the purpose of reading, inspecting, or testing any metering device installed under the provisions of this Title, shall wear, in a conspicuous place, upon the exterior of his or her clothing a readily discernible badge identifying the employee as a sewer user service inspector.

Each of the employees of the Bureau of Water Works, when acting as a sewer user service inspector, shall also carry credentials from said Bureau, which he or she shall show upon demand of any owner or person in charge of the premises entered.

17.36.100 Collection.

(Amended by Ordinance Nos. 165622, 166574, 166745, 166827, 167147, 167287, 177284, and 179978 effective April 7, 2006.) When billed by the Utilities Customer Services Division of the Revenue Bureau, sewer user service charges shall be a personal

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obligation of the customer and shall become due, and be collected monthly, bimonthly, or quarterly coincident with the water charges. In cases where no water bill is rendered, said Bureau shall compute the sewer user service charges and bill them monthly, bimonthly, or quarterly. In cases where the payment designated for sewer services is less than the total of sanitary and stormwater drainage use fees due, payment shall be applied first to the stormwater drainage user fee, with any remaining portion then applied to the sanitary sewer user charge. Any bill for a sewer user service charge, whether included with the water bill or otherwise, shall be delinquent if not paid within 10 days after that charge is due and payable and shall bear interest and collection costs at rates to be established by ordinance. Nonpayment of delinquent sanitary sewer charges may result in water shutoff, when the premises are furnished water by the Bureau of Water Works; pursuant to the procedures described in Portland City Code 21.16.040.

All charges for services provided directly by the Bureau of Environmental Services shall be chargeable to the user of said service at that premises (or any former premises where services were supplied). If the premises are not in use, all charges (not including charges incurred by a prior tenant other than the owner) shall be the responsibility of the owner. A property owner or his agent may become obligated for charges for furnishing such services to the user by accepting responsibility for payment, or by agreement with the Revenue Bureau, the billing agent for the Bureau of Environmental Services. Where a user or property owner has a delinquent bill for one premises, said delinquency shall be a charge against said user or property owner (for sewer service obtained) at any of his/her other premises serviced by the Bureau of Water Works of the City of Portland.

The Director of the Bureau of Environmental Services, with approval of the Commissioner In Charge, may discontinue sewer service by disconnecting and plugging the sewer service line to properties whose delinquent sanitary sewer service account balance exceeds \$10,000.00 for a period of 90 days or more. The sewer service customer and property owner shall be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection, payment of the delinquent amount, including outstanding sewer user service charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount, shall remain the responsibility of the sewer service customer. In the event a sewer service customer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the sewer service customer who originally incurred the charges.

17.36.105 Deposit and Application.

(Added by Ordinance No. 167287; amended by Ordinance No. 179978, effective April 7, 2006.) An application, deposit, or both, for sewer service may be required from all new customers, customers shut off for nonpayment, or those customers with unsatisfactory credit moving within the Bureau's jurisdiction. Unsatisfactory credit is defined as shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the Bureau of

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Environmental Services or the Revenue Bureau (the billing agent for the Bureau of Environmental Services) may result in discontinuance of service.

17.36.110 Record of Charges.

(Repealed by Ordinance No. 179978, effective April 7, 2006.)

17.36.120 Compensation to Bureau of Water Works.

The Bureau of Water Works, for its services, shall be paid the actual cost of the work and expense incurred in performing the services provided in this Chapter. The charges shall be subject to confirmation and direction of payment by the City Council.

17.36.130 Adjustment of Bills.

(Amended by Ordinance Nos. 165654, 166574, 170717, 173369, 177284 and 179978, effective April 7, 2006.) Unless otherwise specified in this Chapter, the Director of the Bureau of Environmental Services authorizes the Revenue Bureau to make adjustments or pay refunds where it is deemed necessary for the proper conduct of the business of the Bureau.

When it has been determined that a customer has been overbilled for sewer user service charges, the Revenue Bureau, with the approval of the Bureau of Environmental Services, shall adjust the sewer service customer account for the period of the overbilling not to exceed three years. If the date the error began cannot be verified, then the adjustment shall be estimated and shall not exceed three years. When it has been determined that a customer has been underbilled for sewer user service charges, the date on which the billing error first occurred shall be verified and the Revenue Bureau, with the approval of the Bureau of Environmental Services, shall accrue the bill to correct the error starting from the date the error began, the date the current tenant became responsible for the bill, or three years, whichever is less. In no event shall an accrual be made for a period more than three years. If the date the error began cannot be verified, then the accrual shall be for six months usage.

Adjustments and accruals shall be in the form of credits or additional charges. Credits shall be payable to, and charges shall be payable by, the customer of record during the time the error existed. If that customer no longer has a water/sewer account, a reasonable effort shall be made to contact the customer. Upon written request, the Bureau shall provide the customer with a written explanation detailing the circumstances of the error and the calculation of the adjustment. The Revenue Bureau is authorized to make refunds of sewer user service charges collected in error, to persons who have paid the same, upon approval of the Director of said Bureau. The Mayor and the Auditor are authorized to draw a check monthly in favor of the Revenue Bureau for amounts so refunded, the check to be drawn on and chargeable to the Sewer System Operating Fund. Sewer system customers who receive a back billing or a billing delay may be offered the opportunity to pay the balance due over a period not to exceed 24 months in equal monthly or quarterly installments with no interest.

17.36.135 Administrative Rules, Procedures and Forms.

(Added by Ordinance No. 177284, effective March 28, 2003.)

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

17.36.150 Appeal.

(Amended by Ordinance Nos. 166574, 170717, and 171694, effective November 15, 1997.) If a property owner or owner's agent does not agree that the calculation of the sewer connection charges was administered as set forth in Section 17.36.020 (Special Charges) and Section 17.36.025 (Stormwater Development Charge), he or she may appeal to the Director for an administrative review. The owner or owner's agent shall file a written appeal to the director prior to payment or within 10 days of payment of the charge. Upon receipt of the statement, the Bureau of Environmental Services shall schedule the matter for review by the Director or his or her designated representative. The owner or owner's agent shall be given an opportunity to present evidence to the Bureau in the course of the review. The owner or owner's agent shall receive a decision in writing within 10 days of the receipt of appeal request. A person aggrieved by any decision or determination of the administrative review process may appeal the decision to

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the Code Hearings Officer as provided in Chapter 22.10 of the Code of the City. A request for an appeal hearing shall be filed within 10 days after the date of the written decision of the Director. The Code Hearings Officer may waive this requirement for good cause shown. The request for an appeal hearing shall be in writing and shall contain a copy the decision appealed from and a statement of grounds upon which it is contended that the decision is invalid, unauthorized, or otherwise improper, together with such other information as the Code Hearings Officer may by rule require. The Code Hearings Officer may specify and provide hearing request forms to be used by persons requesting hearings.

Chapter 17.102

**SOLID WASTE & RECYCLING
COLLECTION**

(New Chapter substituted by Ord. No. 164916 and by Ord. No. 165001,
effective January 23, 1992.)

Sections:

- 17.102.010 Declaration of Policy.
- 17.102.020 Definitions.
- 17.102.030 Authority of Director to Adopt Rules.
- 17.102.040 Residential Collection Franchise Required.
- 17.102.042 Exceptions to Residential Franchise Requirement.
- 17.102.045 Penalties for Unauthorized Collection of Recyclable Material.
- 17.102.050 Franchise Administration.
- 17.102.060 Franchise Size Limitation.
- 17.102.070 Forfeiture and Replacement.
- 17.102.080 Residential Recycling Service Delivery.
- 17.102.090 Residential Recycling Plans Required.
- 17.102.100 Franchise System Evaluation.
- 17.102.110 Residential Solid Waste and Recycling Rates and Charges.
- 17.102.115 Large Size Container Service to Residential Customers.
- 17.102.120 Commercial Collection Permit Required.
- 17.102.121 Administration and Enforcement of Commercial Collection Permits.
- 17.102.122 Exceptions to Commercial Collection Permit Requirement.
- 17.102.130 Transporting Garbage.
- 17.102.140 Commercial Collection Permit Application.
- 17.102.150 Reserved.
- 17.102.155 Commercial Tonnage Fee.
- 17.102.158 Divulging Particulars of Reports Prohibited.
- 17.102.160 Registration Required for Independent Commercial Recyclers.
- 17.102.180 Businesses and Multifamily Complexes Required to Recycle.
- 17.102.190 Fees Credited to Solid Waste Management Fund.
- 17.102.200 Fees As A Debt, Enforcement and Collection.
- 17.102.210 Reserved.
- 17.102.230 Right of Appeal and Payment of Penalties.
- 17.102.240 Definitions for Ban of Polystyrene Foam Food Containers (PSF).
- 17.102.250 Prohibition on Certain PSF Uses.
- 17.102.260 Exemptions for PSF Use.
- 17.102.270 Enforcement and Notice of Violations for PSF Ban.
- 17.102.280 Fines for PSF Ban.
- 17.102.290 Additional Regulations for PSF Ban.
- 17.102.295 Prohibition on Storing Containers in the Right-of-Way.

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17.102.010 Declaration of Policy.

(Amended by Ordinance Nos. 169103, 171067, 177360, 178422 and 181838, effective June 13, 2008.) It is the policy of the City of Portland to reduce the amounts of solid waste, both generated and disposed of, by promoting aggressive waste prevention and recycling activities. The City shall promote the development of environmentally and economically sound practices regarding the collection, processing and end use of solid waste, recyclable material and compostable material. In order to attain these goals and protect public health and the environment, the City shall regulate collection of solid waste, recyclable and compostable materials within the City. In carrying out this policy, the goals of this Chapter are:

- A.** To promote sustainability of the system of solid waste and recycling collection, by seeking to maximize efficiency, equity and economic vitality, improve worker safety and reduce environmental and human health impacts over the entire life cycle of the materials.
- B.** To set and achieve recycling goals for Portland that are among the highest in the nation.
- C.** To achieve a recycling goal of 75 percent by 2015 and promote highest value use of recovered materials.
- D.** To reduce per capita waste generation below 2005 levels by the year 2015.
- E.** To target reductions in toxic waste, to minimize its harmful effects and to reduce greenhouse gas emissions.
- F.** To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclable and compostable materials.
- G.** To provide Portland residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs and through the addition of recyclable materials to the curbside collection program as appropriate.
- H.** To establish and enforce solid waste, recyclable and compostable material collection standards to ensure uniform, cost effective and high quality service delivery to all residential customers.
- I.** To establish rates for residential waste collection which are fair to the public, encourage waste reduction, and promote safe, efficient collection.

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- J.** To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system.
- K.** To enhance solid waste reduction and recycling in the multifamily, commercial, institutional and industrial sectors by ensuring that comprehensive recycling systems are provided at every establishment not covered by the residential franchise, and that owners of the establishments encourage extensive use of those systems by all employees.
- L.** To undertake research, studies and demonstration projects on developing more efficient, economical and effective methods of solid waste reduction, recycling and waste collection.

17.102.020 Definitions.

(Amended by Ordinance Nos. 165625, 166318, 166567, 166924, 167236, 168856, 169103, 169817, 171812, 177360 and 178422, effective June 18, 2004.) For purposes of Chapter 17.102, and rules adopted thereunder, the following terms shall have the following meanings:

- A.** “**Administrative Rule**” means all rules promulgated under Section 17.102.030 of this Chapter.
- B.** “**Approved Residential Recycler**” means a Franchisee having 3,000 or more residential customers in the City as of September 1, 2002 and having also received City approval of its recycling plan for an assigned Franchise territory. “Approved Residential Recycler” includes any employees or other persons authorized to act on behalf of the Approved Residential Recycler.
- C.** “**Assessment**” means a civil penalty assessed for an infraction.
- D.** “**Assigned Territory**” means an area within the Urban Services Boundary of the City of Portland in which only a Franchisee designated by the City may collect Solid Waste and recyclable material from residential customers.
- E.** “**Business**” is any commercial entity, including industrial and institutional, but not including multifamily customers.
- F.** “**Business Day**” means Monday through Friday excluding legal holidays.
- G.** “**Business Entity**” means any person engaging in a commercial activity.
- H.** “**City**” means the City of Portland and the area within the City Urban Service Boundary.

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- I.** “**Collect**” or “**Collection**” includes accept, accumulate, store, process, transport, market or dispose of as required by City regulations, Metro, state and federal law.
- J.** “**Commercial**” means relating to an entity that is non-residential in nature or, if residential, consists of five or more dwelling units on a single tax lot.
- K.** “**Commercial Collection**” means the collection of Solid Waste and/or recyclable materials from:
1. A non-residential source;
 2. A multifamily residence of five or more units; or
 3. The Commercial Self Hauling of Solid Waste from five or more residential units located on a single tax lot.
- L.** “**Compensation**” means and includes:
1. Any type of consideration paid for service, including, without limitation, rent or lease payments and any other direct or indirect provision of payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
 2. The exchange of services between persons; and
 3. The flow of consideration from the person owning or possessing the Solid Waste or recyclable material to the person providing the service or from the person providing the service to the person owning or possessing the Solid Waste or recyclable material
- M.** “**Compostable Material**” means yard debris, food waste and food soiled paper when source separated for controlled biological decomposition.
- N.** “**Compostable**” and “**Compostables**” have the same meaning as Compostable Material.
- O.** “**Composting**” means the series of activities, including collection, separation, and processing, by which compostable materials are recovered from or otherwise diverted from the Solid Waste stream for controlled biological decomposition. Composting includes composting of source separated organics but not composting of mixed waste.
- P.** “**Customer,**” when used to refer to Commercial service, means an entity that has arranged for garbage service to be provided by a commercial Permittee in

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exchange for compensation, excluding residential service covered by a Franchise. Where several businesses share garbage containers and service, "Customer" refers only to the entity that arranges with the Permittee for the service.

- Q.** **"Customer."** when used to refer to Residential service means any individual who receives Solid Waste, Recycling or Yard Debris service at a Residence (four-plex or smaller) in a Franchise Territory. An individual need not be the Person receiving the bill for such service to be considered a Customer. For rental properties where the owner of the property is required to subscribe for service, the owner shall be considered the "Customer."
- R.** **"Depot"** is an established area designated by an organization engaged in recycling where any person may deposit recyclable materials specified by that organization. Depots may not be mobile in nature.
- S.** **"Deposit"** means to throw, lay down, place, put, or to let fall.
- T.** **"Director"** is the Director of the Office of Sustainable Development of the City of Portland, Oregon, or his or her authorized representative, designee or agent.
- U.** **"Food Soiled Paper"** means paper products that cannot now be recycled or that have been in contact with organic materials to the degree that they would not be able to be recycled. Food soiled paper includes, but is not limited to, used paper cups and plates, used paper table covers, used napkins, and waxy corrugated cardboard. Food soiled paper includes recyclable paper that has been in contact with food to the degree that it is not recyclable, but does not include unsoiled cardboard boxes, newspaper or office paper.
- V.** **"Food Waste"** means all waste from meats, fish, and vegetables, which attends or results from the storage, preparation, cooking, handling, selling or serving of food for human consumption. Food Waste includes, but is not limited to, excess, spoiled or usable food or dairy products, meats, vegetable and meat trimmings, grains, breads and dough, incidental amounts of edible oils, and organic waste from food processing. It does not include large amounts of oils and meats commonly referred to as renderer.
- W.** **"Food Waste Generating Business"** means businesses and institutions whose waste is composed of a large amount of food waste. It includes but is not limited to restaurants, grocery stores, or food markets, hotels with catering operations, institutions with cafeterias, caterers, central kitchens or commissaries, bakeries, produce wholesalers and food processors. It does not include businesses that produce only incidental amounts of food waste in the course of doing business, such as from employee lunches.

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- X.** “**Franchise**” means a residential Solid Waste and recyclable material collection franchise awarded by Ordinance No. 176687, and as amended by subsequent ordinances.
- Y.** “**Franchisee**” means a business that has been awarded a franchise by Ordinance No. 176687, and subsequent amending ordinances, within the Urban Services Boundary of the City of Portland, for the collection of residential Solid Waste and recyclable material, including yard debris. “Franchisee” includes any employees or other persons authorized to act on behalf of the Franchisee. “Franchisee” has a meaning identical to that of “grantee” as used in the Franchise Agreement. A “Franchisee” holds a single Franchise for service in any and all of its Franchise Territories, including any territories transferred from other Franchisees as approved by the Portland City Council, subsequent to Ordinance 176687.
- Z.** “**Franchise Territory**” means an area within the Urban Services Boundary of the City of Portland in which only a City designated hauler may collect residential Solid Waste and recyclable material, including yard debris, from residential customers. A single Franchisee may serve more than one Franchise Territory.
- AA.** “**Generator**” means an entity which uses the Solid Waste, Recycling and/or Composting collection service and containers arranged for by the “Customer.”
- BB.** “**Hazardous Waste**” means Solid Waste that may, by itself or in combination with other waste, be infectious, explosive, poisonous, caustic or toxic, or otherwise dangerous or injurious to human, animal or plant life.
- CC.** “**Independent Commercial Recycler**” means a person who collects only Recyclable and/or Compostable Materials from non-Residential sources for the sole purpose of Recycling or Composting, and who does not collect Solid Waste.
- DD.** “**Infectious Waste**” as defined in ORS 459 (2003), which includes “Biological Wastes,” “Cultures and Stocks,” “Pathological waste,” and “Sharps.”
- EE.** “**Infraction**” means a failure to comply with Portland City Code Chapter 17.102 or the administrative rules promulgated thereunder.
- FF.** “**Metro**” means the regional government agency responsible for regional solid waste management and planning in the Portland Metropolitan area.
- GG.** “**Multifamily Complex**” or “**Multifamily**” means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes.

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- HH.** **"OSD"** means the Office of Sustainable Development of the City of Portland.
- II.** **"Permittee"** means any person granted a Commercial Collection permit under Section 17.102.120 of this Chapter.
- JJ.** **"Person"** means any individual, partnership, association, firm, trust, estate, a public or private corporation, a local government unit, a public agency, the state or any other legal entity.
- KK.** **"Property"** includes land and waterways.
- LL.** **"Recyclable Material," "Recyclable" and "Recyclables"** includes, but is not limited to, newspaper, scrap paper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, tin cans, magazines, aseptic packaging, coated paper milk cartons, steel aerosol cans, plastic bottles, office paper, cooking grease, wood, rubble and other materials as may be designated by the City. As specified in ORS 459A.010(4)(g) (2003), certain manufacturing waste is not considered "Recyclable Material."
- MM.** **"Recycling"** means the series of activities including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the Solid Waste stream (1) for use in the form of raw materials in the manufacture of new products other than fuel and (2) in the case of source separated wood waste which has no material use, for use as fuel.
- NN.** **"Recycling Plan Form"** means the form provided by the City on which a Customer or Self-hauler makes a commitment to comply with the City's recycling requirement by specifying which materials they will recycle and by whom the materials will be collected.
- OO.** **"Regular Basis"** means occurring more than four times in a 365-day period.
- PP.** **"Recycling District"** means a business entity formed by franchisees for purposes of recycling collection under the Franchise Agreement, and having an approved plan as set forth in Section 17.102.090. "Recycling District" includes any employees or other person authorized to act on behalf of the Recycling District.
- QQ.** **"Residence"** means any dwelling unit in the franchise territory that is a four-plex or smaller, regardless of whether it has subscribed for waste collection, or has waste collection, in individual cans, carts or containers. Multifamily dwellings such as apartment complexes, condominiums, mobile home parks, or houseboat moorages with four units or fewer on the same tax lot are considered as "residences." Fraternities/sororities are also considered as "Residences."

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"Residence" does not include any Multifamily Complex as defined in this Section, multi-dwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as condominiums, mobile home parks, or houseboat moorages, nor does "Residence" include certified or licensed residential adult foster care homes. "Residence" does not include any dwelling where over 50% of the entire building is being used for business purposes. Agreements between owners of Residences purporting to provide for the collection of Solid Waste and Recyclable on a combined basis do not alter the status of each dwelling unit as a "Residence."

- RR.** **“Resident”** means any person living in a “Residence.”
- SS.** **“Residential”** means of or pertaining to a “Residence.”
- TT.** **“Self Haul, Commercial”** when used in reference to Solid Waste and/or Recyclables or Compostables generated by a Commercial entity, means the collection and transportation of material from a Commercial entity where an owner or employee of the entity hauls the material rather than hiring a Permittee or Independent Commercial Recycler to perform this function.
- UU.** **“Self Haul, Residential”** when used in reference to materials from a residential source, means the collection and transportation of a homeowner’s Solid Waste and/or recyclable material by the living unit owner.
- VV.** **“Service”** means the collection and transportation of Solid Waste and recyclable material by persons for compensation.
- WW.** **“Solid Waste”** has the meaning given in ORS 459.005 (2003), but not including the following materials, which the ORS definition includes:
1. Sewage sludge, septic tank and cesspool pumpings or other sludge;
 2. Discarded or abandoned vehicles;
 3. Recyclable or Compostable material which is source separated and set out for recycling or composting purposes.
- XX.** **“Source Separate”** means that the person who last used Recyclable or Compostable Material separates the material from Solid Waste and keeps the Recyclable or Compostable Material separate from Solid Waste.
- YY.** **“Vehicle”** includes any motor vehicle or trailer.

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ZZ. "Yard Debris" means leaves, grass clippings, sod, weeds, vines, vegetative material from the yard, pumpkins, and prunings of no greater than four inches in diameter or 36 inches in length. Large branches (greater than four inches in diameter or more than 36 inches in length), dirt, stumps, metal, rocks, ashes, animal waste, food and household Solid Waste are not considered Yard Debris.

17.102.030 Authority of Director to Adopt Rules.

(Amended by Ordinance No. 177360 and 178422, effective June 18, 2004.)

- A.** The Director is hereby authorized to administer and enforce the provisions of this Chapter.
- B.** The Director is authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.
 - 1.** Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.
 - 2.** During the public review, the Director or the Director's designee shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
 - 3.** Notwithstanding paragraphs (2) and (3) of this section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five Business Days of the adoption of an interim rule, OSD staff shall send notice of the rule to all Neighborhood Associations, persons on the OSD list of parties interested in Administrative Rules, and Franchisees and Permittees, giving the language of the rule change, describing the purpose of the rule, and inviting comments to be sent to OSD.

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17.102.040 Residential Collection Franchise Required.

(Amended by Ordinance Nos. 165625, 169103, 176630 and 178422, effective June 18, 2004.)

- A.** No person may provide residential Solid Waste or recyclable material collection, including yard debris, within the Portland Urban Services Boundary without having obtained a franchise from the City, except as provided in 17.102.042 of this Chapter.
- B.** Having obtained a franchise for residential Solid Waste and recyclable material collection from the City, no person shall provide or offer to provide such collection in an area within the Portland Urban Services Boundary other than the assigned territory for which the franchise was issued.
- C.** No person shall accumulate, store collect, transport, dispose of or resource recover Solid Waste or recyclable material except in compliance with this chapter, other city ordinances, and state laws dealing with solid waste management and regulations and amendments promulgated under any of the foregoing.
- D.** Nothing in this section shall prohibit the City from withdrawing certain Solid Waste or recyclable material services by amendment to this section on the basis of finding that such change is appropriate.
- E.** No person other than the City Approved Residential Recycler or Recycling District may remove recyclable material that is set out in or next to a City provided Residential yellow recycling bin set out at a Residence.

17.102.042 Exceptions to Residential Franchise Requirement.

(Amended by Ordinance Nos. 169103, 171812, 177360 and 178422, effective June 18, 2004.)

- A.** A franchise is not required for the collection or transportation of residential Solid Waste and recyclable materials by the following persons:

 - 1.** Persons transporting Solid Waste or recyclable material collected outside the City;
 - 2.** Organizations which have been granted non-profit tax status by the federal government or who are organized as non-profit corporations in accordance with ORS Chapter 61 (2003) and who collect Residential recyclable materials or yard debris without charge to the generator of that recyclable materials or yard debris;

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3. A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;
 4. Landscapers, gardeners, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
 5. Persons collecting and transporting waste produced by that person, except for waste produced by a tenant at a rental dwelling. For purposes of this Subsection, solid waste produced by a tenant, licensee, occupant or similar person is produced by that person and not by the landlord;
 6. Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
 7. Persons transporting only reusable beverage containers as defined in ORS 459A (2003);
 8. Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and,
 9. Persons exclusively collecting recyclable materials from non-residential sources.
- B.** An organization is not required to have a franchise for the acceptance, storage or transportation of recyclable materials if those materials are accepted and stored at a depot or depots which accept recyclable material without a charge to the generator of that recyclable material.

17.102.045 Penalties for Unauthorized Collection of Recyclable Material.

(Added by Ordinance Nos. 1688551; amended by 169103 and 177360 effective May 2, 2003.)

- A.** Penalty Amounts:
1. Persons found in violation of Subsections 17.102.040 E. or 17.102.120 E. are subject to civil penalties of up to \$500.
 2. A second violation of these Subsections by the same person may be subject to civil penalties of up to \$750.

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3. Third and subsequent violations of these Subsections by the same person may be subject to civil penalties of up to \$1000.
 4. Civil penalties may be assessed on a per day or per occurrence basis.
- B.** The Director shall consider the following criteria in determining the amount of civil penalties to be assessed under this Section:
1. The nature and extent of the person's involvement in the violation;
 2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
 3. Whether the violation was isolated and temporary, or repeated and continuous;
 4. The magnitude and seriousness of the violation;
 5. The costs of investigation and remedying the violation;
 6. Whether any criminal prosecutions have occurred in regard to the violations; and
 7. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

17.102.050 Franchise Administration.

(Amended by Ordinance No. 177360 and 178422, effective June 18, 2004.)
Notwithstanding Section 3.114.020, the Office of Sustainable Development shall be responsible for administration of all residential Solid Waste and recyclable material collection franchises.

17.102.060 Franchise Size Limit.

- A.** No franchisee shall service more than 50,000 residential customers.
- B.** No franchisee shall be a subsidiary corporation of another franchisee.

17.102.070 Forfeiture and Replacement.

(Added by Ordinance No. 167236; amended by 177360, effective May 2, 2003.)

- A.** In the event that the Director of the Office of Sustainable Development finds grounds for declaring a forfeiture, according to the terms of the franchise awarded by Ordinance No. 176687, and as amended by subsequent ordinances, OSD shall make a recommendation for Council action on the matter, following procedures specified in the OSD's adopted rules.
- B.** In preparing for the transfer of a forfeited franchise to another party, OSD shall solicit applications from current franchisees and from other parties who have given a written notice of their interest following a public notification. OSD shall determine the applicants' qualifications to assume the franchise responsibilities. OSD is authorized to then use a lottery in selecting among qualified applicants. In addition, OSD is authorized to conduct an appraisal of the value of the forfeited franchise. The lottery winner(s) shall then be offered the opportunity to purchase the franchise from the City within a specified time period at the appraised value.
- C.** In cases where a franchisee abruptly ceases to provide service, and there is insufficient time to conduct an appraisal and permanently transfer a franchise, OSD is authorized to recommend that the Council appoint a temporary service provider. If the Council makes such an appointment, it may also guarantee a minimum level of revenue to that company, in order to encourage companies who would not otherwise be willing to assume this responsibility on a short-term basis. Such minimum level of revenue would be achieved by the City's supplementing revenues received by the temporary service provider from its temporary customers.

17.102.080 Residential Recycling Service Delivery.

(Amended by Ordinance No. 177360, effective May 2, 2003.)

- A.** Residential recycling collection shall be performed by either an Approved Residential Recycler or a Recycling District.

17.102.090 Residential Recycling Plans Required.

(Amended by Ordinance No. 177360, effective May 2, 2003.)

- A.** Approved Residential Recyclers and Recycling Districts must receive City approval of Recycling Collection and Processing Plans prior to initiation of service, and at subsequent times as provided in the Administrative Rules.
- B.** Recycling Collection and Processing Plans shall be submitted on forms provided by the City and shall include, at a minimum, the following information:

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1. Number of residential households in service area;
 2. Description of recycling collection equipment;
 3. Address and City zoning classification of processing/storage sites;
 4. Description of processing and storage activities;
 5. List of markets where each recyclable material will be sold;
 6. List of the number of staff, their positions and FTE for each;
 7. Address and phone number of office;
 8. Cost of recycling collection and processing equipment, the financial institution used and type of financing obtained; and
 9. Other information as deemed relevant and necessary by the Office of Sustainable Development.
- C. OSD shall review each submitted Recycling Collection and Processing Plan to determine if the plan sets out reasonable means and methods to deliver high quality recycling to City residents, and which are capable of meeting Administrative Rule standards for residential recycling service delivery. Approved Residential Recyclers and Recycling Districts shall be notified in writing by the City as to the acceptability of their plans and any recommended modifications if approval is not given.
- D. Failure to receive City approval of a plan shall result in denial of the City's permission to provide recycling collection service and the appointment of another firm by the City to provide recycling collection service.

17.102.100 Franchise System Evaluation.

(Added by Ordinance No. 177360, effective May 2, 2003.)

- A. On an annual basis, the Office of Sustainable Development shall prepare a report on the status and performance of the franchise collection system for the City Council. The report shall comment on progress toward achievement of the relevant goals stated in Section 17.102.010 of this Chapter, and in OSD budget documents.
- B. Commencing at least five years prior to the expiration of the franchise term, the City Council shall evaluate the franchise system to determine if the system is achieving waste reduction, increased recycling, and cost-effective collection

service. Such evaluation shall include an opportunity for public discussion and comment.

17.102.110 Residential Solid Waste and Recycling Rates and Charges.

(Amended by Ordinance No. 165625, effective Aug. 1, 1992.) For all service levels of franchised residential service collection, rates and charges shall be as set forth in Figure 6 published at the end of Title 17.

17.102.115 Large Size Container Service to Residential Customers.

(Added by Ordinance No. 165625; amended by 169103 and 171812, effective December 26, 1997.)

- A. Any residential putrescible waste collected in containers exceeding two yards capacity, by a Commercial Permittee or Franchisee collecting outside the Franchisee's territory, shall be emptied within seven days of the empty container being placed at the residence.
- B. Commercial Permittees are prohibited from providing collection of any putrescible waste on a Regular Basis to residential customers without the express written permission of the Franchisee in whose territory the collection would be occurring.
- C. Within the City, Franchisees are prohibited from providing containers larger than two cubic yards which are emptied on a regular basis to residential customers outside their franchise territory.

17.102.120 Commercial Collection Permit Required.

(Amended by Ordinance Nos. 169103, 171812, 177360 and 178422, effective June 18, 2004.)

- A. No person shall provide commercial collection of Solid Waste, compostables and/or recyclable material within the City without having obtained an annual commercial collection permit from the Office of Sustainable Development, except as provided in Section 17.102.122. Permits shall be issued for the year beginning July 1 and ending June 30.
- B. Permittees must comply with Administrative Rules promulgated under Section 17.102.030, including provision of recycling collection to all who receive collection of Solid Waste.
- C. Permittees may charge a person who source separates recyclable material - and makes it available for reuse or recycling - less, but not more, for collection and disposal of Solid Waste and collection of Recyclable Material than the collection service charges a person who does not source separate recyclable material. This

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provision affects charges for collection of Yard Debris but does not affect charges for the collection of other Compostables.

- D.** Any person who provides commercial collection of Solid Waste within the City without a current commercial collection permit from OSD shall be subject to a civil penalty of up to \$500 per day.
- E.** No person who is not authorized by the Customer may remove recyclable material that is set out by the Customer for recycling.
- F.** As provided in Section 29.30.140, owners of Multifamily rental dwellings may not Self-haul Solid Waste generated by their tenants, but must contract for waste collection services from a Permittee.

17.102.121 Administration and Enforcement of Commercial Collection Permits.

(Added by Ordinance 171812; amended by 175405, 177360 and 178422, June 18, 2004.)

- A.** The Director may impose assessments of up to \$1500 per incident for violations of the commercial permit regulations.
- B.** The Director may revoke or deny the issuance or renewal of a Commercial Collection Permit, or may suspend or revoke a Commercial Collection Permit, for violations of the Commercial Administrative Rules for Solid Waste and Recycling or under other conditions as follows:
 - 1.** Any Commercial Permittee who has accumulated within a 365-day period more than five serious violations;
 - 2.** Any Permittee whose Solid Waste collection from commercial accounts in Portland during the previous four calendar quarters was more than 2000 tons, and who has accumulated within a 365-day period more than two serious violations per 2000 tons of Solid Waste collected during the previous four calendar quarters;
 - 3.** Any Permittee whose Solid Waste collection from commercial accounts in Portland during the previous four calendar quarters was 2000 tons or less and who has accumulated within a 365-day period more than three serious violations;
 - 4.** Any Permittee who has failed to pay fees as described in Section 17.102.200; and
 - 5.** Any Permittee who has been found by a court of competent jurisdiction to have practiced any fraud or deceit upon the City.

17.102.122 Exceptions to Commercial Collection Permit Requirement.

(Added by Ordinance Nos. 169103 and 177360; amended by 178422, effective June 18, 2004.) A commercial collection permit is not required for the collection or transportation of commercial Solid Waste and recyclable materials by any of the following:

- A. Persons transporting Solid Waste, Recyclable or Compostable material collected outside the City;
- B. A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;
- C. Landscapers, gardeners, farmers, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
- D. Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
- E. Persons transporting only reusable beverage containers as defined in ORS Chapter 459A (2003);
- F. Federal or state agencies that collect, store, transport and dispose of Solid Waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and
- G. Persons exclusively collecting Recyclable or Compostable materials from anyone other than Residential Customers.

17.102.130 Transporting Garbage.

(Added by Ordinance Nos. 176585 and 177360, effective May 2, 2003.) No person, whether acting as private citizen, principal, employee, or agent shall transport any refuse through streets in the district bounded by SW Oak Street, SW First Avenue, SW Yamhill Street and SW Tenth Avenue, except between the hours of 10 p.m. and 10 a.m. or when otherwise authorized by a City Engineer, City Police Officer, or Nuisance Inspector.

17.102.140 Commercial Collection Permit Application.

(Amended by Ordinance Nos. 166561, 169103, 171812, 177360, 178422 and 181838, effective July 1, 2008.) Applications for commercial collection permits shall be submitted to the Director on forms provided by OSD, no later than the deadline stated on the form. The application shall include:

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- A. The name, street and mailing address, and business telephone number of the applicant;
- B. Applicant business ownership information, responsible official and contact person;
- C. City of Portland Business License number or License exemption form;
- D. Any other information deemed relevant and necessary by the Director; and
- E. An application fee of \$350.

17.102.150 Reserved.

17.102.155 Commercial Tonnage Fee.

(Amended by Ordinance Nos. 165625, 166561, 168081, 169103, 171812, 176522, 177360, 178422 and 181838, effective July 1, 2008.) Commercial permittees shall, when invoiced quarterly by the Director, pay a tonnage fee to the City. Fees shall be assessed up to \$5.80 per ton of commercial Solid Waste collected within the City and deposited in disposal facilities authorized by Metro. Payments shall be made within 30 days of the date of the invoice. Interest shall accrue at 1% per month on balances which remain unpaid as of 30 days after the date of invoice, compounded daily from the due date.

17.102.158 Divulging Particulars of Report Forms Prohibited.

(Amended by Ordinance Nos. 168081, 169103 and 177360, effective May 2, 2003.) Except as otherwise required by law, it shall be unlawful for the Office of Sustainable Development or any officer, employee, or agent of the City, to divulge, release, or make known in any manner any information submitted or disclosed to the City under terms of Sections 17.102.155 or 17.102.170. Nothing in this Section shall be construed to prohibit:

- A. The disclosure of the names and addresses of any persons to whom permits have been issued; or
- B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any individual permittee.

17.102.160 Registration Required for Independent Commercial Recyclers.

(Added by Ordinance No. 169103; amended by 177360 and 178422, effective June 18, 2004.)

- A. No person shall provide service as an Independent Commercial Recycler within the City without having registered with the Office of Sustainable Development,

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by providing OSD with a copy of their City of Portland Business License, or with their Business License number.

- B.** Any person who provides service as an Independent Commercial Recycler within the City without having so registered with the City shall be subject to a civil penalty of up to \$500 per day.
- C.** All Independent Commercial Recyclers which collect in the City at least 25 tons of recyclables and/or compostables per year shall report quarterly to OSD on the amounts of recyclables collected in the City, on forms provided by OSD.

17.102.170 Hazardous Waste Remedial Action Surcharge.

(Repealed by Ordinance No. 175375, effective October 1, 2000.)

17.102.180 Businesses and Multifamily Complexes Required to Recycle.

(Added by Ordinance No. 169103; amended by 171812, 177360 and 178422, effective June 18, 2004.)

- A.** Requirement to Recycle.
 - 1.** All Businesses within the City shall recycle their recyclable materials in compliance with Administrative Rules established by the Office of Sustainable Development.
 - 2.** All Multifamily Complexes within the City shall establish recycling systems, for their tenants' use, in compliance with Administrative Rules established by OSD.
 - 3.** For all building projects within the City where the total job cost (including both demolition and construction phases) exceeds \$50,000, the general contractor shall ensure that certain materials generated on the job site are recycled in compliance with Administrative Rules established by OSD. For an affected building project where there is no general contractor, this requirement applies to the property owner.
- B.** City monitoring of compliance will be accomplished through Customers' and Self-haulers' completion of Recycling Plan Forms and City review of those forms, as well as through City inspection of onsite recycling and waste systems.
- C.** Any Business or any other Person may sell or exchange at fair market value its own recyclable materials which are source separated for reuse or recycling. This Chapter and any Administrative Rules promulgated hereunder are not intended to limit the ability of any Person to compete openly to provide recycling collection service to businesses within the City of Portland.

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17.102.190 Fees Credited to Solid Waste Management Fund.

(Amended by Ordinance Nos. 166724, 167236, 174830, 177360 and 178422, effective June 18, 2004.)

- A.** All fees, civil penalties, assessments and interest received by the Office of Sustainable Development with respect to Solid Waste collection or disposal shall be deposited with the City Treasurer and credited to the Solid Waste Management Fund.
- B.** Monies deposited into the Solid Waste Management Fund shall be used for administration, implementation and operation of Solid Waste, recycling, composting and sustainable development programs, consistent with all applicable constraints on use of funds. OSD may spend or apply such fees and charges to implement and administer Solid Waste, recycling, composting and sustainable development policies approved by the Council.
- C.** The proceeds from the City's sale of a forfeited franchise shall be deposited with the City Treasurer and credited to the Solid Waste Management Fund. Such proceeds shall be used to offset the City's costs of the process of replacing a franchisee, including its costs for providing any necessary temporary services, and to offset program costs to the public.

17.102.200 Fees As A Debt, Enforcement and Collection.

(Amended by Ordinance Nos. 166561, 168081, 171812 and 177360, effective May 2, 2003.)

- A.** All fees, civil penalties, assessments and interest imposed by this Chapter shall be a debt due and owing to the City of Portland and may be collected by civil action in the name of the City of Portland. Any fees, civil penalties and assessments remaining unpaid after the due date shall accrue interest at 1-1/2% per month, compounded daily from the due date. In addition, the City may revoke or deny renewal of any commercial collection permit to permittees who have not paid commercial permit or tonnage fees or infraction assessments by the deadlines provided in this Chapter or in Administrative Rules adopted pursuant to this Chapter.
- B.** Fees, civil penalties, assessments and interest shall be enforced and collected by the Office of Sustainable Development. OSD may waive or reduce any civil penalties or assessments for good cause, according to and consistent with written policies. The Director of OSD may refer collection and enforcement to another City Agency.

17.102.210 Reserved.

17.102.220 Franchise System Evaluation.

(Repealed by Ordinance No. 177360, effective May 2, 2003.)

17.102.225 Authority of Director.

(Repealed by Ordinance No. 177360, effective May 2, 2003.)

17.102.230 Right of Appeal and Payment of Penalties.

(Amended by Ordinance Nos. 169103, 175405, 177360 and 178422, effective June 18, 2004.) Except as provided in 17.102.310, Right of Appeal for Illegal Dumping, and 17.102.320, Collection of Penalties and Costs for Illegal Dumping:

- A. Any person receiving a Notice of Civil Penalty or Notice of Assessment shall, within 14 Business Days of issuance of the notice either pay to the City the stated amount of the Civil Penalty or Assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the City Code. The filing of an appeal request shall stay the effective date of the Civil Penalty or Assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of the Civil Penalty or Assessment is ordered, such payment must be received by the City or postmarked within 15 calendar days after the order becomes final.

- B. A person may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if the person receives:
 - 1. a written denial of an application for a Commercial Collection permit;
 - 2. a written denial of an application for renewal of a Commercial Collection permit; or
 - 3. any written suspension or revocation of a Commercial Collection permit.

17.102.240 Definitions for Ban of Polystyrene Foam Food Containers (PSF).

(Amended by Ordinance 180330, effective August 18, 2006.) As used in Sections 17.102.240 through 17.102.290, the following terms have the following meanings:

- A. “Biodegradable”, means material capable of being broken down by micro-organisms into simple substances or basic elements.

- B. “Chlorofluorocarbons”, are the family of substances containing carbon, fluorine and chlorine.

- C. “Customer”, means any person obtaining food or beverages from a restaurant or retail food vendor.

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- D.** “Food vendor”, means any restaurant or retail food vendor.
- E.** “Food packager”, means any person, located within the City of Portland, who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.
- F.** “Non-profit food provider”, means a recognized tax exempt organization which provides food as a part of its services.
- G.** “Prepared food”, means food or beverages which are served on the vendor's premises without preparation, or are prepared on the vendor's premises by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. "Prepared food" does not include any raw uncooked meat or eggs. Prepared food may be eaten either on or off the premises.
- H.** “Person”, means any natural person, firm, corporation, partnership, or other organization or group however organized.
- I.** “PSF”, means any material composed of polystyrene and having a closed cell air capacity of 25 percent or greater, or a density of less than 0.787 grams per cubic centimeter based on an average polystyrene density of 1.05 grams per cubic centimeter, as determined by an analytical testing laboratory.
- J.** “Recycled”, describes a type of material that is separated from the solid waste stream and utilized as a raw material in the manufacture of a new product or new economic use.
- K.** “Restaurant”, means any establishment located within the City of Portland, selling prepared food to be eaten by customers. Restaurant includes a sidewalk food vendor.
- L.** “Retail Food Vendor”, "Vendor" means any store, shop, sales outlet or other establishment, including a grocery store or a delicatessen, located within the City of Portland, which provides prepared food.
- M.** “Reuse”, means the process by which a product is reclaimed or reprocessed into another useful product.

17.102.250 Prohibition on Certain PSF Uses.

(Amended by Ordinance No. 180330, effective August 18, 2006.)

- A.** On and after March 1, 1989, no restaurant, retail food vendor or non-profit food provider shall serve food and after June 30, 1989 no packager shall package

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meat, eggs, bakery products or other food in polystyrene foam (PSF) containers, manufactured with chlorofluorocarbons (CFCs) which do not reduce the potential for ozone depletion by more than 95 percent, compared to the ozone depletion potential of CFC-12 (dichlorodifluorothane). Compounds banned include: CFC-11, CFC-12, CFC-113, CFC-114, CFC-115, Halon-1211, Halon-13-1 and Halon-2402. Food vendors may be required to furnish a written statement from the manufacturer or supplier of polystyrene foam products used by that food vendor, indicating that the chemical compounds used in the manufacture of the vendor's polystyrene foam products meet the provisions of this code.

- B.** On and after January, 1990, no restaurant or retail food vendor shall serve prepared food in any polystyrene foam (PSF) products.

17.102.260 Exemptions for PSF Use.

(Amended by Ordinance No. 180330, effective August 18, 2006.) The City Council, or its appointee, may exempt a food vendor, food packager or non-profit food provider from the requirements of this Code for a one year period, upon showing by the applicant that the conditions of this Code would cause undue hardship. The phrase undue hardship, shall be construed to include, but not be limited to:

- A.** Situations where there are no acceptable alternatives to PSF packaging for reasons which are unique to the vendor, packager or provider;
- B.** Situations where compliance with the requirements of this Code would deprive a person of a legally protected right. If a request for exemption is based upon a claim that a legally protected right would be denied if compliance were required and such request for exemption is denied, review of the denial shall only be by writ of review as provided for in ORS 34.010 to 34.102, and not otherwise.

17.102.270 Enforcement and Notice of Violations for PSF Ban.

(Amended by Ordinance Nos. 176982 and 180330, effective August 18, 2006.)

- A.** The Director or Director's designee of the Office of Sustainable Development, upon determination that a violation of this code or regulations duly adopted pursuant to this code has occurred, shall issue a written notice of the violation by certified mail to the vendor or food packager which will specify the violation and appropriate penalty.
- B.** The vendor or food packager shall, upon receipt of a notice of violation, pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer for a hearing within 15 days of receipt of the notice.

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17.102.280 Fines for PSF Ban.

(Amended by Ordinance No. 180330, effective August 18, 2006.) Violations of this ordinance shall be punishable by fines as follows:

- A. A fine not exceeding \$250 for the first violation in a one year period;
- B. A fine not exceeding \$500 for the second and each subsequent violation in a one year period.

17.102.290 Additional Regulations for PSF Ban.

(Amended by Ordinance Nos. 176982 and 180330, effective August 18, 2006.) The Office of Sustainable Development is authorized to promulgate additional regulations and other actions reasonable and necessary to enforce this code. Prior to the adoption of such regulations, the Office of Sustainable Development shall give public notice of its intent to adopt regulation, provide copies of the proposed regulations to identified interested parties and conduct a public hearing on the proposed regulations. Public notice shall be given when regulations have been finally adopted. Copies of current regulations shall be made available to the public upon request.

17.102.295 Prohibition on Storing Containers in the Right-of-Way.

(Added by Ordinance No. 181838, effective June 13, 2008.)

- A. No person may store, or cause to be stored, containers of solid waste, recycling or compostables on public right-of-way in excess of 24 hours without a permit from the City Engineer, the City Traffic Engineer, or the Office of Sustainable Development.
- B. The Director may provide exemptions from Subsection A. for extreme economic hardship. Criteria for eligibility shall be based upon such factors as financial hardship for the property or business owner, conditions related to the property and resources necessary to provide adequate on-site, interior storage space for garbage and recycling containers. Exempted property shall be subject to the requirements of this Section following the termination of the hardship exemption. Exemptions shall be for no more than two years. Exemptions may be renewed upon reapplication by the property owner or business owner, after a re-evaluation of eligibility by the Director. Exemptions shall be personal to the property or business owner, and shall not be assignable, transferable or otherwise be conveyable. Exempted property shall be subject to the requirements of Subsection A. following expiration of any hardship exemption granted by the Director.
- C. The Director shall develop administrative rules and procedures for determining extreme economic hardships under Subsection B., using the process under Section 17.102.030. The Director shall also adopt standards for space requirements for

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storage of containers of solid waste, recycling or compostables in new construction and when major alterations are made to existing buildings.

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FIGURE 2 - (Section 17.24.020)

(Amended by Ordinance Nos. 160042, 166696, 167861, 168944, 170200, 171243, 172288 , 175205, 180189, 181006 and 181846, effective July 1, 2008.)

Permit For	Unit Fee	Minimum Each Permit
(1) Placement of bus shelter or rest station with no advertising use		No charge
(2) Community, parade or block party street closures		No charge
(3) Seasonal or parade decorations		No charge
(4) Placement of public litter receptacle		No charge
(5) Street uses established by the City Engineer and City Council to be of civic benefit and non-commercial in nature		No charge
(6) Construction or reconstruction of sidewalks and driveways	\$.28/sq. ft.	\$30.00
(7) Construction or reconstruction of curb	\$.38/lin. ft.	\$30.00
(8) Excavation for the construction, reconstruction, repair or abandonment of:		
(a) a main line, duct, conduit, subway, property service, lateral, etc. (Sewer connection more than 100 feet in length shall be deemed a public improvement under permit.)	\$.98/lin. ft.	\$98.00
(b) property service or lateral if not constructed in conjunction with (a) above and plan review not required.	\$54.00	\$54.00

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FIGURE 2 CONTINUED - (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(9) Excavation for construction, reconstruction, repair or abandonment of:		
(a) utility vault or manhole chamber,		\$391.00
(b) underground storage tank		\$551.00/tank
(c) miscellaneous utility excavations	\$.98/sq. ft.	\$ 98.00
(10) Placement, replacement, relocation or removal of a pole or private street light	\$33.00	\$ 33.00
(11) Drilling a test hole	\$98.00	\$ 98.00
(12) Temporary closure of any street or portion of a street	\$103.00	\$103.00
(13) Material blasting		\$181.00
(14) House and building moving:		
(a) Non-refundable permit application, investigation fee and issuance fee		\$185.00
(b) Inspection fee Full Cost incurred by the City for inspection and oversight of moving operations.		
(15) Advertising benches:		
(a) Permit		\$ 20.00
(b) Annual Permit Renewal Fee		\$ 20.00
(c) Fee for bench removed by City for non-compliance with City Code -- Full cost incurred by the City for removal and storage of Bench.		

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FIGURE 2 CONTINUED - (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(16) Bike Racks		
(a) Permit	\$30.00	\$ 30.00
(b) Fee for bike rack removed by City for non-compliance with City Code -- Full cost incurred by the city for removal and storage of the rack.		
(17) Mail Boxes (private, fore 1 and 2 family residence)	\$30.00	\$ 30.00
(18) Sewer connection fee (effective 7-1-06) connection to an existing lateral, or extension of lateral from sewer main to property line; sewer or lateral extension more than 100 feet in length shall be deemed a public improvement under permit	\$150.00	\$ 150.00
(19) Building Plan Review		
(a) One or two family residential structure. Fee comprised of: \$73.00 review fee \$44.00 surcharge for turn around	\$117.00	\$117.00
(b) Structures auxiliary to a one or two family residential dwelling unit submitted on a separate application. Fee comprised of: \$73.00 review fee \$44.00 surcharge for turn around	\$117.00	\$117.00
(c) Commercial buildings (any structure other than those listed in a and b above). Fee comprised of: \$117.00 review fee \$79.00 surcharge for turn around	\$196.00	\$196.00
(20) Any other excavation, construction, reconstruction, repair, removal, abandonment, placement or use of the street area (For portable signs, see Title 32 Signs and Related Regulations.)		\$181.00

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FIGURE 2 CONTINUED (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(21) Penalty fee. If work in the street area is commenced without first securing the proper permit, the fee shall be double that prescribed above, unless the City Engineer determines that it is not reasonably possible to obtain the permit before commencing such work. Payment of the permit fee, however, shall in no way relieve or excuse any permittee from any other penalties imposed on such violations.		
(22) Sewer tap fees.		
Sewer tap fees are adopted, annually, by general ordinance to establish sewer and drainage rates and charges.		
(23) Application fee deposit for streets proposed for rename 10 and under City blocks:		<u>Deposit*</u> \$ 500.00
Application fee deposit for streets proposed for rename over 10 City blocks:		\$1,000.00

*Auditor shall return any unused portion of deposit to applicant.

SEWER USER SERVICE CHARGES AND RATES

FIGURE 3 - (Section 17.36.010)

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

FIGURE 5 - (Section 17.36.020)

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

FIGURE 6 - Chapter 17.102

(Replaced by Ordinance No. 181848,
effective July 1, 2008.)

As used in Figure 6 the following terms have the meanings described below:

"Excess distance" is applicable to any collection beyond seventy-five (75) feet from the curb. This charge is in addition to the "non-curb surcharge".

"Clean up containers" include hauler-provided containers which are provided as requested by the customer for occasional or temporary use.

"Multifamily" means any multidwelling building or a combination of buildings on a single tax lot in the residential franchise territory that contains 2-4 dwelling units.

"Non-curb surcharge" is the charge for collection service provided at a location more distant than curbside.

"Terrain differential" is applicable to services within the territory designated on Figure 6-1.

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PUBLIC IMPROVEMENTS**

Residential Solid Waste and Recycling Rates				
Single Family Residential Service Level	Monthly Rate, Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
Weekly Collection of Garbage & Recycling, Every Other Week Yard Debris				
20-gallon Can	21.70		3.35	1.05
32-gallon Can	24.45		3.35	1.05
32-gallon Rollcart	26.50			
60-gallon Rollcart	31.25			
90-gallon Rollcart	36.50			
1.0 Cubic Yard Container	78.05			
1.5 Cubic Yard Container	106.40			
2.0 Cubic Yard Container	134.65			
Once a Month Collection of Garbage, Weekly Collection of Recycling and Every Other Week Yard Debris				
32-gallon Can	15.70		.80	.25
32-gallon Rollcart	17.05			
Special Services				
Recycling Only, Weekly Collection	5.95			
On Call Yard Debris Only (32-gallon Can, Bag, or Bundle)	4.50			
On Call Garbage Only (32-gallon Can)		7.40	.80	.25
Extra Yard Debris Roll Cart	4.70			
Extra Recycling Roll Cart	2.50			
Clean Up Containers				
One 1.0 Cubic Yard		78.40		
One 1.5 Cubic Yard		83.75		
One 2.0 Cubic Yard		93.00		

**TITLE 17
PUBLIC IMPROVEMENTS**

Miscellaneous Rates				
Yard Debris, Extra Can, Bag or Bundle		2.50		
Garbage, Extra Can or Bag		5.00	.80	.25
Special Pickup or Call Back for Garbage or Yard Debris		7.75		
Rollcart Delivery		11.00		
Terrain Surcharge (see figure 6-1)				
Weekly Solid Waste (single can)	3.80			
Weekly Solid Waste (multiple cans/ rollcars)	3.95			
Monthly Solid Waste	2.20			
Recycling Only	1.25			
On Call Service	.50			
On Call Yard Debris Only	.50			
Weekly Collection of Garbage & Recycling, Every Other Week Yard Debris (Multiple Cans/Rollcars)				
32-gallon Cans, Two	30.60		6.70	2.10
32-gallon Cans, Three	36.60		10.05	3.15
32-gallon Cans, Four	42.60		13.40	4.20
32-gallon Rollcars, Two	34.70			
32-gallon Rollcars, Three	42.85			
32-gallon Rollcars, Four	51.30			
60-gallon Rollcars, Two	44.15			
60-gallon Rollcars, Three	56.90			
60-gallon Rollcars, Four	69.70			
90-gallon Rollcars, Two	54.20			
90-gallon Rollcars, Three	71.90			
90-gallon Rollcars, Four	89.65			

Residential Solid Waste and Recycling rates and charges include recycling services as outlined in City Administrative Rules. If the need for a type of service arises that is not now foreseen or specifically covered by this rate schedule, then the charge for such service shall be:

1. Uniform and nondiscriminatory between customers of a collector;
2. Commensurate with the rates generally charged in the Portland Metropolitan Area;
3. Subject to approval by the City of Portland, Office of Sustainable Development Director.

**TITLE 17
PUBLIC IMPROVEMENTS**

Residential Curbside Monthly Rates -- Small Multiplexes			
Weekly Collection for:	Duplex	Tri-plex	Four-plex
Single container service, where can/cart/container is shared by residents of 2, 3 or 4 units.			
One shared 32 gallon rollcart	31.95	N/A	N/A
One shared 60 gallon rollcart	34.10	40.45	N/A
One shared 90 gallon rollcart	39.35	43.35	48.05
One shared 1 cu.yd. container	80.90	84.90	87.75
One shared 1.5 cu.yd. container	109.30	113.30	116.15
One shared 2 cu.yd. container	137.50	141.50	144.35
Multiple containers. These rates apply where all cans/carts are placed together in a single location. Where unshared cans/carts are located separately, then each is considered a separate account, charged at single-family rate.			
Two 32 gallon cans	33.45	38.60	N/A
Three 32 gallon cans	39.45	43.45	46.65
Four 32 gallon cans	45.45	49.45	52.30
Two 32 gallon carts	37.55	41.70	46.75
Three 32 gallon carts	45.70	49.70	52.55
Four 32 gallon carts	54.15	58.15	61.00
Two 60 gallon carts	47.00	51.00	53.85
Three 60 gallon carts	59.75	63.75	66.60
Four 60 gallon carts	72.55	76.55	79.40
Two 90 gallon carts	57.10	61.10	63.95
Three 90 gallon carts	74.75	78.75	81.60
Four 90 gallon carts	92.55	96.55	99.40

Monthly Non-curbside Service: \$3.35 per can \$6.75 per rollcart
Monthly Excess Distance Charge: \$1.05 per can \$2.25 per rollcart
Recycling Labor Charge: \$2.85 per unit
 (after the first unit)

Terrain Surcharge: \$3.95 per multiplex account
 (for services within the territory designated on Figure 6-1)

Yard Debris:
 Extra Can, Bag, or Bundle \$2.50 each
 (accrued on a per account, rather than per unit, basis)

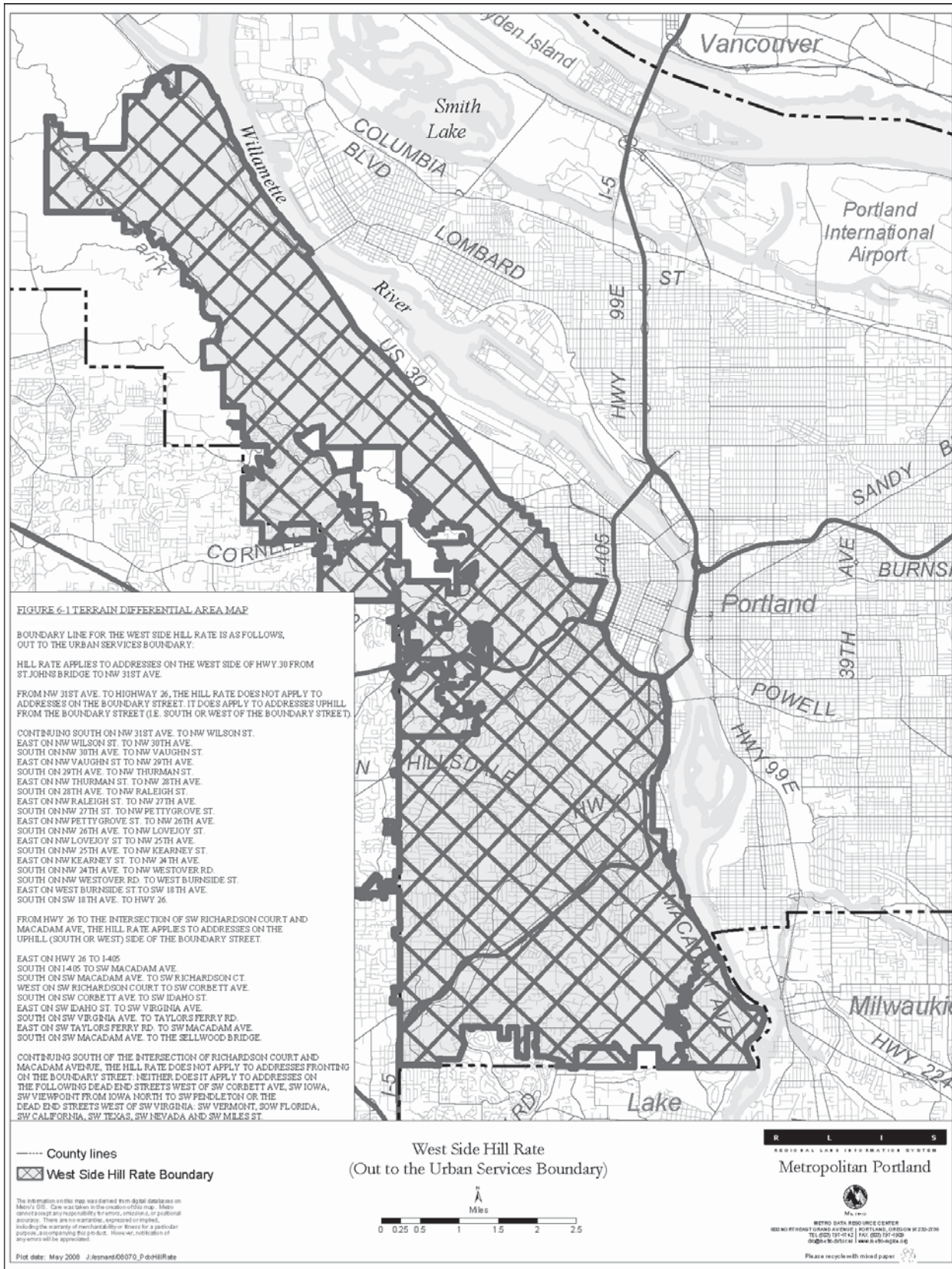


Figure 6 – Page 5

FIGURE 8 (Section 17.36.065)

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

**Figure 14 – Hourly Labor Rates for Engineering and
Superintendence Services for Public Sewer Improvements
(Section 17.32.150)**

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

**TITLE 20
PARKS & RECREATION**

Chapter 20.04 GENERAL PROVISIONS

- 20.04.010 Definitions.
- 20.04.020 Use Encouraged.
- 20.04.030 Powers of Council.
- 20.04.040 Commissioner to Make Rules and Regulations.

Chapter 20.08 PERMITS

- 20.08.010 Permits Required for Park Uses.
- 20.08.020 Applications; Reservation Center to Promulgate Policies and Procedures.
- 20.08.030 Permits to be Exhibited.
- 20.08.040 Permits Subject to Ordinances and Regulations.
- 20.08.050 Permits Non-Transferrable.
- 20.08.060 Prohibited Conduct at Permitted Events.
- 20.08.070 Non-Park Use of Park Property

Chapter 20.12 PROHIBITED CONDUCT

- 20.12.010 Purpose of Establishing Prohibited Conduct.
- 20.12.020 Soliciting for or Conducting Business.
- 20.12.030 Unlawful Urination or Defecation.
- 20.12.040 Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.
- 20.12.050 Possession of Weapons.
- 20.12.060 Prohibited Conduct Relating to Permits.
- 20.12.070 Unlawful Use of Trees, Monuments, Vases, Fountains Railings, Fences or Tables.
- 20.12.080 Structures in Parks.
- 20.12.090 Disposing of Rubbish.
- 20.12.100 Vandalism; Protection of Park Property and Vegetation.
- 20.12.110 Fires, Fireworks and Smoking Prohibited.
- 20.12.140 Animals.
- 20.12.150 Fishing and Bathing.
- 20.12.160 Unlawful Use of River Frontage Along Park Property.
- 20.12.170 Use of Certain Devices or Equipment.
- 20.12.180 Remote Control Vehicles, Aircraft and Watercraft.
- 20.12.190 Emergency Park Closure.
- 20.12.200 Trespassing and Areas Closed to the Public.
- 20.12.210 Hours of Park Closure.
- 20.12.220 Condition of Parole or Probation or Other Judicial Order.
- 20.12.230 Pioneer Courthouse Square.
- 20.12.240 Rules and Regulations, Directions of Park Officers to be Obeyed.

20.12.250 Park Officers Not Affected.
20.12.265 Park Exclusions.

Chapter 20.20 MUNICIPAL GOLF COURSE RATES

20.20.010 Playing Rates.
20.20.020 Collection and Use of Fees.
20.20.030 Holders of Life Certificates.
20.20.040 Delegation of Authority.

Chapter 20.24 PORTLAND ZOO ADMISSION CHARGES

20.24.010 Rates Established.
20.24.020 Portland Zoological Society Members.
20.24.030 Group Rates.
20.24.040 Special Events.
20.24.050 Lifetime Passes.
20.24.060 Rates Under Zoo Management Agreement.

Chapter 20.28 RENTAL CHARGES FOR CIVIC STADIUM

20.28.010 Basic Rental Charges.
20.28.020 Insurance Coverage.
20.28.030 Restriction of Use.
20.28.040 Collection of Rentals.

Chapter 20.32 PITTOCK MANSION

20.32.010 Admission Charges for Viewing Interior of Mansion.
20.32.030 Pittock Mansion Society.
20.32.040 Photography at Pittock Mansion-General Provisions.
20.32.050 Fees for Commercial Photography.

Chapter 20.36 PORTLAND INTERNATIONAL RACEWAY WEST DELTA PARK

20.36.010 Authority to Issue Permits.
20.36.020 Conditions of Permits.
20.36.030 Fees.
20.36.040 Additional Charges.

Chapter 20.38 MULTNOMAH CENTER

20.38.010 Term Leases and Facilities Use Permits.
20.38.020 Authority to Issue Permits for Short Term Use.
20.38.030 Rules and Regulations.
20.38.040 Conditions of Permits.
20.38.050 Charge for Use of Facilities.
20.38.060 Waiver of Charges.

- 20.38.070 Policies on Use.
- 20.38.080 Priority for Users.

Chapter 20.40 STREET TREE AND OTHER PUBLIC TREE REGULATIONS

- 20.40.010 Purpose.
- 20.40.020 Definitions.
- 20.40.030 Urban Forestry Commission.
- 20.40.035 Technical Assistance.
- 20.40.040 Urban Forestry Master Plan.
- 20.40.045 Superintendent.
- 20.40.050 City Forester.
- 20.40.070 Planting of Trees.
- 20.40.080 Maintenance of Trees.
- 20.40.090 Removal of Trees.
- 20.40.100 Permit Requirements and Conditions.
- 20.40.105 Major Improvements.
- 20.40.110 New Land Division.
- 20.40.120 Protection.
- 20.40.130 New Streets.
- 20.40.140 Liabilities and Responsibility for Costs.
- 20.40.150 Heritage Trees.
- 20.40.160 Disposition of Wood from Trees.
- 20.40.170 Nuisances-Abatement Procedure.
- 20.40.180 Abatement by Owner, Administrative Review, Appeal to the Code Hearings Officer.
- 20.40.185 Administrative Review.
- 20.40.190 Abatement by the City.
- 20.40.195 Notice of Assessment.
- 20.40.200 Personal Liability of Owner.
- 20.40.205 Cost of Abatement; Low Income, Elderly Persons.
- 20.40.210 Criminal Penalty.
- 20.40.215 Civil Penalties.
- 20.40.220 Civil Remedies.
- 20.40.230 Institution of Legal Proceedings.
- 20.40.235 Notification to Planning Commission.
- 20.40.240 Severability.

Chapter 20.42 TREE CUTTING

- 20.42.010 Purpose.
- 20.42.020 Definitions.
- 20.42.030 Applicability.
- 20.42.040 Tree Cutting Without Permits Prohibited.
- 20.42.050 Tree Cutting on Unregulated Property.

20.42.060	Application for Permits.
20.42.070	Fees.
20.42.080	Review of Applications.
20.42.090	Criteria for Issuance of Permits.
20.42.100	Mitigation Requirement.
20.42.110	Notice of Tree Cutting Permit.
20.42.120	Appeal.
20.42.130	Evidence of Violation.
20.42.140	Criminal Penalties.
20.42.150	Civil Penalties.
20.42.160	Nuisances.
20.42.170	Institution of Legal Proceedings.
20.42.180	Remedies Cumulative.
20.42.190	Severability.

Chapter 20.50	COLUMBIA SOUTH SHORE SLOUGH TRAIL
20.50.010	Prohibited Activities.

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appears to the Superintendent that the conditions set forth in Subsection B are met.

- B.** Persons eligible for a waiver of nuisance abatement costs shall be over 62 years of age, and:
- 1.** A person living alone, whose total income for the preceding calendar year did not exceed 1-1/2 times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld; or the head of a household which household received a total income for the preceding calendar year that did not exceed 2-1/4 times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld; and
 - 2.** Must furnish proof of the age and income requirements set forth in Subsection B 1 of this Section in a manner and form acceptable to the Superintendent; and
 - 3.** Must own, or be in the process of purchasing the property from which the nuisance is abated; and
 - 4.** Be living on the property from which the nuisance is abated.
- C.** The removal of the nuisance in question must have been required by the Superintendent and the person requesting the waiver of costs must have been officially notified by the Superintendent to remove the nuisance.
- D.** Applications for waiver of nuisance abatement costs shall be filed with the Superintendent, on forms supplied by the City, within 10 days after receipt of a notice to remove nuisance or a work order notice unless the Superintendent extends that time on good cause shown. All information required to be given on such form shall be supplied and verified by the applicant. An application for waiver of nuisance assessment costs must be submitted for each removal notice sent to the applicant.
- E.** The maximum amount which may be waived under this Section for any one parcel of real property or any one person shall be \$750 per calendar year.
- F.** No overhead charge or civil penalty shall be imposed for any real property for which a waiver, pursuant to this Section, shall have been approved.

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20.40.210 Criminal Penalty.

Any person, firm or corporation violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding \$1,000 or shall be imprisoned for a term not exceeding 6 months or shall be punished by both such fine and imprisonment.

20.40.215 Civil Penalties.

(Added by Ordinance No. 181799, effective June 6, 2008.)

A. Any person who cuts or removes any tree that is subject to the provisions of this Chapter, or who contracts for, pays for or otherwise allows or suffers such cutting or removal, if such cutting or removal is undertaken without a permit as required by this Chapter or in non-compliance with any term, condition, limitation or requirement of such permit, shall be subject to a civil penalty as provided in this Section. For purposes of this Section, each tree shall constitute a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit shall also constitute a separate violation. The Forester, or the Forester's designee, is authorized to initiate proceedings before the Code Hearings Officer, pursuant to the procedures in Title 22 of this Code, to enforce the provisions of this Section.

- 1.** For each separate violation, a civil penalty of up to \$1,000 may be assessed.
- 2.** In determining the amount of any civil penalty to be assessed, the Code Hearings Officer will consider the following:
 - a.** The nature and extent of the responsible party's involvement in the violation;
 - b.** The benefits, economic, financial or otherwise, accruing or likely to accrue to the violator as a result of the violation;
 - c.** Whether the violation was isolated and temporary, or repeated and continuing;
 - d.** The magnitude and seriousness of the violation;
 - e.** The City's cost of investigation and remedying the violation;
 - f.** Any other applicable facts bearing on the nature and seriousness of the violation.

20.40.220 Civil Remedies.

In addition to the remedies provided by any other provision of this Chapter, the City shall have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing damage to any tree in violation of this Chapter. In any such action, the measure of damages shall be the actual replacement value of the damaged or destroyed tree(s).

20.40.230 Institution of Legal Proceedings.

In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter.

20.40.235 Notification to Planning Commission.

(Added by Ordinance No. 163739, effective Dec. 26, 1990.) Prior to the adoption of any amendments to Chapter 20.40, the Forester will submit a copy of the proposed amendments to the Planning Commission for its review and comments.

20.40.240 Severability.

In any provision of this Chapter, or its application to any person or circumstances, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

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Chapter 20.42

TREE CUTTING

(Replaced by Ordinance No. 170775,
effective Jan. 10, 1997.)

Sections:

20.42.010	Purpose.
20.42.020	Definitions.
20.42.030	Applicability.
20.42.040	Tree Cutting Without Permits Prohibited.
20.42.050	Tree Cutting on Unregulated Property.
20.42.060	Application for Permits.
20.42.070	Fees.
20.42.080	Review of Applications.
20.42.090	Criteria for Issuance of Permits.
20.42.100	Mitigation Requirement.
20.42.110	Notice of Tree Cutting Permit.
20.42.120	Appeal.
20.42.130	Evidence of Violation.
20.42.140	Criminal Penalties.
20.42.150	Civil Penalties.
20.42.160	Nuisances.
20.42.170	Institution of Legal Proceedings.
20.42.180	Remedies Cumulative.
20.42.190	Severability.

20.42.010 Purpose.

The purpose of this is to regulate the cutting of trees in order to help preserve the wooded character of the City of Portland and protect the urban forest. It is not the intent of this Chapter to regulate the cutting of trees on any single-family lot, which cannot further be divided, upon which a single-family residence already exists. Further, it is not the intent of this Chapter to require a permit for tree cutting in situations where the same activity is already regulated and reviewed by other provisions of the City Code.

20.42.020 Definitions.

- A. **“Cutting”** means felling or removal of a tree, or any procedure in which the natural result will lead to the death or substantial destruction of a tree. Such acts include but are not limited to the severe cutting back of limbs to stubs larger than three inches in diameter; and damage inflicted upon the root system of the tree. **“Cutting”** does not include normal pruning within the bounds of accepted arboricultural practices.

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- B.** “**DBH**” means diameter-at-breast-height, a tree trunk diameter measured in inches 4.5 feet above the ground.
- C.** “**Development**” means all site improvements, including buildings, structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.
- D.** “**Land Use Review**” means an approval procedure for a specific use or development required under Title 33 or 34.
- E.** “**Person**” means any individual or legal entity.
- F.** “**Regulated property**” means all property where tree cutting is not otherwise regulated under Title 33 or 34, where trees have not be considered through a previous land use review, and which;
1. Does not have a single-family dwelling on it; or
 2. Can be further subdivided pursuant to the Portland Zoning or Land Division Codes, whether there is a structure on the property or the property is vacant; or
 3. Is not located in a single-family residential zone pursuant to City of Portland Zoning Maps; or
 4. Is not solely used as a single-family residence.
- G.** “**Tree**” means any woody plant having at least a 12” DBH or any tree planted as a mitigation requirement of PCC 20.42.100. “Tree” does not include any plant on the Nuisance Plant List or the Prohibited Plant List of the Portland Plant List adopted by Ordinance 164838 and amended by Ordinance 166572 and 168154.
- H.** “**Urban Forester**” means the Urban Forestry Manager or the Manager’s designee.
- I.** “**Unregulated property**” means a lot or parcel which:
1. Is located in a residential zone pursuant to the City of Portland Zoning Maps;
 2. Is occupied by a single-family dwelling;
 3. Is solely used as a single-family residence; and

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4. Cannot be further subdivided or partitioned pursuant to the Portland Zoning or Land Division Codes.

20.42.030 Applicability.

- A. These regulations are not land use regulations and are being adopted under the City's police power to regulate to protect the public health, safety and welfare.
- B. The requirements of this Chapter do not apply to tree cutting which is reviewed pursuant to any other provision of City Code with the exception of Chapter 24.70, Clearing, Grading, and Erosion Control, particularly PCC 24.70.020. On parcels subject to PCC 24.70.020, a permit is required under both that Section and under this Chapter.
- C. The requirements of this Chapter do not apply to tree cutting on any parcel for which a building or development permit has been approved through land use review.

20.42.040 Tree Cutting Without Permits Prohibited.

- A. No person shall cut a tree on regulated property without first obtaining a tree cutting permit from the City pursuant to this Chapter.
- B. No person shall cut a tree on unregulated property without a permit if a permit is required by PCC 20.42.050.
- C. In any action under this Chapter or to enforce the provisions of this Chapter, the property owner has the burden to prove that the criteria for granting a permit are satisfied or that cutting is allowed without a permit.

20.42.050 Tree Cutting on Unregulated Property.

- A. Trees may be cut on unregulated property without a permit except where the tree proposed to be cut:
 1. Has been expressly protected through an applicable land use regulation or required to be preserved as a condition of approval; or
 2. Is located within a parcel that has received a Historic Landmark Designation pursuant to PCC Chapter 33.845; or
 3. Has been designated a Heritage Tree under the provisions of Section 20.40.150 of this Code.

- B.** If a permit is required under Subsection A. of this Section, a person must seek such a permit through the process for reviewing or modifying land use regulations or approvals, Historic Landmark Designations or Heritage Tree designations, as applicable, and not through this Chapter.

20.42.060 Application for Permits.

An application for a tree cutting permit shall be made upon forms prescribed by the City. The application shall contain:

- A.** A statement of the reason for cutting or removal;
- B.** The number, size and species of the trees to be cut;
- C.** The street address and legal description of the property upon which the trees to be cut are located;
- D.** The time and method of cutting or removal;
- E.** If mitigation is required pursuant to PCC 20.42.090 information concerning the proposed planting of new trees to replace the trees to be cut;
- F.** Any other information reasonably required by the City;
- G.** The applicant's name, address and phone number;
- H.** The property owner's name, address and phone number, if different from the applicant's.

20.42.070 Fees.

The application shall be accompanied by a filing fee in the amount of \$35.00.

20.42.080 Review of Applications.

- A.** The Urban Forester shall review applications for conformance to the provisions of this chapter and either accept as complete and in conformance, return for revisions, or deny the application.
- B.** If the application is accepted as being complete and in conformance, the Urban Forester shall not issue the permit until notice has been posted according to Section 20.42.110 of this Code and all appeals have been settled in favor of the applicant.

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- C. The issuance of the Tree Cutting Permit shall constitute conformance to the provisions of these regulations and approval for the tree removal.
- D. Notwithstanding subsection A of this Section, if the tree proposed to be cut has been required to be preserved or protected as a condition of approval of a land use action pursuant to the City of Portland Zoning Code, the tree cutting application shall be processed as an amendment to that land use action and shall be reviewed and approved by the body responsible for reviewing such land use actions.

20.42.090 Criteria for Issuance of Permits.

The tree to be removed must meet one of the following criteria in order for a tree cutting application to be approved:

- A. **Dead, Dying and Dangerous Trees:** A tree cutting permit shall be issued if the Urban Forester determines that a tree is dead, dying or dangerous, except as provided by subsection 2 of this section.
 - 1. For the purposes of this section:
 - a. “Dead” means the tree is lifeless.
 - b. “Dying” means the tree is in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees.
 - c. “Dangerous” means the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
 - 2. The Urban Forester may require the retention of dead or dying trees located in wetlands, natural areas, stream corridors, parks or open space areas, in order to provide for wildlife habitat and natural processes, unless the tree presents a potential hazard to persons or property.
- B. **Trees that are not dead, dying or dangerous:** A tree cutting permit shall be issued for a tree that is not dead, dying or dangerous if the Urban Forester determines that the following criteria are met:
 - 1. Removal of the tree will not have a significant negative impact on the following:

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- a. erosion, soil stability, soil structure, flow of surface waters, water quality, health of adjacent trees and understory plants, or existing windbreaks; and
 - b. the character, aesthetics, property values or property uses of the neighborhood.
- 2. The city shall require an adequate mitigation plan be submitted according to the requirements of Section 20.42.100 as a condition of approval for the permit, including requiring the submission of a drainage plan if appropriate. This mitigation plan may be considered when determining the impacts in subsections B 1 of this Section.
- 3. **Forest Health Reasons:** A tree cutting permit shall be issued for a tree that is not dead, dying or dangerous if the Urban Forester determines that the removal of select trees from a forested plot will promote the health of the overall forested plot and meets the requirements of PCC 20.42.090 B 1. Mitigation is not required for any tree permitted to be cut under this subsection.
- 4. **Emergency Permits:**
 - a. The Urban Forester shall issue an emergency tree cutting permit without formal application or payment of a fee if the condition of a tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property. For purposes of this subsection, “immediate danger of collapse” means that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the non-emergency process. “Immediate danger of collapse” does not include hazardous conditions that can be alleviated by pruning or treatment.
 - b. If an emergency situation arises at a time when the Urban Forester is unavailable, and a significant likelihood exists that the tree will topple or otherwise fail before such officials become available, the tree owner may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days after such removal, the tree owner shall apply for a retroactive emergency tree cutting permit. If the evidence and information presented by the tree owner does not justify the emergency tree cutting standards set forth in PCC 20.42.090B the application shall be denied and the tree owner shall be subject to the penalties and to the mitigation requirements of this Chapter.

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- c. In the event that the City Engineer or the Urban Forester determines that an emergency exists and that the safety of the traveling public or the integrity of a public street and associated improvements may be at imminent risk from any tree on private property, the City Engineer and the Urban Forester may order or effect the removal of the tree without a permit. An emergency for the purpose of this Subsection is an unplanned or non-routine event which, by its nature, requires prompt or immediate action to reduce the risk of injury to persons using public streets, damage to public transportation facilities or loss or use of public transportation facilities. The decision that an emergency exists is not reviewable.

20.42.100 Mitigation Requirement.

- A. Mitigation is required as a condition of a permit issued under PCC Section 20.42.090 B, or if a tree is cut in violation of this Chapter. The mitigation plan shall be submitted at the time of application and shall provide for the following:
 - 1. Tree replacement shall be determined according to the DBH of the tree to be removed. The total DBH of the replanted trees shall equal the DBH of the tree to be removed. The DBH of the replacement trees must be the largest reasonable available by local nurseries.
 - 2. The location of the replacement trees shall meet one or more of the following at the discretion of the Urban Forester:
 - a. In the public right-of-way adjoining the property where the tree to be removed is located, in accordance with PCC 20.40.070. The Urban Forester shall consult with the City Engineer to avoid conflict with current and future utilities.
 - b. On the property where the tree to be removed is located. Site characteristics shall be taken into consideration.
 - c. If no suitable place exists on the property where the tree to be removed is located or in the adjoining right-of-way, the applicant may plant trees on another property in the neighborhood with the permission of the property owner.
 - d. If no suitable place exists on the property where the tree to be removed is located, the applicant may, in lieu of planting, pay a mitigation fee into the City's tree fund in accordance with fees set by the Urban Forester.

- B.** When the Urban Forester determines that the above mitigation requirements create an unreasonable burden to a property owner, the Urban Forester may adjust the mitigation requirements. Mitigation shall not be reduced if it is determined that an intentional violation exists.
- C.** If any replacement tree dies within three years of the planting, the property owner shall replace the tree. No replacement tree shall be cut without a permit under this Chapter.
- D.** Any person who fails to enter into a mitigation plan as required by this subsection or who fails to comply with any condition of that agreement, or with any condition of any permit issued under PCC 20.42.090 B, shall be subject to the penalties provided for violation of the Chapter.

20.42.110 Notice of Tree Cutting Permit.

- A.** An applicant for a tree cutting permit shall post notice on the property in a location clearly visible from the street nearest the tree. The notice shall state that a tree cutting permit is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that the tree cutting permits can be appealed within 14 days of the date of posting by filing a written notice of intent to appeal with the Urban Forester. The applicant shall mark each tree proposed to be cut by tying or attaching yellow plastic tagging tape around the trunk of the tree at 4.5 feet above ground level. The applicant shall file an affidavit of posting and marking once the property has been posted and the trees have been marked pursuant to this section. The tree cutting permit shall not be issued for fourteen days from the date of filing of the affidavit of marking to allow for appeal. The applicant shall maintain the posting and marking for the full fourteen days.
- B.** The Urban Forester will send a copy of the affidavit of posting and marking to the office of the affected Neighborhood Coalition.

20.42.120 Appeal.

- A.** Any person may appeal a decision to approve a tree cutting permit by filing a written notice of intent to appeal, along with the applicable appeal fee established by the City Council, within fourteen days of the filing of the affidavit of posting pursuant to PCC 20.42.070. Failure to file within the fourteen-day appeal period shall preclude appeal. If no appeal of a decision to approve a tree cutting permit is filed within the fourteen-day appeal period, the decision is final and the applicant may cut trees in accordance with the approval, subject to any conditions thereof.

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- B.** An applicant for a tree cutting permit may appeal denial of the permit by filing a written notice of intent to appeal, along with a filing fee in the amount of \$100.00, within fourteen days of the date of denial.
- C.** The appeal shall be heard by the Urban Forestry Commission (UFC), who shall hold a public hearing on the appeal. The City shall send written notice of the hearing to the applicant, the appellant if different from the applicant, and to the recognized Neighborhood Coalition for the area in which the subject property is located, at least ten days in advance of the hearing. Appeal hearings may be scheduled as part of the UFC's regular meeting agenda, or at any special meeting called by the UFC for that purpose. Appeals may be heard either by the full Commission or by a subcommittee delegated by the full Commission. Appeals shall be heard not later than the first regular monthly meeting of the UFC after the expiration of the ten days required for notice to the Neighborhood Coalition, and in no event later than sixty days after the filing of the notice of intent to appeal, except that the applicant may request a hearing at a later time.

20.42.130 Evidence of Violation.

- A.** If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is 38" or more in circumference shall be considered prima facie evidence of a violation of this chapter.
- B.** Removal of the stump of a tree cut without a tree cutting permit prior to the determination provided in subsection A of this section is a violation of this chapter.
- C.** Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.
- D.** As soon as a violation is determined, the Urban Forester shall notify the property owner in writing regarding the mitigation requirements of Section 20.42.100 of this code. Within thirty (30) days of the date of mailing of this notice, the property owner shall submit a tree cutting application in accordance with Section 20.42.060 and enter into a mitigation plan approved by the Urban Forester. The application fee will be \$70.00.

20.42.140 Criminal Penalties.

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding \$1,000.00 or shall be imprisoned for a term not exceeding 6 months, or shall be punished by both such fine and imprisonment.

20.42.150 Civil Penalties.

Any person who cuts any tree in violation of this chapter, or who breaches any condition of a permit granted under this chapter, or who violates any other provision of this chapter shall be subject to a civil penalty of \$1,000 for any such violation. The unlawful cutting of each individual tree shall be a separate violation hereunder. Failure to comply with a condition of approval or of a mitigation plan shall be a separate violation each day the failure to comply continues.

20.42.160 Nuisances.

Cutting a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings.

20.42.170 Institution of Legal Proceedings.

Upon request of the Urban Forester, or direction from Council, the City Attorney, acting in the name of the City, may institute and maintain an action in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this Chapter.

20.42.180 Remedies Cumulative.

The rights, remedies and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

20.42.190 Severability.

If any provision of this Chapter, or its application to any person or circumstance, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

Chapter 20.44

**NONRESIDENT PARTICIPATION
FEES**

(Added by Ord. No. 141732; repealed
by 158454, May 1, 1986.)

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Chapter 20.48

ST. JOHNS RACQUET CENTER

(Repealed by Ord. No. 164427; passed
and effective July 10, 1991.)

Chapter 20.50

**COLUMBIA SOUTH SHORE
SLOUGH TRAIL**

(Added by Ord. No. 166785
July 21, 1993.)

20.50.010 Prohibited Activities.

It shall be unlawful to ride a bicycle or to have domestic animals leashed or unleashed on the Columbia South Shore Slough Trail. The trail area is defined by Title 33, Map 515-2. This provision does not apply to police officers who may have the need for the use of horses or bicycles during their official performance of duties.

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WATER**

Chapter 21.04

DEFINITIONS

21.04.010	Administrator.
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21.04.030	Backflow Assembly Installation Requirements.
21.04.040	Backflow Prevention Assembly.
21.04.050	Billing Period.
21.04.060	Bureau.
21.04.070	Chief Engineer.
21.04.080	Commissioner-In-Charge.
21.04.090	Customer.
21.04.100	Distribution Mains.
21.04.100	Main Extension.
21.04.110	Outside City Distributor.
21.04.120	Premises.
21.04.130	Rates.
21.04.140	Service Branch.
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WATER SERVICES

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21.12.070	Separate Service.
21.12.080	Service to Property Partially Outside City.
21.12.090	Permit for Temporary Service.

- 21.12.100 Annual Fire Hydrant Permit.
- 21.12.110 Installation of Service Pipes from the Main to the Property Line.
- 21.12.120 Connections to the Water Service.
- 21.12.130 Service and Maintenance Responsibility.
- 21.12.140 Water Pressure at Service.
- 21.12.150 Damage through Pipes and Fixtures.
- 21.12.160 Bureau Authority to Disconnect a Customer Due to Potential Damage to Water System or To Another Customer's Facility.
- 21.12.170 Use of Private Water and City Water.
- 21.12.180 Disconnection of Service When Charges Have Not Been Paid.
- 21.12.190 Reactivation of Abandoned Service.
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- 21.12.210 Master Metering of More Than One Water Service.
- 21.12.220 Fire Protection Service.
- 21.12.230 Permit and Report Required to Do Plumbing Work.
- 21.12.240 Service Location Change.
- 21.12.250 Location of Meters Inside City.
- 21.12.260 Water Service in Basements within the Public Right-of-Way.
- 21.12.270 Ownership of Meters.
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- 21.12.290 Meter Area and Access To Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
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Chapter 21.16

RATES AND CHARGES

- 21.16.010 Annual Water Rates.
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- 21.16.030 Water Charged to Premises User.
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- 21.16.120 Collections, Adjustments and Refunds.
- 21.16.130 Adjustments on Account of Leaks.
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- 21.16.170 System Development Charge.
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Chapter 21.20 TURNING ON OR SHUTTING OFF

- 21.20.010 Application To Turn On Water.
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- 21.32.010 Declaration of Policy.
- 21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.
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Chapter 21.35

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- 21.35.010 Establishment of Wellhead Protection Area.
- 21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.
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- 21.35.060 Enforcement.
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- 21.35.080 Building and Site Permit Review and Approval.
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Chapter 21.04

DEFINITIONS

(New Title substituted by Ordinance No.
173433, effective June 2, 1999.)

Sections:

21.04.010	Administrator.
21.04.020	Applicant.
21.04.030	Backflow Assembly Installation Requirements.
21.04.040	Backflow Prevention Assembly.
21.04.050	Billing Period.
21.04.060	Bureau.
21.04.070	Chief Engineer.
21.04.080	Commissioner-In-Charge.
21.04.090	Customer.
21.04.100	Distribution Mains.
21.04.100	Main Extension.
21.04.110	Outside City Distributor.
21.04.120	Premises.
21.04.130	Rates.
21.04.140	Service Branch.
21.04.150	Service Connection.
21.04.160	Service Charge (Customer Charge).
21.04.170	Standby Service Charge.
21.04.190	Volume Rates.

21.04.010 Administrator.

For the purposes of this Code, Administrator refers to the person in charge of the Bureau of Water Works, or his or her designee.

21.04.020 Applicant.

The person, persons, association, corporation, or governmental agency applying for water service.

21.04.030 Backflow Assembly Installation Requirements.

(Amended by Ordinance No. 180120, effective June 9, 2006.) Standards developed by the Bureau, consistent with the administrative rules of the State of Oregon, which guide the approval of backflow prevention assembly installation.

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21.04.040 Backflow Prevention Assembly.

(Amended by Ordinance No. 180120, effective June 9, 2006.) An approved assembly which prevents water that has been delivered to a customer's premises from flowing back into the City water distribution system (premise isolation) or from reversal of flow within premise piping (point of hazard isolation).

21.04.050 Billing Period.

The time between two consecutive meter reading dates or such other time used for billing purposes.

21.04.060 Bureau.

The Bureau of Water Works (or Water Bureau), being the official agency of the City of Portland charged with responsibility of furnishing water supply to the City and administering the sale of water outside the City.

21.04.070 Chief Engineer.

The Chief Engineer is a Licensed Professional Engineer in charge of the Bureau engineering staff. The Chief Engineer is responsible for establishing, maintaining, and enforcing engineering and technical standards for design and construction of the water system.

21.04.080 Commissioner-In-Charge.

The elected member of the Portland City Council appointed by the Mayor to supervise and control the affairs and property of the Bureau, as authorized in Chapter 2 of The Charter of the City of Portland.

21.04.090 Customer.

Any person, persons, association, corporation, or governmental agency supplied or entitled to be supplied with water service by the Bureau in accordance with established rates and charges.

21.04.100 Distribution Mains.

Water pipelines located in streets, public ways, or private rights of way or easements, exclusive of service connections, which are used to convey water to the general public for customer service and fire protection.

21.04.110 Main Extension.

The extension of water distribution mains beyond previously existing facilities.

21.04.120 Outside City Distributor.

Any water district, city, water company, association, or other agency supplying water furnished by the City of Portland to customers outside the Portland city limits.

21.04.130 Premises.

Integrated land area including improvements thereon undivided by public thoroughfares and under single or common ownership where all parts of the premises are operated under the same management.

21.04.140 Rates.

The rates or amounts fixed by the annual water rate ordinance of the Portland City Council to be charged for water service supplied by the Bureau to its customers.

21.04.150 Service Branch.

An unused service pipe from the distribution main to the future meter location.

21.04.160 Service Connection.

The pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and to the property line. Where the water service meter is on private property, service connection is the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and the angle meter coupling on service connections of 1 inch or less and through the downstream meter valve on service connections of more than 1 inch.

21.04.170 Service Charge (Customer Charge).

The daily fixed charge based on meter size. The charge, under special conditions, such as fire line service, shall be based on the size of the service connection.

21.04.180 Standby Service Charge.

(Repealed by Ordinance No. 179978, effective April 7, 2006.)

21.04.190 System Development Charge.

A charge imposed upon each new service connection and on increases in the size of old connections within the City limits.

21.04.200 Volume Rates.

A variable charge which appears on the water bill based on the amount of water used per 100 cubic feet, or fraction thereof.

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Chapter 21.08

EXTENSION OF WATER MAINS

Sections:

- 21.08.010 Location of Mains.
- 21.08.020 Distribution Main Extensions Inside City; Cost Sharing.
- 21.08.030 Fair Share Reimbursement.
- 21.08.040 Extending Distribution Mains Outside the City.
- 21.08.050 Adequate Mains Before Street Improvement.
- 21.08.060 Installation of Adequate Distribution Mains Inside the City.
- 21.08.070 Council Authorization for Laying Water Mains.

21.08.010 Location of Mains.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** Water mains are to be installed within public right-of-ways. The Chief Engineer of the Portland Water Bureau may authorize construction of a public main within a private tract of land dedicated and utilized as a private street. The City shall be granted an easement of sufficient width, as determined by the Chief Engineer. The easement agreement shall be on a form approved by the Chief Engineer, and it shall allow 24-hour unobstructed access to operate and maintain the public water system within the private street. The Chief Engineer or the Administrator shall determine the necessity to cross private land with a public main.
- B.** Water main extensions shall be installed a minimum of 5 feet past the closest property line of the parcel to be served.
- C.** If the Chief Engineer determines that an application for water service cannot be met because there is no main or the mains are inadequate for the demands projected, the person denied service may apply for the construction or improvement of mains to allow the service. Upon such application, the Chief Engineer shall prepare a cost estimate for the work to be performed, using such cost factors as the Chief Engineer determines are accurate and appropriate for the job. In order to receive water service, the applicant is obligated to pay for the costs assessed by the Portland Water Bureau for water main or main extensions to provide adequate flow to the site, using the most direct route through the public right of way for the main to reach the desired site, as determined by the Chief Engineer.
- D.** The Portland Water Bureau retains the right to use a larger main than required to serve the applicant's demands (although, at a minimum, any applicant is

responsible for a main at least 6 inches in diameter) or an alternative route for the main. If the Portland Water Bureau installs a larger main or chooses an alternative route, the Portland Water Bureau shall assume the costs in excess of that required to serve the applicant's site using the most direct route in the public right of way and the size of main necessary for the applicant's demand.

21.08.020 Distribution Main Extensions Inside City; Cost Sharing.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** Except for purposes of improving an inadequate main as provided in Section 21.08.060 or if the Portland Water Bureau shares costs as provided herein, an applicant for a new or improved main shall pay the full costs of the new or improved main.
- B.** The Administrator of the Portland Water Bureau shall adopt by rule a methodology of cost sharing with applicants for the installation of new or improved water mains, main extensions, and fire hydrants installed by the Portland Water Bureau in the public right of way when the total cost of the project required for the applicant does not exceed \$125,000. In no case shall the Portland Water Bureau's share of these costs exceed 50% of the total cost of a project, or a maximum share of \$62,500, whichever is less. In developing the cost sharing methodology, the Administrator shall consider the following criteria:

 - 1.** Public and private benefit derived from proposed privately financed water system improvements
 - 2.** Rate impacts
 - 3.** Availability of Portland Water Bureau budgetary funds
- C.** Notwithstanding and in lieu of the cost sharing authorized by Section 21.08.020 B., if an applicant's request for a single new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the provisions of Section 21.08.060 shall apply to establish allocation of costs.
- D.** At the discretion of the Chief Engineer, the cost of the project or components of the project shall be offered to the applicant at either a set price or time and materials basis. The Portland Water Bureau shall accept a deposit of 20% of the estimated cost for preliminary engineering work, the balance due prior to actual construction. For projects accepted by the applicant on a time and materials basis, if the actual cost of the main or main extension and the laying thereof is greater than the estimated cost, the applicant shall pay the difference to the Portland Water Bureau. Payment shall be deposited to the Water Operating Fund and transferred to the Water Construction Fund. If the actual cost is less than the

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estimated cost, the excess shall be refunded to the applicant. In determining actual costs, allowance shall be made for overhead expenses in accordance with the provisions of the City Code and the Annual Water Rate Ordinance. Determination of the amount to be paid or refunded after construction of the main shall be made by the Administrator, subject to appeal to the City Council, and the decision of the Council shall be final.

- E.** In no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.
- F.** In all cases the size of mains and main extensions and the specifications for laying the same shall be determined by the Chief Engineer, and water mains and main extensions within the City shall be installed solely by the City, except as otherwise provided herein and shall be the property of the City.
- G.** The developer of a new residential subdivision within the City may petition the Chief Engineer for permission to construct water mains and appurtenances within the limits of the subdivision. Water mains may also be installed in private streets subject to prior approval of the Chief Engineer and subject to all conditions contained in this Title. However, the costs of all such mains and appurtenances in subdivisions and private streets shall be borne by the applicant, including but not limited to planning, design, plan review, construction, inspection and project management, and may not request cost sharing provided in Section 21.08.020 for the mains and appurtenances. Any water mains or appurtenances that are placed in public rights of way shall become the property of the Portland Water Bureau. The Portland Water Bureau shall connect the privately constructed water facilities to the public main. Costs of connection shall be borne by the applicant unless the connection cost is less than \$125,000, in which case the costs shall be shared under standards developed pursuant to Section 21.08.020 A.
- H.** The Administrator may adopt administrative rules and procedures necessary to carry out the provisions of this chapter.
- I.** The effective date of this chapter is January 1, 2008. The provisions of Section 21.08.020 shall be applied retroactively to projects which did not include a city cost share and were accepted and paid for by the applicant after December 31, 2007.

21.08.030 Fair Share Reimbursement.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** An applicant or applicants who pay for all or a portion of a new main or main extension may be reimbursed a portion of the cost of installation from other

applicants who subsequently seek service from that main. To qualify for reimbursement, the main must be within the City of Portland, the date of application for service must be within 10 years of the water main or main extension's installation date, and the property for which service is sought must not have been owned by the applicant who paid for the main or main extension.

- B.** If the Portland Water Bureau elects to cost share with the applicant under Section 21.08.020 in the cost of installation of new main or main extension, the applicant shall not qualify for any reimbursement.

- C.** When reimbursement is warranted, the Portland Water Bureau shall collect a pro rata share of the cost of the main installation from each customer who, within ten years of the main installation, subsequently connects to the main and make an equivalent reimbursement payment to the individual who paid for the main. Pro rata shares for payment by new customers and reimbursement shall be calculated as follows: The initial cost of main installation shall be divided by the total length of the main, in feet. The per-foot cost of the main shall then be multiplied by the frontage length of the new service applicant's property, in feet, times 50 % [(cost of installation divided by total length) X frontage X 0.50 = payment]. The required payment shall be reduced for depreciation at the rate of 2 1/2 % per year, computed from the date of the main installation to the date of application for service.

21.08.040 Extending Distribution Mains Outside the City

Any person desiring a main extension outside the City may make written application for construction of a water main. The Chief Engineer and the Administrator may approve of the main extension if it does not unreasonably impair water supply or pressure to existing services, whether inside or outside the City, and cannot reasonably be served through any other supplier.

The Chief Engineer and the Administrator shall determine if the water main extension is to be designed and constructed by the City, or if permission is to be granted for private design and construction of the main. If privately constructed, the work shall conform to Water Bureau specifications. Upon Bureau inspection and acceptance of the new water system, the Bureau shall make connection to the existing water system. After acceptance by the City, the water main extension shall become the property of the City.

If the Bureau is to lay the main extension, the applicant shall pay to the Bureau the estimated cost thereof prior to construction. The cost includes the cost of any bond or other security required by any subdivision of government having jurisdiction over the location of the main extension. If the actual cost, including overhead expenses computed in accordance with the provisions of the finance regulations of City Code exceeds the amount prepaid, the applicant shall pay the difference to the Bureau. If the actual cost computed as herein prescribed is less than the amount prepaid by the applicant, the difference shall be refunded. When the owner or agent requests a set price for such installation, the Bureau shall establish a price based on the estimated cost and in no case

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after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

The City shall not be responsible for any change or enlargement of the main or main extension outside the City, and shall not be responsible for any portion of the cost of relaying or changing the main or main extension because of subsequent improvement of any public work.

Application for connection of property outside the City to City water main or main extension shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacies, whether attributable to prior or future connections or extensions, and shall be deemed a covenant that the applicant will comply with all provisions of this Title and the rules and regulations of the Bureau and must have prior approval of the Portland Metropolitan Area Local Government Boundary Commission.

21.08.050 Adequate Mains Before Street Improvement.

The Chief Engineer and the Administrator may require that adequate water mains be installed in accordance with the provisions of this Title prior to street improvement.

21.08.060 Installation of Adequate Distribution Mains Inside the City.

If a petition for a single new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the applicant may wait until the main is enlarged by the City. If petitioner wants the main enlarged sooner than the City's timetable the petitioner may request that the City adjust the timetable and replace the main without delay. The Administrator together with the Chief Engineer will review this request. If the main replacement request is confirmed the petitioner shall pay a portion of the cost of enlarging the main. The Bureau will pay all remaining costs. The portion of the main paid by the City is sixty-five percent (65%) unless that figure is changed by the annual water rate ordinance. All requirements of Section 21.08.030 "Fair Share Reimbursement" will apply except that the full cost of the main will not be charged to the petitioner.

21.08.070 Council Authorization for Laying Water Mains.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Council or its administrative officers may cause to be laid or installed at City expense, whatever pipelines, extensions, enlargements at the time of initial main installation or subsequently, interconnections, pumps, tanks, reservoirs, dams, works, and appurtenances which are found by the Administrator and the Commissioner-In-Charge to be necessary, advantageous, or convenient. This shall not be deemed to confer any right or privilege upon any person or premises to have a water main laid at sole City expense. The portion of the cost of any main and the laying thereof installed to serve residential premises or area only, and laid after August 1, 1957, which is in excess of the cost of a 6 inch ductile iron main and the laying thereof, shall be deemed allocable to water supply. Such allocation shall be paid from the Water Construction Fund at City expense except

where Portland Fire & Rescue requires larger flows for fire protection requirements, those costs shall be at the applicant's expense.

Chapter 21.12

WATER SERVICES

Sections:

- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.040 Cancellation of Application for Service.
- 21.12.050 Service Branch Installation and Removal.
- 21.12.060 New Service Where Change in Size or Relocation is Desired.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside City.
- 21.12.090 Permit for Temporary Service.
- 21.12.100 Annual Fire Hydrant Permit.
- 21.12.110 Installation of Service Pipes from the Main to the Property Line.
- 21.12.120 Connections to the Water Service.
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21.12.010 Service to Property Adjacent to Water Main.

Property within the City and adjacent to a City water main may be served subject to the provisions of this Code, and the annual water rate ordinance.

To obtain water service, the service connection must be along the frontage of the property to be served and be adjacent to a public or private street in which there is a public water main. With the exceptions noted in this section, water service shall not be provided by means of an easement. With the approval of the Chief Engineer, water service may be provided from a main within an existing easement. The service must be within the easement and must be readily accessible for maintenance and meter reading. The Chief Engineer and the Administrator may approve of a water service within an easement across a separate parcel of land if the parcel the applicant desires to serve has no frontage along a public right-of-way. The applicant must provide a copy of the recorded easement at the time of application for service.

If application is made for service from a water main less than 6 inches in diameter, the connection shall be deemed temporary unless such main was designated as a permanent main, however in any case, such connection shall not entitle the person or premises to have said main replaced with a larger main at City expense. The application for service from a 4-inch main or smaller shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacy, whether attributable to prior or future connections or extensions. The application shall be deemed a covenant that the applicant will comply with all the provisions of this Title and the rules and regulations of the Bureau.

Property outside the City, but adjacent to a City main, may be served with the approval of the Chief Engineer and the Administrator, subject to all the provisions of this section. This service shall be a special contract service and not provided by the City as a common utility service, as described in Section 21.28.020 "Water Supply to Premises Outside the City of Portland." The quantity of water supplied by this service may be reduced or the service entirely discontinued at any time when the Portland City Council finds such action necessary in order to provide sufficient service to the inhabitants within the City limits. The City shall provide at least 60 days' notice in writing before service is discontinued. Notice delivered at the premises and at the last known address of the owner or applicant shall be sufficient. The owner may discontinue service by notifying the Bureau at least one day prior to having the service discontinued, but shall be responsible for all water charges at the premises until the Bureau receives the notice in writing.

21.12.020 Size of Service Connection.

Whenever an application for water service is received, the Administrator or the Chief Engineer shall have authority to reject such application if in the judgment of the Chief Engineer, the service and meter size applied for is expected to be less than or greater than the size necessary for estimated use by the premises of the applicant. In such event, the Administrator or the Chief Engineer shall specify the appropriate size of service line and size and type of meter. The service size as determined by the Chief Engineer shall not be

a warranty of sufficiency for pressure or volume of water to be afforded the premises. No service connection less than 3/4-inch in size shall be installed. The installation of any required backflow prevention assembly may cause the pressure and or volume of water to be less than the distribution system is able to supply through a specific service. It is the responsibility of the applicant to demonstrate that he or she has calculated the effect of installing required backflow prevention assemblies.

21.12.030 Application for Installation or Removal of Water Service.

The owner or authorized agent shall make written application for permits to connect with or disconnect premises from the City water system on forms provided by the Bureau in which the applicant shall specify the location and the use for which the service is required, and shall agree to abide by the rules and regulations of the Bureau.

The applicant for all services 1 inch and larger shall submit the water flow requirements at the time of request. Applicants for smaller services shall provide water flow requirements when requested. The applicant for water service to commercial or industrial development shall submit a site utility plan at the time of the request that indicates the size and type of service required and the distance of the service to the nearest property line.

An application for a permit to connect premises with the City water system for service to a new building or structure shall not be accepted for filing unless a building permit has been issued for such building or structure as provided in the building regulations of the City. No permit shall be issued unless the conditions set forth in this Title relating to main extensions have been met, if applicable. Any permit issued to connect premises with the City water main shall not entitle the permittee to a connection to the main until it is laid adjacent to the premises of the owner. Acceptance of fee for the permit shall not waive any of the conditions set forth in this Title nor grant specific right of connection. Any service connection made outside the City limits must receive prior approval of the Portland Metropolitan Area Government Boundary Commission.

21.12.040 Cancellation of Application for Service.

An applicant may request in writing that an application for service be canceled up to the time that the service is installed. The Bureau will refund the application fee, except for any portion of the fee needed to cover Bureau costs for partial processing of the application or for actual work done on partial installation. The Bureau shall retain costs for any work already performed plus a 15 % fee for handling and overhead as a service charge. A service that has not been installed within 6 months of the date of application, at the direction of the applicant, shall be canceled and the fee less the accrued costs shall be returned to the applicant.

21.12.050 Service Branch Installation and Removal.

Service branches may be installed by the Bureau, or by a developer with the prior written approval of the Administrator or Chief Engineer, when the Administrator or Chief Engineer determines that such installation will benefit the City. See Section 21.16.160 "Service Installation Fees." If an application is not made for service within 5 years of

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branch installation, the Bureau may disconnect the service branch at the main. If service is requested after 5 years from date of installation, and has not previously been removed, the Water Bureau shall determine the condition of the service branch. The applicant shall pay for the cost of renewal of the service branch, if required.

21.12.060 New Service Where Change in Size or Relocation is Desired.

In the event a service of a smaller or larger size is desired and the Chief Engineer concurs that the requested size is appropriate, a new service will be installed and the charge will be as provided in the annual rate ordinance. The old service will be removed without charge.

If the Bureau has identified a service as being defective, a new service of the same or smaller size may be substituted at no charge to the applicant at the time the defective service is being replaced provided there is written authorization. However, if application for a larger service is received, the applicant will pay the difference between the two sizes, and credit for the System Development Charge (see Section 21.16.170 "System Development Charge") will be applied for cost of the meter for the service being removed as herein provided. If service is relocated or changed in size, proper backflow protection must be installed as outlined in the "Backflow Assembly Installation Requirements." The cost of backflow protection shall be the responsibility of the property owner.

21.12.070 Separate Service.

Unless otherwise provided in this section, a separate service shall be required to supply water to each separate parcel of land and to each house or building under separate ownership upon the same parcel. A parcel is considered separate when partitioned by a different ownership, street, or public way.

Unless otherwise provided hereunder, a separate service shall be required for each house or building even if under one ownership and on the same lot or parcel of land. A single service may be provided for multiple units under single ownership. A single service may be approved by the Administrator for multiple units which are individually owned when there is a contract with the Bureau specifying who shall be responsible for all water bills and charges. Otherwise, multiple units which are individually owned must have a separate service to each unit.

The Bureau may limit the number of houses or buildings or the area of land under one ownership to be supplied by one service connection or meter.

Two or more houses or buildings under one ownership and on the same lot or parcel of land may be supplied through a single service meter, if approved by the Administrator. If the property on which the houses or buildings are located is divided by sale, a separate water service shall be obtained for each ownership prior to the sale.

Notwithstanding terms to the contrary in this section, a property owner may request, and the Administrator may authorize, continuation of water service, through existing lines, to the owners of property divided by sale, if the divided parcels will continue to share use of existing water lines and mains, as they did prior to the sale and which were in compliance

with the provisions of Title 21 at the time of the sale. Authorization will not be granted if there is a change in size or location of any of the existing water services.

In addition, the party requesting exemption from the standard requirement, described above, must provide the Administrator with a document that has been recorded, the purpose of which is to authorize all users of the common lines and mains to access those lines as necessary, for installation, maintenance and repair of the common system, said rights to run with the land.

The service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made. When property provided with a service is subdivided, the service connection shall be considered as supplying the parcel of land which it directly enters. See Section 21.12.010 "Service to Property Adjacent to Water Main" for allowed location of water service.

21.12.080 Service to Property Partially Outside City.

Where service is requested for a property partially inside and partially outside of the City limits, service may be provided if the principal structure is on the portion of the property inside the City limits, and within the urban growth boundary of the City. Should other structures be in said portion of the property outside the City, the Bureau may provide service through separate services and meters and shall charge rates in accordance with outside City service. Such services shall be installed at the expense of the owner of the premises.

21.12.090 Permit for Temporary Service.

(Amended by Ordinance 180120, effective June 9, 2006.) The Water Bureau may issue a permit for a temporary water service to a site that has no long-term need of a permanent water service. Use of a temporary service shall not exceed one (1) year from the date of installation if it is a conventional metered service and ninety (90) days if supply is from a fire hydrant. The permittee desiring temporary service shall make application to the Water Bureau and shall declare the intended purpose of the service and shall specify the location of the service, the length of time needed, the volume of water required and the peak flow rate anticipated.

If temporary service is allowed, the Water Bureau will install a service at the expense of the permittee, or allow the temporary use of a fire hydrant as a source of supply. If the Water Bureau installs a temporary service, the permittee shall utilize it as if it were a normal permanent service. If supply is from a fire hydrant, the permittee must continuously follow the established rules and regulations governing the use of a fire hydrant, as detailed in Section 21.24.020 "Fire Hydrants", as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. The permittee must meter or accurately gauge usage of water from a fire hydrant and report that usage to the Water Bureau. The permittee must not use water from another fire hydrant than specified in the permit without prior written approval of the Water Bureau. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose.

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All temporary water services are required to have a minimum of a double check valve assembly installed for backflow protection. The backflow assembly must be installed at the service connection to the property. All costs associated with backflow prevention assemblies will be the responsibility of the owner or applicant.

21.12.100 Annual Fire Hydrant Permit.

The Water Bureau may, upon application, issue a permit for the use of fire hydrants as a source of water for commercial enterprises or governmental agencies that have continuous need of water at various locations throughout the City. Sufficient need must be shown to preclude obtaining water from a single permanent service. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose. Annual fire hydrant permits are renewed for the calendar year, beginning in January. The cost for an annual permit not issued in January shall be prorated. The cost for an annual permit is set in the annual water rate ordinance.

The permittee, and all employees who obtain water from fire hydrants, must continuously follow the rules and regulations governing the use of fire hydrants, as detailed in Section 21.24.020 "Fire Hydrants," as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. All water trucks used by the permittee must be inspected for proper backflow protection equipment every three (3) years by a Water Bureau Water Quality Inspector.

21.12.110 Installation of Service Pipes from the Main to the Property Line.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau shall perform all work for installation of a water service within the existing public right-of-way or within an easement except as detailed in Section 21.12.130 "Service Maintenance Responsibility." The Chief Engineer and the Administrator may allow a developer to install all or part of a water service in a subdivision currently under construction. No work by others shall occur on a water service if the Water Bureau has accepted the main for operation and maintenance. Installation and maintenance of the water system on private property is regulated by Title 25, Plumbing Regulations, as administered by the Bureau of Development Services. Responsibilities for maintaining the water service are found in Section 21.12.130 "Service and Maintenance Responsibility."

21.12.120 Connections to the Water Service.

No connections to the water service shall be made by the customer or his or her agent between the main and the property line if in a public street, or the easement line if in a private street or an easement. No hose connections for domestic use shall be allowed within the public or private street where the hose connections are accessible to the public.

21.12.130 Service and Maintenance Responsibility.

This section clarifies whether it is the responsibility of the Bureau or the customer to maintain, repair, or replace sections of the water supply system. Responsibilities for

installation are found in Section 21.12.110 "Installation of Service Pipes from the Main to the Property Line."

- A. For domestic and irrigation services:
 - 1. If the connection is 1 inch or smaller, the Bureau is responsible for that section that is through the meter and the angle meter coupling. The customer is responsible for that portion downstream from the angle meter coupling.
 - 2. If the connection is larger than 1 inch, the Bureau is responsible for that section that is through the meter and the meter valve. The customer is responsible for that portion downstream from the meter valve.
- B. For fire service, the Bureau is responsible for that section that is from the main through a valve between the curb and property line. The customer is responsible for the that portion downstream from the valve between the curb and property line. The customer is responsible for the repair of any facilities within the public right-of-way that are damaged as a part of his or her maintenance or repair work.

When a service pipe at the proper grade is damaged or destroyed by contractors or others in the performance of street work or where service pipes are damaged by electrolysis, the person, contractor, or company responsible for such damage or destruction shall be billed by the Bureau of Water Works for the cost of repairing or replacing such pipes on the basis of the cost plus overhead, as provided in the finance regulations of Title 5 of the City Code.

21.12.140 Water Pressure at Service.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau's goal is to provide water pressure to the property line in the range of 40 pounds per square inch (psi) to 110 psi. The State of Oregon Health Division rules dictate that a water service must provide a minimum of 20 psi at the meter. Pumps, elevated reservoirs and tanks and pressure reducing valves are utilized to provide pressure in the range of 40 psi to 110 psi where possible or practical. The Bureau of Development Services, Plumbing Division, through Title 25 of the City Code, regulates pressure on private property and requires a pressure reducing device for on-site domestic water systems that receive water at greater than 80 psi.

If the pressure to the service is within the range of 20 psi to 40 psi, the customer may choose to install a booster pump system on the premise to improve the working of the private plumbing system. The customer is responsible for the installation, operation and maintenance of any pressure boosting system. The addition of a booster pump will require an appropriate backflow prevention assembly be installed on the water service, on private property, and directly adjacent to the property line.

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The Water Bureau does not guarantee that water can be provided continuously at a particular pressure or rate of flow. Varying demands on the system and the requirement to change operations affect the flow and pressure available to the service.

21.12.150 Damage through Pipes and Fixtures.

The Bureau of Water Works shall in no case be liable for damages occasioned by water running from open or faulty fixtures or pipes installed by the customer or on the customer's property.

21.12.160 Bureau Authority to Disconnect a Customer Due to Potential Damage to Water System or To Another Customer's Facility.

The Bureau may disconnect a customer if it determines that operation of his or her system or facilities is causing pressure surges and/or creating other hazards that are detrimental to operating the City water system or the water system or facilities of another customer.

If the Bureau determines that such operations present a significant hazard, the customer may be disconnected without prior notice. The Bureau will notify the customer of the disconnection as soon as is reasonably possible and explain the necessity of the action taken. Before the water service is reconnected, the customer must provide the Bureau assurance that changes have been made that will preclude a recurrence of the hazardous condition.

Where a hazard exists, but potential damage is not judged to be imminent, the Bureau shall give the customer prior notice of the intent to disconnect. The Bureau shall state the reason for the disconnection, and offer an opportunity to be heard on why the customer's operation is not detrimental or hazardous.

21.12.170 Use of Private Water and City Water.

Owners of buildings desiring to use both the City water supply and a supply of water other than that furnished by the Bureau may obtain water service only upon the following conditions. An approved backflow prevention assembly must be installed on the service connection to the premises as outlined in the Bureau's "Backflow Assembly Installation Requirements." If water from a supply other than that provided by the Bureau is found without proper backflow protection the City water supply to the premises shall be immediately shut off with or without notice. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection, or potential cross connection has been completely and permanently eliminated or that an approved backflow prevention assembly commensurate to the degree of hazard has been installed on the service connection to the premises, and the assembly has been inspected, tested, and registered with the Bureau.

21.12.180 Disconnection of Service When Charges Have Not Been Paid.

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Bureau may disconnect a water service at the meter when monthly charges are not paid. If a monthly service charge is not paid for a period of one (1) year, the Bureau will consider the

service abandoned and may disconnect the service at the main. The Bureau may disconnect a leaking service at the main sooner than 1 year if payment has not been made.

21.12.190 **Reactivation of Abandoned Service.**

(Amended by Ordinance No. 179978 and 180120, effective June 9, 2006.) A customer may apply to the Bureau to reactivate an abandoned service where the meter has not been removed pursuant to Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid." Existing pipe and connections may be used if the Bureau determines them to be in sound condition and adequate for the intended use. The Bureau may require installation of a backflow prevention assembly on reactivated services.

The customer shall pay for replacement of the existing piping and/or connection if the piping and/or connection is unfit for use and standby charges have not been continuously paid. The customer shall pay the full installation fee if the service is desired at a different location than existing or if they desire a service that requires a larger pipe and connection. The customer must pay any charge required to reinstall a meter on the service.

21.12.200 **Leaking or Unused Services.**

Where there is a leak within the public right-of-way or within a Water Bureau easement between the main and the meter of a domestic service, or between the main and the valve behind the curb of a fire service, the Bureau shall make all repairs free of charge. However, if the leak is on a service for which the service charge, standby charge, or other charges are not being paid, the Bureau will cut out the service at the main. Where a water service pipe has been disconnected from the main, the owner of the premises previously serviced shall obtain a new permit and pay for a new service connection whenever a water service is desired. Services replaced because of leaks shall be renewed in the same size as the service removed, subject to the provisions which allow a customer to request a change of service size (see Section 21.12.060 "New Service Where Change in Size or Relocation is Desired.") The Water Bureau may require the installation of an approved backflow prevention assembly when this new service is approved.

21.12.210 **Master Metering of More Than One Water Service.**

At the Administrator's sole discretion, the Bureau may permit the master metering of more than one water service. In such case, the owners or occupants of the premises served shall designate one of their number who shall, through written agreement with the Bureau, be responsible for the payment of all water charges and the acceptance of service of all water related notices. This person shall be liable for all water related charges until the agreement is terminated or an agreement is established with another party. In the event payment for water charges is not made in full when due, the Bureau may terminate the service pursuant to normal procedures, in spite of the tender of partial payment by any other owner or occupant of the premises so served.

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21.12.220 Fire Protection Service.

(Amended by Ordinance No. 180120, effective June 9, 2006.) Water through a fire service shall be used only to extinguish a fire on the inside and the outside of the structure(s) that it serves and to test the fire system. A fire service is specifically not to be used for domestic, maintenance, or irrigation purposes.

The Bureau shall install and maintain a meter for a fire service of less than 2 inch. A fire service 2 inch and larger that supplies only a fire system shall be equipped with a detector metering device that is part of the backflow prevention assembly. This Assembly shall be installed and maintained by the customer. In addition, the Bureau shall install and maintain a metering device on a fire service that has private on-site fire hydrants, hose systems or other appurtenances that would allow the unauthorized use of water through the fire system for purposes other than to extinguish a fire. A service that supplies water for multiple needs, such as for domestic use and for fire suppression, shall be fully metered and shall comply with the requirements of Section 21.12.030 "Application for Installation or Removal of Water Service."

Backflow protection which complies with Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection" is required on all fire services. All costs associated with providing backflow protection are the responsibility of the property owner.

To avoid unauthorized use of a fire protection system the Bureau will require the owner to install an approved full-flow meter under the following conditions:

- A. The existing detector metering device registers use of water for purposes other than to extinguish a fire or to test the system, or;
- B. Connections have been added to a system provided with a detector meter or detector double check valve assembly.

When full-flow metering is required because of unauthorized use, the Bureau shall charge the customer for installing the meter, the meter vault, and shall assess a system development charge based on the size of the service. The Bureau policy for additional charges for unauthorized use of water from a fire protection system is established in Section 21.16.200 "Charges for Unauthorized Use of Fire Protection Services."

21.12.230 Permit and Report Required to Do Plumbing Work.

(Amended by Ordinance No. 176955, effective October 9, 2002.) It is unlawful for any plumber or other person to make connections, installations, replacements, extensions, or repairs to any City water service pipe, or to connect one service pipe with another service pipe, or extend a pipe from one building to another building, or to turn water on or off at any premises without having first obtained permission in writing from the Administrator or Chief Engineer. Such changes may require the installation of an approved backflow prevention assembly, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." After the issuance of a permit to a plumber or other person authorized by the plumbing inspector to do plumbing work, the

permittee shall make a report in writing to the Plumbing Division of the Bureau of Development Services of all connections, attachments, and extensions made in accordance with the permit within 3 days after completion of work.

21.12.240 Service Location Change.

When the service connection of any premises does not come from the main in front of the premises, the Bureau shall, when a main is laid in front of said premises, after notifying the owner or tenant thereof, provide a service connection to the new main without charge and at the same time, cut the old service connection. The property owner shall be responsible for the building connection to the new service. When services are relocated the Bureau may require installation of backflow protection, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection."

21.12.250 Location of Meters Inside City.

Within the City, the water meter shall be located in or adjacent to street area where the Bureau fixes such location, except where a City water main is already located in an easement upon private property. For service within easements the Bureau may allow location of a water meter on or adjacent to such existing line, if necessary easements for the meter installation are offered to and accepted by the City.

21.12.260 Water Service in Basements within the Public Right-of-Way.

A metered water service installed within a building's basement that extends into the public right-of-way must be enclosed to prevent damage to the building and its contents. The owner of the property served, at the owner's expense, shall fabricate and install a waterproof vault that encloses the entire water service from the wall penetration to the backside of the meter assembly. The vault shall be installed so that the meter can be read and serviced from the sidewalk area above. The vault shall be designed and installed to support the meter assembly and the full weight of water that may fill the vault. The vault shall have a gravity drain to the storm sewer. At the owner's expense, the Water Bureau shall furnish a frame and cover for the meter vault, which will be installed by the owner. The vault shall be constructed of material that resists corrosion or be protected by a corrosion resistant coating. The owner shall maintain the vault to keep it free of corrosion and in a clean condition. The owner shall provide a penetration through the outside basement wall for installation of the service and shall seal the opening after installation of the pipe. The owner shall seal all openings of the vault except those leading to the sidewalk area.

Except in cases of new services, the owner of the property together with affected lessees, if any, as an alternative to compliance with this Section, may execute for the benefit of the City an agreement, in a form satisfactory to the City Attorney, (1) waiving any claim for damages for personal injury or property damage against the City and its officers, agents, and employees arising out of non-compliance with the requirements of this Section and (2) defending and holding harmless the City and its officers, agents, and

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employees against any claim by any person for damages for personal injury or property damage arising out of non-compliance with the requirements of this Section.

21.12.270 Ownership of Meters.

(Amended by Ordinance No. 180120, effective June 9, 2006.) All new services will have meters provided and installed by the Bureau; except sewer meters, commercial, domestic and irrigation submeters, and as provided for fire protection in Section 21.12.220 "Fire Protection Service." The cost of the meters plus installation shall be charged to the customer requesting the new service. The new meters shall be owned by the Bureau. The Bureau shall assume all repair, maintenance, and future replacement responsibilities for the new meters. Where private meters exist, that are used by the Water Bureau for billing purposes, the Bureau shall perform all future repair, maintenance, and replacement work at no charge to the owners. If the private meter is determined to be obsolete, the Bureau shall replace the privately owned meter with a new Bureau-owned meter at no charge to the owner. The Bureau shall assume all responsibility for the cost of future meter repair or replacement. As outside areas are annexed to the City, privately owned meters shall be repaired or replaced on an as-needed basis with new Bureau-owned meters at no expense to the owner. All annexed services will be required to meet the backflow protection requirements, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." All costs of adding backflow protection shall be the responsibility of the property owner.

21.12.280 Damaged Meters Owned by the City.

Whenever a meter owned by the City is damaged by hot water or damaged by the carelessness or negligence of the owner or occupant of the premises, or others, the Bureau will repair the meter and charge the bill against the property served or to the person or persons responsible for the damage. The cost of the repairs shall be as prescribed in the annual water rate ordinance.

21.12.290 Meter Area and Access To Be Clear.

Bureau personnel must have access to read and maintain water meters. It is unlawful to block meter access. It is unlawful for any person to store or maintain any goods, merchandise, material, or refuse, or install equipment over, under, or within 6-feet of any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau. It is unlawful to park a motor vehicle over, upon, or in such a manner as to prevent access to any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau regardless of whether such Bureau property is located on public or private property. Whenever it is necessary to enter a building to read the meter or work on the water connections, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the entrance of the building to the meter. Shrubs and landscaping shall not obstruct reading of the meter. Any obstructions may be trimmed or removed by the Bureau, and the owner or occupant and the premises may be charged as prescribed in the finance regulations, Title 5 of the Portland City Code.

21.12.300 Shut Off Because of Defective Installation of Meters.

Whenever water meters inside the City are found by the Bureau to be without adequate support, or with defective plumbing, or without shut-off equipment necessary to permit meter tests by the Bureau, or where through earth movements or subsidence, pipe bends, or connections have become faulty or are not tight, then the Bureau shall notify the owner to remedy the condition within 10 days from the date of notification. Where the notice has been given specifying the repairs or alterations to be done, then if the repairs or alterations are not completed within the time allowed, the water service shall be shut off until the repairs or alterations are completed. The Administrator may allow additional time for completion of repairs or alterations for extenuating circumstances.

21.12.310 Authority for Testing and Repairing Meters.

The Bureau may test and/or repair any meter on services supplied directly or indirectly by the Bureau at any time without application from the property owner and for this purpose may upon notice temporarily shut off the water. If a meter which is larger than 1 inch on City lines requires repairs, the Bureau shall give notice to the property owner or user and immediately place said meter in good working order. If the meter is not repairable due to wear, obsolescence or parts that are not available, the Bureau will replace the meter in accord with Section 21.12.270 "Ownership of Meters."

21.12.320 Contamination of the City Water Supply and Requirements for Backflow Protection.

(Amended by Ordinance No. 180120, effective June 9, 2006.) It is unlawful for the owner of property or the user of City water to introduce or permit the introduction of pollution or contamination of any kind into the City water supply system.

- A.** Authority to Require Backflow Protection. Oregon State Administrative Rules Chapter 333 (OAR 333) require water suppliers to "undertake programs for controlling, and eliminating cross-connections." These programs are for the purpose of preventing pollution and contamination resulting from inadequate backflow protection. These State regulations apply to "Community Water Systems" which include the City of Portland's water system. Through this section the Bureau adopts by reference OAR 333. The Bureau's detailed requirements are found in the document entitled "Backflow Assembly Installation Requirements" and is available from the Bureau. Backflow prevention assemblies are approved for use in Oregon by the State of Oregon (see "Approved Backflow Prevention Assembly List" available from the Bureau and the State of Oregon). As required by OAR 333, the Bureau shall require an approved backflow prevention assembly when the Bureau determines that: a complete physical separation from the City water system is not practicable or necessary; adequate inspection for cross-connection cannot be readily made; or there exists a possibility of backflow contamination resulting from special conditions, use, or equipment. The Bureau may require an approved backflow prevention assembly

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to be installed for new construction, where buildings or structures are remodeled, or where tenant improvements are made.

- B.** Requirements for Testing Assemblies and Maintaining Backflow Protection. All assemblies must be tested immediately after installation or if the assembly is moved or repaired. Assemblies must also be tested at least once a year, on a schedule to be determined by the Bureau, or more frequently as determined necessary by the Bureau to provide adequate backflow protection. Tests shall be performed by a tester who is certified by the State of Oregon. Copies of the test results shall be provided to the water user or the owner of the premises and to the Bureau. Backflow prevention assemblies which are not functioning properly shall be repaired promptly and retested or replaced. The water user or owner of the assembly will be responsible for all associated costs of repair, testing and replacement.
- C.** Authority to Deny or Discontinue Service When Backflow Protection is Inadequate. As required by OAR 333, where the Bureau has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, the Bureau shall deny or discontinue service. The Bureau shall also deny or discontinue service to a premise whenever an assembly is found to be malfunctioning or is not being properly maintained, tested, or repaired. Service shall not be provided or reestablished until adequate and approved backflow protection is installed and/or tested, or the cause of the hazard is otherwise eliminated.

Chapter 21.16

RATES AND CHARGES

Sections:

21.16.010	Annual Water Rates.
21.16.020	Annual Statement To Be Filed.
21.16.030	Water Charged to Premises User.
21.12.040	Delinquent Water Bills.
21.16.050	Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.
21.16.060	Responsibility for Water Charges When Property Changes Ownership.
21.16.070	Collection and Work Orders.
21.16.080	Dates and Places of Payment.
21.16.090	Deposit and Application.
21.16.100	Deposit of Money Received.

- 21.16.110 Bureau May Contract for Collection of Revenues.
- 21.16.120 Collections, Adjustments and Refunds.
- 21.16.130 Adjustments on Account of Leaks.
- 21.16.140 Authority to Estimate Bills.
- 21.16.150 Testing Meters.
- 21.16.160 Service Installation Fees.
- 21.16.170 System Development Charge.
- 21.16.180 Water Connection Assistance.
- 21.16.190 Charges for Water Used to Extinguish a Fire.
- 21.16.200 Charges for Unauthorized Use of Fire Protection Service.
- 21.16.210 Billing and Collection of Sewer User Charges.
- 21.16.220 Billing and Collection for Others by Contract.

21.16.010 Annual Water Rates.

The Portland City Council approves and sets water rates for each fiscal year that will provide an estimated income to equal expenses and debt service relating to water bonds. (Section 11-105 of the Portland City Charter). The Bureau prepares the proposed annual water rate ordinance and the City Attorney reviews the ordinance. The Bureau files the ordinance with the Auditor not later than May 20 of each year.

21.16.020 Annual Statement To Be Filed.

An annual detailed statement of its income and expenditures shall be made and signed by the Administrator and shall be filed with the Auditor, who shall preserve the same among the files of his or her office. This annual report shall include a statement of the financial condition and pertinent engineering data of the Bureau of Water Works.

21.16.030 Water Charged to Premises User.

All charges for furnishing water within the City and also to premises outside the City served directly by the Bureau shall be chargeable to the user of said water at that premises (or any former premises where water was supplied). If the premises are not in use the daily fixed charges shall be the responsibility of the owner. A property owner or his or her agent may become obligated for charges for furnishing such water to the user by accepting responsibility for payment thereof or by agreement with the Bureau. Where a user or property owner has a delinquent bill for one premises, said delinquency shall be a charge against said user or property owner (for water obtained) at any of his or her other premises served by the Bureau.

21.16.040 Delinquent Water Bills.

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Director of the Revenue Bureau or his or her designated representative shall have the authority to shut off water service to any customer when any charge to that customer has not been paid within 10 days after that charge is due and payable.

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Before water service is shut off the Revenue Bureau shall give written notice to the service address provided by the water user as well as to the mailing address of the property owner or the party who has agreed with the Bureau to accept responsibility for payment. Such notice shall state the anticipated date when the water will be shut off, as well as informing the customer of his or her right to request an administrative review, and the procedure for requesting the review, to challenge the shut off.

It is the obligation of the water user or responsible party to ensure that the Revenue Bureau has the most current and accurate address for the user or responsible party. There is no obligation on the part of the Bureau to determine if the address provided is the best or the most current address.

Once service is shut off, water shall not again be provided until all outstanding obligations for water provided to that user shall have been paid, or arrangements for payments have been made with the Revenue Bureau, including additional charges as established in the annual water rate ordinance.

The Revenue Bureau Director or designated representative may, but is not obligated to, allow for continuation of water service for a specified period of time prior to payment of outstanding charges if it is determined that the lack of water will endanger health or cause substantial hardship. The continuation of water service may also be allowed when the delinquent customer is willing to enter into a payment arrangement satisfactory to the Director for payment of all of that customer's delinquent amounts. However, if the charges are not paid as agreed, then the water may again be shut off and not turned on again until the outstanding charges are paid in full or arrangements for payments are made with the Bureau.

The Revenue Bureau Director or designated representative may institute legal proceedings and contract with third parties for the collection of delinquent water bills and charges. The Director or representative may require that a deposit be made with the Bureau to ensure payment of future water bills and charges.

21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.

Either a property owner or a renter may notify the Bureau of the date to open or close an account for a renter. The Bureau will honor the first date on which the request was received to open or close the account. The Bureau will change this date if agreed to by all other affected parties. The Bureau will not mediate a dispute between landlord and renter regarding the dates when billing responsibility changes.

The Bureau bills all water service charges daily, regardless of whether the property is occupied or vacant. The property owner is responsible for all water charges while a property is vacant and no renter has accepted responsibility for water charges. If neither the renter nor the owner notify the Bureau that a renter has left tenancy, and the Bureau determines by a visit to the property that the property is vacant, water charges shall commence on that date to be applied to the owner.

21.16.060 Responsibility for Water Charges When Property Changes Ownership.

When a property is sold, the seller is responsible for all water charges until the date the buyer is entitled to possession. If there is a dispute between the seller and the buyer about the date of possession, the Bureau will use Multnomah County taxation records to verify the legal recording date.

21.16.070 Collection and Work Orders.

All payments and refunds shall be made by the Finance and Support Services section of the Bureau. The Finance and Support Services section shall assure that charges and credits are posted to customer accounts. Work orders for main extensions, service connections, and meter installations for which a deposit or charges are or may be made under this Title, shall be established by the Engineering Services section of the Bureau.

21.16.080 Dates and Places of Payment.

(Amended by Ordinance No. 179978, effective April 7, 2006.) Charges for water use shall be computed, and bills mailed, on a schedule determined by the Director of the Revenue Bureau. The billing schedule shall be kept on file by the Bureau. The water bill, with a due date, will be payable at either the Bureau or at authorized locations established by written agreement with the Director.

21.16.090 Deposit and Application.

An application, deposit, or both, for water service may be required from all new customers, customers shut off for nonpayment, or those customers with unsatisfactory credit moving within the Bureau's jurisdiction. Unsatisfactory credit is defined as not meeting credit and collection industry standards or by the Administrator. Failure to provide either the application, deposit, or both within the due date specified by the Water Bureau may result in discontinuance of service.

21.16.100 Deposit of Money Received.

All monies collected or received by the Bureau of Water Works for the use and consumption of water or otherwise shall be deposited with the bank designated by the Treasurer of the City. The Treasurer shall keep the same separate and apart from the other funds of the City in funds to be known as the Water Fund and the Water Construction Fund, and pay it out only on checks signed by the Mayor, countersigned by the Auditor, and not otherwise.

21.16.110 Bureau May Contract for Collection of Revenues.

The Commissioner-In-Charge of the Bureau and the Auditor are hereby authorized to enter into contracts for periods not to exceed 5 years with such persons or corporations as may be selected by the Administrator for the collection of water revenue for the City. The contracts shall provide for compensation for collection and may cover certain expenses related to revenue collection. The contracts shall require that a bond be furnished by the collection agent or the City, at the City's option, the premium for such bond may be paid for by the City. The bond shall be conditioned upon the performance

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of such contract, and shall be in such form as may be satisfactory to the Administrator and the City Attorney.

21.16.120 Collections, Adjustments and Refunds.

(Amended by Ordinance No. 179978, effective April 7, 2006.) Water bills shall be computed monthly, bimonthly or quarterly and billed by the Utilities Customer Services Division of the Revenue Bureau.

All payments shall be made to, and refunds made by, the Utilities Customer Services Division of the Revenue Bureau. The Utilities Customer Services Division shall ensure that charges and credits are posted to customer accounts.

The Director of the Revenue Bureau or his or her designated representative may make adjustments, pay refunds or waive fees and charges where it is deemed necessary for the proper conduct of the business of the Bureau. A full explanation of the reason for an adjustment or refund must be filed with the Bureau records and available upon request. Refunds are to be made to the party who made the payment. Upon written request, the Bureau shall provide the customer with a written explanation detailing the circumstances of the error and the calculation of any adjustment or refund.

When the Bureau determines that a customer has been charged too much for water services, the refund shall be based on the date the error first occurred or as best determined from available records. If the date cannot be verified, the Bureau will estimate the amount of the refund based on a period not to exceed three years. The Bureau will make reasonable efforts to issue refunds due to customers who no longer have an account.

When the Bureau determines that a customer has not been charged enough, the Bureau will adjust the bill based on the date the error first occurred, the date the current customer became responsible for the bill, or three years, whichever is less. If a current customer has not been billed because the Bureau was not notified of his or her responsibility for payment, the Bureau will adjust the bill on the date the customer became responsible for the bill. If the date cannot be verified, the Bureau will estimate the bill covering a period not to exceed six months. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

Adjustments and accruals shall be in the form of credits or additional charges. Credits shall be payable to, and charges shall be payable by, the customer of record during the time the error existed.

21.16.130 Adjustments on Account of Leaks.

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Director of the Revenue Bureau or his or her designated representative may make adjustments to water use charges where a leak exists in the water system on the customer's side of the meter. The customer must make reasonable efforts to locate the leak and initiate repairs within 30 days after the leak was detected and have repairs completed within 90 days of notification.

21.16.140 Authority to Estimate Bills.

When a meter fails to register accurately, the Bureau shall charge for water based on the historic usage of water at the premises. Adjustments to the estimated bill may be made consistent with the provisions of 21.16.120 "Adjustments and Refunds."

21.16.150 Testing Meters.

When any water customer makes a complaint that the bill for any particular period is excessive, the Bureau will, upon request, have such meter reread and the service inspected for leaks. Should the customer then desire that the meter be tested, he or she shall make a deposit as prescribed in the annual water rate ordinance to cover the cost of making the test. Should the meter upon testing show a registration in excess of 3 % in favor of the Bureau, the amount deposited will be refunded and the Bureau shall make an adjustment for the estimated excess consumption on the bill immediately preceding and/or the current bill. The excess registration on the reading for the previous and/or current billing period shall be credited to the account. Where no error is found exceeding 3 % in favor of the Bureau, the amount deposited will be retained to cover the expense of such test.

21.16.160 Service Installation Fees.

The fees for installing and/or activating water service up to and including 1-inch in size shall be as provided in the annual water rate ordinance and shall be paid prior to service installation.

The fees for installing services greater than 1-inch shall be based on the Bureau's costs plus overhead, as provided in the finance regulations, Title 5 of the Code of the City of Portland. The applicant may choose to pay either a set price based on the Bureau's estimate or the actual cost of the installation. If the applicant accepts the Bureau's estimate as the set price these costs must be paid before the Bureau will perform the work. After a set price has been established, the Bureau will not refund or adjust installation charges unless changes in installation or location are requested by the applicant.

If the applicant chooses to pay the actual costs plus overhead he or she shall submit a deposit equal to the estimated cost before the Bureau will begin the work. When the estimated cost differs from the actual for labor, materials, and overhead the deficit shall be charged to the applicant or any excess payment shall be returned to the applicant.

In addition to the service installation fees, an applicant for new service must pay the System Development Charge, as described in Section 21.16.170 "System Development Charge" and as set in the annual water rate ordinance. If the service branch has been installed by a developer as allowed in section 21.12.110 "Installation of Service Pipes from the Main to the Property Line," the applicant will be charged for only the applicable system development charge and any charge for service activation as set in the annual water rate ordinance.

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21.16.170 System Development Charge.

A customer requesting a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service").

21.16.180 Water Connection Assistance.

(Replaced by Ordinance No. 181715, effective April 2, 2008.) The City may provide water connection assistance to eligible property owners based on criteria established each year by City Council in the Annual Rate Ordinance. The Administrator may adopt administrative rules and procedures necessary to implement the water connection assistance criteria described in the Annual Rate Ordinance.

The City may grant loans to property owners to finance City water system development charges, as provided in City Code Chapter 17.14 Financing Systems Development Charges. The Administrator may adopt administrative rules and procedures necessary to implement the loan program.

21.16.190 Charges for Water Used through a Fire Protection Service.

No charge shall be made for water used to extinguish a fire. Except as otherwise noted in this section, a customer may use water from the City to test the fire protection system. Water used to pressure test a fire protection system will be registered on detector check metered firelines, or estimated on unmetered firelines. Flow testing a fire protection system requires that the Bureau install a metering device on the service to register the water used.

Water used for testing a service for fire protection shall be charged at the commodity rates prescribed in the Water Rate Ordinance, as annually adopted by the City Council. Sewer charges will normally not be assessed for water used to test a fire protection system. Testing that results in a volume of water that is determined to have a measurable impact on the sewer system may subject that service to a sewer charge.

Testing of a fire service may not be conducted in a manner that will degrade the public water system. Flow testing through a fire service shall not reduce the pressure in the main less than 50% of maximum static pressure and shall in no case reduce the pressure below 30 lbs per sq. in. In this regard, prior to testing large flows, the customer shall consult with the Bureau to determine limits of flow and to develop methods that may mitigate any detrimental effects on the public water system. Repeated testing of a fire service that violates a Bureau-approved testing program or affects the average daily water system conditions by more than allowable will result in a reclassification of the type of service and the collection of a System Development Charge.

21.16.200 Charges for Unauthorized Use of Fire Protection Service.

A fire service is to be used to extinguish a fire, and is specifically not to be used for domestic, maintenance, or irrigation purposes. (See Section 21.12.220 "Fire Protection Service.")

There are progressively increasing charges for unauthorized use of water supplied through firelines. There is a commodity charge of three times the normal rate for water for the first unauthorized use, and ten times the normal rate for all later unauthorized uses. If unauthorized use continues, the Bureau will install a full-flow meter and bill the customer for the full costs of the meter as well as System Development Charges. These policies and procedures are further detailed in the annual water rate ordinance.

21.16.210 Billing and Collection of Sewer User Charges.

The annual fee for billing and collecting sewer user charges by the Bureau shall be on a basis of agreement between the Commissioner-In-Charge of sewage disposal and the Commissioner-In-Charge of the Bureau of Water Works, and as approved annually by the City Council in the budget cycle.

21.16.220 Billing and Collection for Others by Contract.

The Bureau may bill and collect for user fees and services provided by other public and private entities as established by contracts approved by City Council. All revenue collected for other entities will be deposited in separate accounts.

Chapter 21.20

TURNING ON OR SHUTTING OFF

Sections:

- 21.20.010 Application To Turn On Water.
- 21.20.020 Temporary Shut Off.
- 21.20.030 Unlawful To Turn On Water Without Authority.
- 21.20.040 Charges for Service Pipes Connected Without Permit.
- 21.20.050 Authority To Shut Off Service.

21.20.010 Application To Turn On Water.

Applications to turn on water must be signed by the owner and agent of the property involved and must be filed with the Bureau before they become effective.

21.20.020 Temporary Shut Off.

(Amended by Ordinance Nos. 179978 and 180917, effective May 26, 2007.) An owner, agent, or tenant may request by telephone, in writing, or in person that the Bureau

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temporarily discontinue water service. Fire protection service may only be discontinued upon written request of the owner or authorized agent and approved by Portland Fire & Rescue. Daily service charges will continue during temporary shut off.

21.20.030 Unlawful To Turn On Water Without Authority

It is unlawful to use or permit use of City water through a service that has been shut off. Should the water be turned on without authority from the Bureau, the Bureau may stop water service either by shutting off the water at the main, by removing the meter, or by any other appropriate method.

The charge for removing the meter and the charge for replacing the meter shall be in accordance with the annual water rate ordinance. The charge for stopping water service by any other method and the charge for subsequent restoring of the water service, shall be as provided in the Title of the City Code which addresses finance regulations. All such charges shall be charged to the user and when the delinquent user occupies the premises, water shall not again be furnished to the premises until the charges are paid.

21.20.040 Charges for Service Pipes Connected Without Permit.

When premises or additional premises are connected without the application prescribed in Section 21.20.010 "Application to Turn On Water." the premises may be charged as prescribed in the annual schedule of water rates and the service may be shut off by order of the Administrator. In case water shall be turned off as provided in this Section, the same shall not be turned on again until all rates and charges against the premises have been paid in full.

21.20.050 Authority To Shut Off Service.

The Bureau reserves the right at any time, without notice, to shut off the water supply for repairs, extensions, nonpayment of bill and charges or any other reason. The Bureau shall not be responsible for any damage, such as the bursting of boilers, the breaking of any pipes or fixtures, stoppage, or interruption of water supply, or any other damage resulting from the shutting off of the water.

Chapter 21.24

RULES AND REGULATIONS

Sections:

- 21.24.010 Animals Prohibited on Watershed or City Property.
- 21.24.020 Fire Hydrants.
- 21.24.030 Water for Naval Vessels in Harbor.
- 21.24.040 Access to Premises for Inspection.
- 21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.
- 21.24.060 Emergency Loan of Materials.
- 21.24.070 Impairment of Service to Other Customers.
- 21.24.080 Administrative Rules, Procedures and Forms.
- 21.24.090 Enforcement.

21.24.010 Animals Prohibited on Watershed or City Property.

It is unlawful for any person to permit domestic animals to run at large on any lands owned by the City, situated in Multnomah County, or in Clackamas County, used by the City in connection with the headworks of the Bureau of Water Works or in lands owned by the City within the area of the National Forest Reserve, which lands are used in connection with the Bureau of Water Works of the City.

21.24.020 Fire Hydrants.

(Amended by Ordinance Nos. 180917 and 181715, effective April 2, 2008.) It is unlawful for any person to operate, alter, change, remove, disconnect, connect with, or interfere in any manner with any fire hydrant owned or used by the City without first obtaining written permission from the Portland Water Bureau. Penalties for unauthorized use of a fire hydrant are set in the annual water rate ordinance. The provisions of this Section shall not apply to Portland Fire & Rescue of the City.

Public fire hydrants are available for use of the Fire Department in the suppression of fire within the City. No other use of public hydrants shall be allowed except as provided in this Section and in Section 21.12.090 "Permit for Temporary Service," and 21.12.100 "Annual Fire Hydrant Permit." The Portland Water Bureau may permit short-term use of specified hydrants for activities such as tree spraying, street cleaning, ditch settling, building demolition, and related uses at the discretion of the Administrator, however, in each instance, a permit is required. A Temporary Permit may be issued by the Portland Water Bureau for a period not to exceed 90 days, and an Annual Permit shall be issued for one year. Upon application the permittee must present a Chapman type (slow closing) gate valve to the Portland Water Bureau to be tagged with a valid permit listing applicant's name, expiration date, and authorized locations. The permittee shall be responsible for compliance with all city, state, and federal rules, regulations, and guidelines regarding the proper use and disposal of water. Rates and charges for usage will be specified in the annual water rate ordinance. Backflow protection shall be

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required on all potential hazards to the public water supply as determined by the Administrator or Chief Engineer.

All fire hydrants connected to the Portland Water Bureau's water system within the City and within the public right-of-way or an approved easement are the responsibility of the Portland Water Bureau for installation and maintenance. Any hydrant connected to the system outside the City must be installed at the petitioner's expense, but shall be maintained by the Portland Water Bureau. The petitioner shall be required to pay all expenses for additional hydrant installations to meet requirements of Portland Fire & Rescue and in all instances the Chief Engineer shall have final review and approval authority.

The Portland Water Bureau may elect to allow a contractor to install to Portland Water Bureau standards, fire hydrants as part of his or her Subdivision under Section 21.08.020 "Distribution Main Extensions Inside the City." The developer must install these hydrants at his or her expense and transfer ownership to the Portland Water Bureau at such time as the main and appurtenances are accepted by the Portland Water Bureau to become part of the City system.

21.24.030 Water for Naval Vessels in Harbor.

(Amended by Ordinance No. 180120, effective June 9, 2006.) The Bureau is authorized to furnish water to any visiting naval war vessel of the United States or to any visiting naval war vessel of any foreign country entering the harbor in the City, without payment. All such connections shall require an approved backflow prevention assembly.

21.24.040 Access to Premises for Inspection.

To the full extent permitted by law, employees of the Bureau shall have free access, at proper hours of the day, to all parts of buildings and premises for the purpose of inspecting the condition of the water pipes and plumbing fixtures to determine whether cross-connections or other structural or sanitary hazards exist, and the manner in which the water is being used. Whenever the owner of any premise supplied by the Bureau restrains authorized City employees from making such necessary inspections or refuses access therefor, water service may be refused or discontinued.

21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.

It is unlawful for any person, without authority from the Bureau, to willfully damage, connect to, operate, alter, or otherwise tamper with any City water main, service, meter, meter box, hydrant, valve, or any other facility owned or operated by the Bureau.

21.24.060 Emergency Loan of Materials.

The Administrator may approve emergency loan of operating materials and equipment on a temporary basis to other governmental agencies, including water districts and municipalities, at their expense upon their written request, if such loan does not adversely affect the operation of the Bureau.

21.24.070 Impairment of Service to Other Customers.

Where the use of water is intermittent or where such use produces extreme volume or fluctuations that may impair service to other customers, the Bureau may require that the customer provide, at his or her own expense, suitable equipment to reasonably limit fluctuations in use and pressures caused by the customer's equipment or operations.

21.24.080 Administrative Rules, Procedures and Forms.

(Added by Ordinance No. 181715, effective April 2, 2008.)

- A.** The Administrator of the Portland Water Bureau may adopt, amend and repeal administrative rules, procedures, and forms pertaining to matters within the scope of this Title and consistent with the provisions of this Title.
- B.** Any adoption, amendment or repeal of a rule pursuant to this section requires a public review process. Notice shall be published in a newspaper of general circulation in the Portland metropolitan area not less than forty-five, nor more than sixty, days before such public review process. The notice shall include the place and time of any public meeting on the proposal, the description and purpose of the proposal, the location at which copies of the full text of the proposal may be read or obtained, and the name of the person at the Portland Water Bureau to whom written comments or questions about the proposal may be directed.
- C.** Forty-five days after publication of the notice, the Administrator shall record oral and written testimony concerning the proposed rule(s) at a public hearing. The Administrator has the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for conduct of the hearings, to hear evidence and to preserve order. The Administrator may continue any such hearing to another date.
- D.** After considering comments received during the public review process and other relevant matters, the Administrator taking into consideration the comments received during the hearing shall either adopt the proposal, modify or reject it.
- E.** Unless otherwise stated, all rules are effective upon adoption by the Administrator of the Portland Water Bureau and shall be filed in the office of the Administrator of the Portland Water Bureau and in the Portland Policy Documents repository described in Chapter 1.07. Notice of the adopted rule(s) shall be published in a newspaper of general circulation in the Portland metropolitan area within fourteen days of adoption.
- F.** Notwithstanding paragraphs B. – E. of this section, an interim rule may be adopted without prior notice upon a finding by the Administrator that failure to act promptly shall result in serious prejudice to the public interest. Any rule adopted pursuant to this paragraph shall be effective for no longer than 180 days.

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21.24.090 Enforcement.

(Added by Ordinance No. 181715, effective April 2, 2008.)

- A.** Persons who fail to comply with the requirements or prohibitions of Title 21 or rules adopted under Section 21.24.080 are subject to enforcement actions by the City of the Portland.
- B.** Violations.
 - 1.** A violation occurs when any requirement or prohibition of Title 21 or rules adopted under Section 21.24.080 are not complied with.
 - 2.** Each separate occasion is considered a separate violation. The Portland Water Bureau shall issue only one violation per prohibited use per day.
- C.** Enforcement. In enforcing any of the requirements or prohibitions of Title 21 or rules adopted under Section 21.24.080, the Administrator may:
 - 1.** Issue warning notices;
 - 2.** Issue notices of violation and orders to comply;
 - 3.** Institute an action before the Code Hearings Officer;
 - 4.** Impose civil penalties, in an amount not to exceed \$500 per day or as otherwise specified elsewhere in Title 21 or the annual rate ordinance. These penalties shall be imposed for each day a violation continues to exist against any individual or business who does not comply with the provisions of this Title. Each failure to comply shall be deemed a separate violation;
 - 5.** Order the installation of facilities required by this Title as a condition of providing water service; or
 - 6.** Terminate water service.
- D.** Appeal of enforcement action. A water user may appeal the Administrator's action within 30 days from the date the notice of enforcement is mailed, in accordance with procedures and timelines set out in Title 22 of the Portland City Code. Such an appeal must include a copy of the action that is the subject of the appeal, must state the basis for the appeal, and must be filed with the Code Hearings Officer and the Portland Water Bureau.

Chapter 21.28

DISTRIBUTION OF WATER OUTSIDE THE CITY

Sections:

- 21.28.010 Service Outside City.
- 21.28.020 Water Supply to Premises Outside the City of Portland.
- 21.28.030 Water Supply to Distributors by Contract.
- 21.28.040 Information To Be Furnished by Distributors.
- 21.28.050 Resale of Water Prohibited.
- 21.28.060 Local Storage Required.
- 21.28.070 Other Applicable Provisions.
- 21.28.080 Suspension of Service.

21.28.010 Service Outside City.

The Bureau may furnish water to places, individuals, water companies, cities, and water districts outside the City boundaries and may charge rates fixed by the Council in the annual water rate ordinance. Subject to the provisions of Section 21.12.010 "Service to Property Adjacent to Water Main" and Section 21.12.270 "Ownership of Meters," the customer must purchase a water service and meter of approved size and design, which shall be located where required by the City.

All service provided outside the City will be required to install a minimum of a double check valve assembly for backflow protection. The assembly shall be installed at the point of connection to the outside user of water. All associated costs of installation are the responsibility of the property owner or user.

21.28.020 Water Supply to Premises Outside the City of Portland.

Each individual applicant for a water supply outside of the City shall make application to the Bureau of Water Works upon a form containing the following agreement:

"Application is hereby made for water service at the premises known as
outside the City of Portland, Oregon.

"It is understood and agreed that if this service be allowed, the undersigned owner and/or occupant of the premises referred to herein shall pay the rate prescribed by City ordinance from time to time for service at that location; that this service shall be a special contract service and not provided by the City as a common utility service; that the quantity of water supplied by this service may be reduced or the service entirely discontinued at any time when the Council of said City finds such action necessary in order to provide sufficient service to the inhabitants within the limits of said City, that at least 60 days' notice in writing shall be given by the City before such discontinuance may be put into effect; that notice delivered at the premises or at the last known address of the

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owner or applicant shall be sufficient; that the undersigned owner may discontinue service without advance notice of more than 1 day, but shall be responsible for all water served to the premises by the City until notice in writing is given of such discontinuance."

21.28.030 Water Supply to Distributors by Contract.

When any outside distributor desires to purchase water from the Bureau, the Mayor and the Commissioner-In-Charge of the Bureau may enter into and execute contracts to supply water in accordance with the rates established by the Council and subject to all the provisions of the Charter and ordinances, and may include special terms and provisions found by the Commissioner-In-Charge to be reasonable and appropriate in the particular circumstances.

21.28.040 Information To Be Furnished by Distributors.

On or before July 31 of each year, all outside City distributors shall furnish to the Bureau information requested by the Administrator, including but not limited to:

- A.** A legal description or map of the distributor's service area, at a scale no smaller than 200 feet to the inch showing the boundaries of the area supplied or to be supplied by its distribution system, and in addition, a map or maps showing all existing mains and those proposed to be installed within the next 12 months, the location, capacity, and overflow elevation of all storage tanks and reservoirs, as well as connections to other sources of water supply, whether such supply is owned by the distributor or obtained from others.
- B.** The origin, capacity, usage, and quality of each alternate source of water supply.
- C.** A detailed list of the total number of new water service connections and locations segregated into the categories of single-family dwellings, duplexes, dwellings of three or more units, commercial, industrial, and private fire line services and the size of the meter for each service installed during the previous 12 months as of June 30.
- D.** A statement listing both the total active and inactive services supplied directly and indirectly by distributor through other distributors as of June 30.

All distributors shall furnish to the Administrator within 10 days after the end of each month a statement showing the number of cubic feet or water sold by each source.

21.28.050 Resale of Water Prohibited.

Outside City distributors shall sell no water to other distributors without prior written approval of the Administrator. Such sales shall be subject to such conditions as the Administrator may impose. In the event the distributor makes such sales without such approval, the City may make corresponding reductions in the amount of water supplied to

the distributor or may impose rate penalties as deemed appropriate by the Administrator of and the Commissioner-In-Charge.

21.28.060 Local Storage Required.

All outside City distributors must provide a minimum storage of 3 times average daily consumption of water. The water supply may be discontinued at any time for noncompliance with this Section.

21.28.070 Other Applicable Provisions.

The following sections and provisions of this title shall apply to all outside City distributors and individuals purchasing water from the Bureau:

- 21.08.040 Extending Distribution Mains Outside the City.
- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside the City.
- 21.12.270 Ownership of Meters.
- 21.12.280 Damaged Meters Owned by the City.
- 21.12.290 Meter Area and Access to Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.
- 21.16.010 Annual Water Rates.
- 21.16.030 Water Charged to Premises User.
- 21.16.110 Bureau May Contract for Collection of Revenues.
- 21.16.140 Authority to Estimate Bills.
- 21.16.180 Standby Service Charge.
- 21.20.050 Authority to Shut Off Service.
- 21.24.010 Animals Prohibited on Watershed or City Property.
- 21.24.060 Emergency Loan of Materials.

21.28.080 Suspension of Service.

The Bureau may suspend temporarily the delivery of water, for the purpose of making repairs or improvements to its system. During any emergency, the Bureau may apportion the available water supply among its customers in that manner which appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.

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Chapter 21.32

WATER CONSERVATION MEASURES

Sections:

- 21.32.010 Declaration of Policy.
- 21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.
- 21.32.030 Enforcement.
- 21.32.040 Outside City Distributor.
- 21.32.050 Authority of Commissioner-In-Charge to Terminate Rules.

21.32.010 Declaration of Policy.

It is the policy of the City of Portland to provide clean, healthful, and plentiful water to its residents. There may be circumstances beyond the City's control, however, including most particularly weather conditions and the effects of natural catastrophe or the actions of others on the City's water supply sources, that make it necessary to reduce the water regularly used by the City's residents and apportion among the City's residents a restricted supply of water. In those circumstances, the City intends that water be apportioned in a manner that is consistent with the City Charter and other relevant provisions of this Chapter 21 of the City Code, is determined by the Bureau to be equitable under the circumstances, and takes into account public health and safety.

21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.

A. Authorization.

1. When the Commissioner-In-Charge of the Bureau finds that a water shortage exists or is imminent or that any other emergency situation exists which threatens seriously to disrupt or diminish the municipal water supply, the Commissioner-In-Charge may authorize the Administrator to adopt rules, procedures, and forms to restrict water use in a manner that accomplishes the policy announced in this Subsection of the City Code and to otherwise implement the provisions of this Subsection.

B. Procedure.

1. Any rule to implement this Subsection or its amendment or rescission, except as provided in Subsection B.3 below, shall be adopted pursuant to the public review process described in Subsection B.1.
 - a. Whenever the Administrator proposes to issue, rescind, or amend a rule, the Administrator shall first publish notice of such intent in a newspaper of general circulation in the Portland metropolitan area.

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2. Each separate occasion on which a violation occurs shall be considered a separate violation. No more than one violation per prohibited use per day shall be issued.
- C. Enforcement mechanisms. In enforcing any of the requirements or prohibitions of this Subsection or rules adopted hereunder, the Administrator may:
1. Issue warning notices;
 2. Issue notices of violation and orders to comply;
 3. Institute an action before the Code Hearings Officer;
 4. Issue civil penalties, as set out in rules adopted under the authority of this Subsection; or
 5. Take such other action as the Administrator deems appropriate.
- D. Penalties. Violations of this Subsection or of rules adopted hereunder may be subject to the following penalties per violation:
1. Fine(s) up to \$500.
 2. Installation of a flow restrictor on the City side of the customer's water meter;
 3. Termination of water service.
- E. Appeal of enforcement action. Upon receipt of a notice of an enforcement action, a customer may appeal the Administrator's action within 30 days to the Code Hearings Officer in accordance with procedures set out in Chapter 22 of the Portland City Code; provided that such an appeal shall include a copy of the action that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Water Works.

21.32.040 Outside City Distributor.

Notwithstanding Subsection 21.32.010 to 21.32.030, water curtailment for outside city distributors shall be instituted pursuant to wholesale contractual agreements.

21.32.050 Authority of Commissioner-In-Charge to Terminate Rules.

When the Commissioner-In-Charge finds that the remaining water supply exceeds anticipated demand, and that the water shortage or any other emergency situation no longer exists or is imminent, the Commissioner-In-Charge may authorize the

Administrator to terminate rules, procedures, and forms that had been adopted to restrict water use.

Chapter 21.35

WELLHEAD PROTECTION

(Added by Ordinance No. 177668,
effective July 1, 2003.)

Sections:

- 21.35.010 Establishment of Wellhead Protection Area.
- 21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.
- 21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.
- 21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.
- 21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.
- 21.35.060 Enforcement.
- 21.35.070 Inter-Agency Cooperation.
- 21.35.080 Building and Site Permit Review and Approval.
- 21.35.090 Rulemaking.

21.35.010 Establishment of Wellhead Protection Area.

The Bureau of Water Works is authorized to establish wellhead protection areas in order to regulate the storage, handling, use and transportation of materials that could contaminate groundwater. The Bureau of Water Works shall establish the boundaries of wellhead protection areas based on the best available information about the dynamics of the aquifers that existing and future wells tap, the time-of-travel of hazardous materials and other relevant factors. The Bureau shall publish a map of all designated wellhead protection areas, shall certify copies to other city bureaus, and shall make such maps available to the public upon request and otherwise take steps, in its discretion, to publicize the availability of the maps to residences and businesses within the wellhead protection area. The Bureau of Water Works may alter the boundaries of a wellhead protection area if the information on which existing boundaries are based changes. Proposed changes to a wellhead protection area shall be adopted by rulemaking as set forth in Section 21.35.090

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21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.

- A.** The Bureau of Water Works shall have the authority to designate materials as hazardous and to require all persons or businesses possessing or using hazardous materials within the wellhead protection area to make annual reports to the Bureau concerning the types and quantity of hazardous materials stored, handled, used or transported, the storage and containment provisions for hazardous materials, and related information, including but not limited to a site plan indicating the location of hazardous materials manufactured, generated, stored or used, information indicating the location of drains, capacities of containment systems, drainage utility shut-off, and topographical information. If the Bureau of Water Works establishes reporting requirements, persons or businesses shall submit required information to the Bureau of Water Works in accordance with the schedule established in the Reference Manual. If another bureau is designated to receive reports on behalf of the Bureau of Water Works, and if it is deemed practical by both bureaus, reporting requirements and reports may be combined.
- B.** Failure to submit a complete report within the timeframe established in the Reference Manual constitutes a violating and shall be subject to enforcement pursuant to Section 21.35.050 of this Chapter.

21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.

(Amended by Ordinance No. 180917, effective May 26, 2007.)

- A.** Initial standards for the storage, handling, use and transportation of hazardous materials are contained in the Well Field Wellhead Protection Program Reference Manual, adopted as administrative rules concurrently with this Code. The Bureau of Water Works shall have the authority hereafter to promulgate rules pursuant to Section 21.35.090 to set or amend standards, including the standards found within the Reference Manual, for the storage, handling, use and transportation of hazardous materials that may be used within the wellhead protection area. The Bureau's authority to set standards shall extend to designation of materials as hazardous to groundwater quality, to storage, handling use, transportation, and containment of such materials both inside and outside structures, including equipment or devices for preventing and controlling spills or releases of such materials beyond containment vessels. Rules adopted under this Section of the water code shall be compiled in the Reference Manual.
- B.** Upon the effective date of this Chapter, existing businesses and individuals not in compliance with the standards set pursuant to this Chapter of the Code, shall bring their operations into compliance with applicable standards in accordance with the schedule established in the Reference Manual.

- C.** Within 15 months of the program effective date, the Water Bureau shall collect information on the number of existing, non-conforming businesses that will be required to upgrade operations to comply with the requirements of Subsection 21.35.030 B. Data gathered by the Water Bureau shall include information on the specific scope and extent of improvements required pursuant to Subsection 21.35.030 B. and shall be collected during routine inspections performed by Portland Fire & Rescue.
- D.** The Water Bureau and Bureau of Environmental Services shall evaluate collected information, in consultation with affected business and property owners, and business organizations to determine if improvements required by Subsection 21.35.030 B. are protective of water quality within the Wellhead Protection Area and Columbia Slough watershed. The Water Bureau and Bureau of Environmental Services will report to Council the results of this evaluation before January 1, 2005.
- E.**
- 1.** Site plans or permits for projects to bring existing non-complying operations into compliance with the standards of this Chapter and the Reference Manual shall not be subject to additional review by Bureau of Environmental Services to address source control issues of the City Stormwater Management Manual (SWMM).
 - 2.** The exemption from Bureau of Environmental Services review in Subsection 21.35.030 E.1., shall not apply where a business or property owner cannot manage increased stormwater resulting from modifications required to comply with the wellhead protection requirements entirely on-site. If such drainage cannot be managed on-site and will drain to a City sewer, a City sewer easement, or a City right-of-way, the permit shall have a BES source control review to assess impact to the Columbia Slough which may result in additional source protection measures beyond the Reference Manual Best Management Practices to address the increases in stormwater drainage. The requirements of Subsection 21.35.030 E.2. shall remain in effect until January 1, 2005.
Nothing in this provision shall exempt any site plan or permit from stormwater management requirements contained in sections of the Stormwater Management Manual that are not related to source control (source control requirements are currently contained in Chapter 4) or from future source control review criteria that may become required by state or federal law beyond the scope of requirements in the 2002 SWMM.
Nothing in this provision shall exempt any person from the requirements of City Code Chapter 17.34 related to industrial wastewater discharges to

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the City's sewer system or from the requirements of the NPDES permit program.

21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.

(Amended by Ordinance No. 180917, effective May 26, 2007.)

- A.** The Bureau of Water Works may conduct inspections of businesses that store, handle, use or transport hazardous materials to ascertain compliance with the standards of this Chapter, including but not limited to the types, quantities and locations of hazardous materials, primary and secondary containment facilities, and the existence of spill prevention and spill control equipment or devices. For purposes of exercising this authority, the Bureau shall adopt policy regarding the necessary qualifications for those who conduct inspections and the frequency, priority, and type of inspection of businesses based on, among other things, the degree of risk to water quality in the well field, history of violations, characteristics of the use, and the availability of budgeted funds and staff.
- B.** Inspections may be initiated as the result of a complaint or referral, at any time the Bureau has reason to believe there is a violation, or as defined by a routine schedule for compliance. Inspections and re-inspections will be used to determine if an operation is in compliance with this Chapter.
- C.** Inspections may involve a review of equipment, structures and operating practices; records or plan review; interviews with operators; and photo documentation. As such, businesses shall allow representatives of the Bureau, upon presentation of credentials, to:

 - 1.** Inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the provisions of this Chapter;
 - 2.** Enter the premises where hazardous materials are being managed, or where records may be kept under the provisions of this Chapter. The owner/operator must make necessary arrangements to allow access without delay; and
 - 3.** Have access to and copy, at reasonable times, any records that must be kept under the provisions of this Chapter.
- D.** If a business refuses or declines to allow an inspection or re-inspection under Subsections 21.35.040 C.1.-3., the Water Bureau may seek an administrative warrant from Multnomah County Circuit Court to conduct such inspection or re-inspection.

- E.** After inspection and upon finding that all standards of this Chapter have been met, the Bureau of Water Works shall issue a Certificate of Inspection to each business inspected under this Chapter, as provided in Section 21.31.050.
- F.** In the event an inspection reveals a violation of the standards of this Chapter that cannot be resolved or corrected during the course of the inspection, the Bureau of Water Works shall follow the procedures set forth under Section 21.35.060, as applicable.
- G.** The Water Bureau may enter into interagency agreements with Portland Fire & Rescue or other city bureaus, or contract with other governments or private parties, to conduct inspections inside the Portland city limits. Subject to Council approval, the Water Bureau may enter into contracts with private entities or intergovernmental agreements with other municipal corporations for inspections in those portions of the wellhead protection area outside the City of Portland boundaries.

21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.

- A.** A Certificate of Inspection shall be valid until a subsequent inspection or review or until it is revoked.
- B.** A Certificate of Inspection shall be kept on the premises at all times and be available for review by Bureau of Water Works personnel or other authorized City personnel.
- C.** A Certificate of Inspection shall contain the following information:
 - 1.** The address of the occupancy or facility, including exterior space utilized for storage, handling, use or transportation of hazardous materials;
 - 2.** The name and address of the person or business occupying the facility; and
 - 3.** A statement that the described occupancy complies with the applicable regulations and policies.
- D.** The issuance of a Certificate of Inspection does not suspend the applicability of any water regulations.
- E.** The Certificate of Inspection is issued to the business owner/operator for the existing use at the location specified in the Certificate. It is not transferable.

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21.35.060 Enforcement.

(Amended by Ordinance No. 180917, effective May 26, 2007.)

- A.** Violations. It shall be a violation to store, handle, use or transport hazardous materials in a manner contrary to the standards set by the Bureau of Water Works.
- B.** Warning Letter.
 - 1.** The Bureau may issue a Warning Letter that informs an individual or business of a violation, and the consequences of the violation or continued noncompliance. The letter may state the actions required to resolve the violation and may specify a reasonable time by which compliance is to be achieved.
 - 2.** As part of a Warning Letter, and depending on the number or gravity of violation(s), the Bureau may require an individual or business to prepare and submit a Compliance Plan that establishes a reasonable timeframe for correcting the violation(s) or the implementation of alternative storage, handling, use, transportation, or containment practices that are capable of satisfying the standards of this Chapter. A Compliance Plan shall be subject to review and approval of the Bureau of Water Works, or a designated bureau.
 - 3.** If an individual or business fails to take the steps necessary to come into compliance within the period specified in the Warning Letter, the Bureau may take further enforcement action pursuant to Subsection 21.35.060 C.
- C.** Orders to Cure Violations, Civil Liability, Nuisances.
 - 1.** If an individual or business fails to come into compliance in the time specified in a previously issued Warning Letter, or within a timeframe established in an approved Compliance Plan, the Bureau may issue an Order to Cure the violation and establish a final date for resolving the violation, after which Subsections 21.35.060 D. and E. may be invoked. Failure to comply with an Order to Cure shall be a violation of law.
 - 2.** If the Water Bureau finds that there is an imminent danger of a release of hazardous materials into the environment resulting from the violation of standards governing the storage, handling, use and transportation of a hazardous material, the Bureau may declare that a nuisance exists and may issue, without prior notice, an Order to Cure requiring immediate action to be taken to halt any activity causing such imminent danger, and directing the individual or business to immediately take steps correct any conditions contributing to the danger.

3. If the individual or business subject to an Order to Cure issued pursuant to this section does not comply with the Order, the Bureau may:
 - a. Revoke a Certificate of Inspection;
 - b. Order the individual or business to cease the storage, handling, use or transportation of hazardous materials that are the subject of the violation until such time as the violation is corrected;
 - c. Issue a Civil Penalty pursuant to Subsection 21.35.050 D.; or
 - d. Undertake to correct any conditions contributing to the imminent danger of a release of hazardous materials into the environment. The costs of such action will be charged to the individual or business subject to such Order.
4. The person or business subject to an Order to Cure issued under this Chapter may appeal said Order under Section 31.10.150 in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.10.150 I.
5. Should hazardous material be released as a result of a violation, or as a result of a failure to correct a violation, the individual or business responsible for such spill shall be civilly liable for all costs incurred by the City associated with cleaning up such release and all costs of any other City action reasonably determined to be necessary by the City to contain, control or clean-up the release or to protect the well field from contamination.

D. Civil Penalty.

1. In addition to any other fee or civil liability provided by law, the Bureau of Water may impose a civil penalty in an amount not to exceed \$500 per day or two times the re-inspection fee that would otherwise have been collected, whichever is greater, for each day a violation continues to exist against any individual or business who does not comply with the provisions of this chapter. Each failure to comply with a separate regulatory standard shall be deemed a separate violation.
2. Any civil penalty imposed pursuant to this section shall become due and payable when the person incurring the penalty receives a notice in writing

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from the Bureau of Water or designated bureau. The notice referred to in this Subsection shall be sent by registered or certified mail and shall include:

- a.** A reference to the particular Sections of the Chapter or Code Section or Reference Manual involved;
 - b.** A short and plain statement of the matters asserted or charged;
 - c.** A statement of the amount of the penalty or penalties imposed; and
 - d.** A statement of the right of the person to request a hearing.
 - 3.** The owner or operator of a facility subject to this Section who is ordered to pay a civil penalty in accordance with this Section shall have the right to appeal the imposition of or amount of the penalty as provided by Section 31.10.150 of this Code in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.01.150 I.
- E.** Legal Action. The City may bring an action in a court of proper jurisdiction, including the Circuit Court of Multnomah County and the Federal District Court for the District of Oregon, to enforce any order to cure issued under this Chapter, collect any penalty assessed under this Chapter, or recover any costs incurred pursuant to Subsections 21.35.060 C.3. and 5.
- F.** Re-inspection Fees.
- 1.** Any individual or business found in violation of law or any order under this Chapter and who fails to correct such violation or comply with such order within 30 days after receiving written notice from the Bureau of Water to do so, shall be charged and required to pay a re-inspection fee of:
 - a.** \$100 if violations remain uncorrected at the time of the first re-inspection,
 - b.** \$200 if violations remain uncorrected at the time of the second re-inspection,
 - c.** \$400 for the third and subsequent re-inspections if violations remain uncorrected at that time.

2. Re-inspection fees shall be in addition to any fees established by Council or the Water Bureau by rulemaking in the Well Field Wellhead Protection Program Reference Manual. Any person or business so charged a re-inspection fee that believes that the charges are inappropriate may appeal such charges pursuant to City Code Section 31.10.150 in the same manner that an order of the Fire Marshal may be appealed. If the Water Bureau enforces this chapter through interagency agreement with Portland Fire & Rescue or another bureau, the fees charged by that bureau shall be in lieu of the fees described in this paragraph.

21.35.070 Inter-Agency Cooperation.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Bureau of Water Works may enter into inter-agency agreements with Portland Fire & Rescue or other City bureaus to inspect premises, issue Certificates of Inspections, enforce standards, or otherwise administer this Wellhead Protection Code. If inter-agency agreements are made to enforce standards, and if circumstances make it practical, the Certificates of Inspection issued under this chapter shall be combined with any certificates of inspection or equivalent issued by the bureau enforcing this chapter.

21.35.080 Building and Site Permit Review and Approval.

No City building permit or other permit for site alterations, construction, building alterations, repairs, or other work involving or affecting the storage, handling, use, transportation, or containment of hazardous materials may be issued without the prior review and approval of the Bureau of Water Works. The Bureau of Water Works may approve any such permits only upon a finding that the activity proposed conforms with this Chapter and rules promulgated under this Chapter. Such plan review shall be conducted pursuant to City of Portland rules and practices for development review.

21.35.090 Rulemaking.

The Bureau of Water Works shall issue rules pursuant to authority granted in this chapter subject to the following process:

- A. Whenever the Administrator proposes to issue, rescind, or amend a rule or rules, the Administrator shall first publish notice of such intent in a newspaper of general circulation in the Portland metropolitan area. The notice shall include, at a minimum, the following:
 1. A statement of the time and place of any public meeting on any proposal;
 2. A statement of the purpose of the proposal;
 3. Either the specific language of the proposal or a description of the proposal's contents;

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4. When language of the proposal is not included in the notice, the location at which copies of the full proposal may be read or obtained;
 5. The name of the person at the Bureau to whom questions about the proposal may be directed; and
 6. The announcement of the opportunity to provide written comments on the proposal to the Administrator within 30 days of the date the notice is published.
- B.** Forty-five days after publication of the notice, the Administrator shall hold a public meeting that shall record testimony and oral comments on any proposed rule(s). The Administrator may continue any such hearing to another date.
- C.** After consideration of public comments and other relevant matters, the Administrator may issue the rules in final form. Notice of the issuance of the rules shall be given in a newspaper of general circulation in the same manner as the notice of a proposal to make, rescind, or amend rules.
- D.** Unless otherwise stated in the rule, any rule shall become effective and enforceable upon issuance of the notice required in Subsection 21.35.090 C. above and shall be filed in the Office of the City Auditor as well as in the office of the Water Bureau Administrator.
- E.** Notwithstanding Subsections 21.35.090 A. - D. above, an interim rule may be adopted without prior notice and without following the procedure of those Subsections upon a finding by the Administrator that failure to act promptly will result in serious prejudice to the public interest. Any rule adopted pursuant to this Subsection shall be effective for a period of not longer than 180 days.

TITLE 29
PROPERTY MAINTENANCE REGULATIONS

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Chapter 29.80

APPEALS

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Chapter 29.90

HOUSING RECEIVERSHIP

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TITLE 29
PROPERTY MAINTENANCE REGULATIONS

Chapter 29.05

TITLE, PURPOSE, AND SCOPE

(New Title substituted by Ordinance No. 171455,
effective August 29, 1997.)

Sections:

- 29.05.010 Title.
- 29.05.020 Purpose.
- 29.05.030 Scope.
- 29.05.040 Application of Titles 24, 25, 26, 27, 28, and 33.

29.05.010 Title.

(Amended by Ordinance No. 180330, effective August 18, 2006.) Title 29 of Portland City Code shall be known as the “Property Maintenance Regulations.”

29.05.020 Purpose.

The purpose of this Title is to protect the health, safety and welfare of Portland citizens, to prevent deterioration of existing housing, and to contribute to vital neighborhoods by:

- A. Establishing and enforcing minimum standards for residential structures regarding basic equipment, facilities, sanitation, fire safety, and maintenance.
- B. Establishing and enforcing minimum standards of maintenance for outdoor areas and adjacent rights of way.
- C. Regulating and abating dangerous and derelict buildings.

29.05.030 Scope.

(Amended by Ordinance No. 180330, effective August 18, 2006.) The provisions of this Title shall apply to all property in the City except as otherwise excluded by law.

29.05.040 Application of Titles 24, 25, 26, 27, 28, and 33.

Any alterations to buildings, or changes of their use, which may be a result of the enforcement of this Title shall be done in accordance with applicable Sections of Title 24 (Building Regulations), Title 25 (Plumbing Regulations), Title 26 (Electrical Regulations), Title 27 (Heating and Ventilating Regulations), Title 28 (Floating Structures), and Title 33 (Planning and Zoning) of the Code of the City of Portland.

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PROPERTY MAINTENANCE REGULATIONS

29.05.050 Use of Summary Headings.

(Repealed by Ordinance No. 180330, effective August 18, 2006.)

Chapter 29.10

DEFINITIONS

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29.10.020 Definitions.

29.10.010 General.

(Amended by Ordinance No. 180330, effective August 18, 2006.) For the purpose of this Title, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified in this Chapter. "And" indicates that all connected items or provisions apply. "Or" indicates that the connected items or provisions may apply singly or in combination. Terms, words, phrases and their derivatives used, but not specifically defined in this Title, either shall have the meanings defined in Title 24, or if not defined, shall have their commonly accepted meanings.

29.10.020 Definitions.

(Amended by Ordinance Nos. 173248, 173270, 174265, 176381, 176955, 180330 and 181699, effective April 25, 2008.) The definitions of words with specific meaning in this Title are as follows:

- A. Abatement of a nuisance.** The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.
- B. Accessory Structure.** Any structure not intended for human occupancy which is located on residential property. Accessory structures may be attached to or detached from the residential structure. Examples of accessory structures include: garages, carports, sheds, and other non-dwelling buildings; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs, driveways and walkways, and other exterior structures on the property.

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- C. Adjacent right of way.** The sidewalks and planting strips that border a specific property as well as the near half of the streets, alleys, or other public rights of way that border a specific property.
- D. Apartment House.** See Dwelling Classifications.
- E. Approved.** Meets the standards set forth by applicable Portland City Code including any applicable regulations for electric, plumbing, building, or other sets of standards included by reference in this Title.
- F. Basement.** The usable portion of a building which is below the main entrance story and is partly or completely below grade.
- G. Boarded.** Secured against entry by apparatus which is visible off the premises and is not both lawful and customary to install on occupied structures.
- H. Building.** Any structure used or intended to be used for supporting or sheltering any use or occupancy.
- I. Building, Existing.** Existing building is a building erected prior to the 1972 adoption of the building code by the City of Portland, or one for which a legal permit has been issued.
- J. Ceiling Height.** The clear distance between the floor and the ceiling directly above it.
- K. Court.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.
- L. Dangerous Building.** See Dangerous Structure.
- M. Dangerous Structure.** Any structure which has any of the conditions or defects described in Section 29.40.020, to the extent that life, health, property, or safety of the public or its occupants are endangered.
- N. Demolition Warrant.** An order from the Circuit Court authorizing the demolition of a dangerous structure as authorized by this Title, including disposal of all debris in an approved manner, and returning the lot to a clean and level condition.
- O. Derelict Building.** Any structure which has any of the conditions or defects described in Section 29.40.010 A.

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- P. Director.** Is as defined in Section 24.15.070.
- Q. Disabled vehicle.** Any vehicle which is or appears to be inoperative, wrecked or dismantled, or partially dismantled.
- R. Duplex.** See Dwelling Classifications, “Two-Family Dwelling.”
- S. Dwelling.** Any structure containing dwelling units, including all dwelling classifications covered by the Title.
- T. Dwelling Classifications.** Types of dwellings covered by this Title include:
- 1. Single-Family Dwelling.** A structure containing one dwelling unit.
 - 2. Two-Family Dwelling.** A structure containing two dwelling units, also known as a “duplex.”
 - 3. Apartment House.** Any building or portion of a building containing three or more dwelling units, which is designed, built, rented, leased, let, or hired out to be occupied for residential living purposes.
 - 4. Hotel.** Any structure containing six or more dwelling units that are intended, designed, or used for renting or hiring out for sleeping purposes by residents on a daily, weekly, or monthly basis.
 - 5. Motel.** For purposes of this Title, a motel shall be defined the same as a hotel.
 - 6. Single-Room Occupancy Housing Unit.** A one-room dwelling unit in a hotel providing sleeping, cooking, and living facilities for one or two persons in which some or all sanitary or cooking facilities (toilet, lavatory, bathtub or shower, kitchen sink, or cooking equipment) may be shared with other dwelling units.
 - 7. Manufactured Dwelling.** The term “manufactured dwelling” includes the following types of single-family dwellings as noted below. Manufactured Dwelling does not include any unit identified as a recreational vehicle by the manufacturer:
 - a. Residential Trailer.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed before January 1, 1962.

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- AA. Habitable Room (Space).** Habitable room or space is a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.
- BB. Handrail.** A horizontal or sloping rail intended for grasping by the hand for guidance or support.
- CC. Hotel.** See Dwelling Classifications.
- DD. Immediate Danger.** Any condition posing a direct immediate threat to human life, health, or safety.
- EE. Infestation.** The presence within or around a dwelling of insects, rodents, vermin or other pests to a degree that is harmful to the dwelling or its occupants.
- FF. Inspection.** The examination of a property by the Director for the purpose of evaluating its condition as provided by this Title.
- GG. Inspection Warrant.** An order from the Circuit Court authorizing a safety or health inspection or investigation to be conducted at a designated property.
- HH. Inspector.** An authorized representative of the Director whose primary function is the inspection of properties and the enforcement of this Title.
- II. Interested Party.** Any person or entity that possesses any legal or equitable interest of record in a property including but not limited to the holder of any lien or encumbrance of record on the property.
- JJ. Kitchen.** A room used or designed to be used for the preparation of food.
- KK. Lavatory.** A fixed wash basin connected to hot and cold running water and the building drain and used primarily for personal hygiene.
- LL. Lawn area.** Any area of a property, including vacant lots, where lawn grasses are used as ground cover, or where the ground covering vegetation does not permit passage to substantial portions of the property without walking directly on the vegetation.
- MM. Lawn grass.** Varieties of grass that were planted, or are commonly sold, for the purpose of maintaining a mowed lawn.
- NN. Maintenance.** The work of keeping property in proper condition to perpetuate its use.

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- OO. Maintained compost area.** A small portion of a property set aside for the purpose of encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer for the soil on the property. A maintained compost area shows clear indicators that the yard debris placed there is being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump it without reasonable expectation of rapid decomposition is not a maintained compost area.
- PP. Manufactured Dwelling.** See Dwelling Classifications.
- QQ. Motel.** See Dwelling Classifications.
- RR. Naturescape.** Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.
- SS. Nuisance Abatement Warrant.** An order from the Circuit Court authorizing the removal and abatement of any nuisance as authorized by this Title, including disposal of the nuisance items removed in an appropriate manner.
- TT. Occupancy.** The lawful purpose for which a building or part of a building is used or intended to be used.
- UU. Occupant.** Any person (including an owner or operator) using a building, or any part of a building, for its lawful, intended use.
- VV. Operator.** Any person who has charge, care or control of a building or part of a building in which dwelling units are let or offered for occupancy.
- WW. Outdoor area.** All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to, vehicles parked on the property; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.
- XX. Owner.** The person whose name and address is listed as the owner of the property by the County Tax Assessor on the County Assessment and Taxation records.

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- YY. Plumbing or Plumbing Fixtures.** Plumbing or plumbing fixtures mean any water heating facilities, water pipes, vent pipes, garbage or disposal units, waste lavatories, bathtubs, shower baths, installed clothes-washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connection to water, gas, sewer, or vent lines.
- ZZ. Property.** Any real property and all improvements, buildings or structures on real property, from property line to property line.
- AAA. Public right-of-way.** Any sidewalk, planting strip, alley, street, or pathway, improved or unimproved, that is dedicated to public use.
- BBB. Repair.** The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.
- CCC. Resident.** Any person (including owner or operator) hiring or occupying a room or dwelling unit for living or sleeping purposes.
- DDD. Residential Property.** Real property and all improvements or structures on real property used or intended to be used for residential purposes including any residential structure, dwelling, or dwelling unit as defined in this chapter and any mixed-use structures which have one or more dwelling units. Hotels that are used exclusively for transient occupancy, as defined in this Title, are excluded from this definition of residential property.
- EEE. Residential Rental Property.** Any property within the City on which exist one or more dwelling units which are not occupied as the principal residence of the owner.
- FFF. Residential Structure.** Any building or other improvement or structure containing one or more dwelling units as well as any accessory structure. This includes any dwelling as defined in this Title.
- GGG. Shall.** As used in this Title, is mandatory.
- HHH. Single-Family Dwelling.** See Dwelling Classifications.
- III. Single-Room Occupancy Housing Unit.** See Dwelling Classifications.
- JJJ. Sink.** A fixed basin connected to hot and cold running water and a drainage system and primarily used for the preparation of food and the washing of cooking and eating utensils.

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- KKK. Sleeping Room.** Any room designed, built, or intended to be used as a bedroom as well as any other room used for sleeping purposes.
- LLL. Stagnant Water.** Any impoundment of water in which there is no appreciable flow of water through the impoundment and the level of water does not vary during any 48-hour period.
- MMM. Street.** Includes any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, walk, public thoroughfare or public way, and any land over which a right of way has been obtained, or granted and accepted for any purpose of public travel, including all area between property lines, and area dedicated to street use.
- NNN. Structure.** That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.
- OOO. Summary Abatement.** Abatement of a nuisance by the City, or by a contractor hired by the City, without obligation to give prior notice of the abatement action to the owner or occupant of the property.
- PPP. Supplied.** Installed, furnished or provided by the owner or operator.
- QQQ. Swimming Pool.** Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above ground and on-ground swimming pools, hot-tubs and spas.
- RRR. Toilet.** A flushable plumbing fixture connected to running water and a drainage system and used for the disposal of human waste.
- SSS. Toilet Compartment.** A room containing only a toilet or only a toilet and lavatory.
- TTT. Transient Occupancy.** Occupancy of a dwelling unit in a hotel where the following conditions are met:
1. Occupancy is charged on a daily basis and is not collected more than six days in advance;
 2. The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy;
 3. The period of occupancy does not exceed 30 days; and

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4. If the occupancy exceeds five days, the resident has a business address or a residence other than at the hotel.

UUU. Two-Family Dwelling. See Dwelling Classifications.

VVV. Unsecured. Any structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

WWW. Vehicle. Any device in, on, upon, or by which any person or property is or may be transported or drawn upon a public highway, except a device moved by human power or used exclusively upon stationary rails or tracks, including but not limited to a body, an engine, a transmission, a frame, or other major part.

XXX. Warehousing. Securing a structure against vandalism, deterioration, and unauthorized entry pending its return to active use or occupancy.

YYY. Yard. An open, unoccupied space, other than a court, unobstructed from the ground to the sky, and located between a structure and the property line of the lot on which the structure is situated.

Chapter 29.20

PROPERTY NUISANCES

Sections:

- 29.20.010 Outdoor Maintenance Requirements.
29.20.020 Other Endangering Conditions.
29.20.030 Nuisance Defined, Summary Abatement Authorized

29.20.010 Outdoor Maintenance Requirements.

(Amended by Ordinance Nos. 176381 and 180330, effective August 18, 2006.) It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

- A. Holes, tanks, and child traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may

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endanger neighboring property or the health or safety of the public or the occupants of the property.

- B. Unsecured structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any structure so as to prevent access by unauthorized persons through such openings.
- C. Rat harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.
- D. Emergency access routes.** Remove and keep removed all brush, vines, overgrowth and other vegetation located within 10 feet of a structure or within 10 feet of a property line which is likely to obstruct or impede the necessary passage of fire or other emergency personnel.
- E. Thickets that conceal hazards.** Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:
 - 1. Concealing trash and debris; or
 - 2. Creating rat harborage; or
 - 3. Creating harborage for people involved in criminal activity or for products used for criminal activity.
- F. Overgrown lawn areas.** Cut and remove and keep cut and removed all weeds and grass that are located in lawn areas and have a prevailing height of more than 10 inches.
- G. Trash and debris.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:
 - 1. All garbage, offal, dead animals, animal and human waste, and waste materials (All garbage shall be stored as specified in Section 29.30.140);
 - 2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
 - 3. All dead bushes, dead trees, and stumps with the exception of such material which:
 - a. Is being maintained as part of a naturescaped property;

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- b. Does not result in a nuisance as otherwise defined in this chapter; and
 - c. Is located on a property which is otherwise substantially in compliance with this chapter;
 4. All trees which are dying and are determined by the City Forester to require removal in order to safeguard people or property;
 5. Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and
 6. Accumulations of clothing and any other items not designed for outdoor storage.
- H. Storage of non-trash items.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:
 1. Accumulations of wood pallets.
 2. All firewood that is not stacked and useable. “Useable” firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property.
 3. Accumulations of vehicle parts or tires.
 4. All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.
 5. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.
 6. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.
 7. All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.

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8. All other non-trash items which:
 - a. Are of a type or quantity inconsistent with normal and usual use; or
 - b. Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

- I. **Disabled vehicles.** Neither store nor permit the storing of a disabled vehicle for more than 7 days unless the vehicle is enclosed within a legally permitted building or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the City. Removal and disposition of such disabled vehicles shall be in accordance with the provisions of Section 16.30.320, 16.30.340, 16.30.350 and 16.30.500 of the Code to the extent that such provisions are applicable.

- J. **Obstructions to sidewalks, streets, and other rights of way.** Keep the adjacent rights of way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, unless specifically authorized by permit or ordinance to do otherwise. This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights of way referenced in this subsection to meet the following minimum clearances:
 1. **Sidewalks.** All sidewalks must be clear of obstructions by earth, rock, or vegetation from edge to edge and to an elevation of 7-1/2 feet above sidewalk level. For example, bushes that encroach on or over any part of a sidewalk area must be cut back or removed and limbs of trees that project over the sidewalk area at an elevation of less than 7-1/2 feet above the sidewalk level must be removed.
 2. **Improved streets.** All improved streets must be clear of obstructions to vehicle movement and parking from edge to edge and to an elevation of 11 feet above street level. For example, bushes that encroach on or over any part of a street must be cut back or removed; limbs of trees that project over a street at an elevation of less than 11 feet above street level must be removed; and no wires or other things shall be maintained over the street level at any elevation less than 11 feet.
 3. **Alleys and unimproved rights of way.** All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.

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29.20.020 Other Endangering Conditions.

(Amended by Ordinance No. 176381, effective May 10, 2002.) It is the responsibility of the owner of any property, improved or unimproved, to remove or repair:

- A. Any damage to or failure of an on-site sewage disposal system, private sewer line, or rain drain system, and
- B. Any other substance, material or condition which is determined by the Director to endanger neighboring property, the health or safety of the public, or the occupants of the property.

29.20.030 Nuisance Defined, Summary Abatement Authorized.

(Amended by Ordinance No. 180330, effective August 18, 2006.) All conditions in violation of Sections 29.20.010 and 29.20.020 of this Title shall constitute a nuisance. Any person whose duty it is to correct such conditions and who fails to do so shall be subject to charges according to the Fee Schedule approved by the City Council. In cases where the Director determines that it is necessary to take immediate action in order to meet the purposes of this Title, summary abatement of such nuisances is authorized.

Chapter 29.30

HOUSING MAINTENANCE REQUIREMENTS

Sections:

- 29.30.005 General.
- 29.30.010 Display of Address Number.
- 29.30.020 Accessory Structures.
- 29.30.030 Roofs.
- 29.30.040 Chimneys.
- 29.30.050 Foundations and Structural Members.
- 29.30.060 Exterior Walls and Exposed Surfaces.
- 29.30.070 Stairs and Porches.
- 29.30.080 Handrails and Guardrails.
- 29.30.090 Windows.
- 29.30.100 Doors.
- 29.30.110 Interior Walls, Floors, and Ceilings.
- 29.30.120 Interior Dampness.
- 29.30.130 Insect and Rodent Harborage.
- 29.30.140 Cleanliness and Sanitation.

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- 29.30.150 Bathroom Facilities.
- 29.30.160 Kitchen Facilities.
- 29.30.170 Plumbing Facilities.
- 29.30.180 Heating Equipment and Facilities.
- 29.30.190 Electric System, Outlets, and Lighting.
- 29.30.200 Ceiling Heights.
- 29.30.210 Sleeping Room Requirements.
- 29.30.220 Overcrowding.
- 29.30.230 Emergency Exits.
- 29.30.240 Smoke Detectors.
- 29.30.250 Fire Safety Conditions for Apartment Houses and Hotels of More than Two Stories.
- 29.30.260 Hazardous Materials.
- 29.30.270 Maintenance of Facilities and Equipment.
- 29.30.280 Swimming Pool Enclosures.
- 29.30.290 Special Standards for Single-Room Occupancy Housing Units

29.30.005 General.

(Amended by Ordinance Nos. 180330 and 181699, effective April 25, 2008.)

- A.** An owner may not maintain or permit to be maintained, in violation of this Chapter, any residential property.
- B.** All residential property shall be maintained to the building, mechanical, plumbing and electrical code requirements in effect at the time of construction, alteration, or repair.
- C.** Where construction, alteration or repair has been made to a residential property illegally without benefit of a permit, all work shall be required to meet current requirements of the applicable Oregon Specialty Code as adopted in Sections 24.10.040, 25.01.020, 26.01.030 and 27.01.030 of the City Code.
- D.** The specific minimum maintenance standards set forth in Sections 29.30.010 through 29.30.240 shall only apply to residential property that was constructed, altered or repaired before July 1, 1974. Subsections 29.30.250 through 29.30.290 shall apply to all applicable structures regardless of construction date.

29.30.010 Display of Address Number.

Address numbers posted shall be the same as the number listed on the County Assessment and Taxation Records for the property. All dwellings shall have address numbers posted in a conspicuous place so they may be read from the listed street or public way. Units within apartment houses shall be clearly numbered, or lettered, in a logical and consistent manner.

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29.30.020 Accessory Structures.

All accessory structures on residential property shall be maintained structurally safe and sound and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

29.30.030 Roofs.

(Amended by Ordinance No. 176381, effective May 10, 2002.) The roof shall be structurally sound, tight, and have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building and shall channel rainwater in an approved manner to an approved point of disposal.

29.30.040 Chimneys.

Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials.

29.30.050 Foundations and Structural Members.

- A. Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.
- B. The supporting structural members in every dwelling shall be maintained structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

29.30.060 Exterior Walls and Exposed Surfaces.

- A. Every exterior wall and weather-exposed exterior surface or attachment shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.
- B. All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and be maintained in good condition. Wood used in construction of permanent structures and located nearer than six inches to earth shall be treated wood or wood having a natural resistance to decay.
- C. Exterior metal surfaces shall be protected from rust and corrosion.

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- D. Every section of exterior brick, stone, masonry, or other veneer shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

29.30.070 Stairs and Porches.

Every stair, porch, and attachment to stairs or porches shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, or loose.

29.30.080 Handrails and Guardrails.

(Amended by Ordinance No. 176381, effective May 10, 2002.) Every handrail and guardrail shall be firmly fastened, and shall be maintained in good condition, capable of supporting the loads to which it is subjected, and meet the following requirements:

- A. Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.
- B. Where not otherwise required by original building codes, exterior stairs of more than three risers which are designed and intended to be used as part of the regular access to the dwelling unit shall have handrails. Interior stairs of more than three risers shall have handrails. When required handrails are installed they shall be installed so that they meet the applicable building code requirements in effect at the time this work is being performed.
- C. Where not otherwise required by original building codes, porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guardrails. When required guardrails are installed, they shall be installed so that they meet the applicable building code requirements in effect at the time this work is being performed.

29.30.090 Windows.

(Amended by Ordinance No. 181699, effective April 25, 2008.)

- A. Every habitable room shall have at least one window facing directly to an exterior yard or court. The minimum total glass area for each habitable room shall be 6.8 percent of the room's floor area, except for basement rooms where the minimum shall be 5 percent. The glazed areas need not be provided in rooms where artificial light is provided capable of producing an average illumination of 3 foot-candles over the area of the room measured at a height of 30 inches above the

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floor and the minimum ventilation requirements in Subsection B below are satisfied.

- B.** Except where another approved ventilation device is provided, the total openable window area in every habitable room shall be equal to at least one-fortieth (2.5%) of the area of the room. The glazed areas need not be openable where the opening is not required for emergency escape and an approved mechanical ventilation system is provided capable of producing 0.35 air changes per hour in the room.
- C.** Every bathroom or toilet room or compartment shall comply with the light and ventilation requirements for habitable rooms as required by Subsections 29.30.090 A and B, except that no window shall be required in bathrooms or toilet compartments equipped with an approved ventilation system.
- D.** Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements described in Section 29.30.230 A shall have a sill height of no more than 44 inches above the floor or above an approved, permanently installed step. The step must not exceed 12 inches in height and must extend the full width of the window. The top surface of the step must be a minimum of six feet from the ceiling above the step.
- E.** Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements described in Section 29.30.230 A shall have a minimum net clear opening of at least 20 inches wide and at least 22 inches high.
- F.** Every window required for ventilation or emergency escape shall be capable of being easily opened and held open by window hardware. Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.
- G.** All windows within 10 feet of the exterior grade that open must be able to be securely latched from the inside as well as be openable from the inside without the use of a key or any special knowledge or effort. This same requirement shall apply to all openable windows that face other locations that are easily accessible from the outside, such as balconies or fire escapes, regardless of height from the exterior grade.
- H.** Every window shall be substantially weather-tight, shall be kept in sound condition and repair for its intended use, and shall comply with the following:
 - 1.** Every window sash shall be fully supplied with glass windowpanes or an approved substitute without open cracks and holes.

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2. Every window sash shall be in good condition and fit weather-tight within its frames.
3. Every window frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the dwelling.

29.30.100 Doors.

- A. Every dwelling or dwelling unit shall have at least one door leading to an exterior yard or court, or in the case of a two-family dwelling or apartment, to an exterior yard or court or to an approved exit. All such doors shall be openable from the inside without the use of a key or any special knowledge or effort. All screen doors and storm doors must be easily openable from the inside without the use of a key or special knowledge or effort.
- B. In hotels and apartment houses, exit doors in common corridors or other common passageways shall be openable from the inside with one hand in a single motion, such as pressing a bar or turning a knob, without the use of a key or any special knowledge or effort.
- C. Every door to the exterior of a dwelling unit shall be equipped with a lock designed to discourage unwanted entry and to permit opening from the inside without the use of a key or any special knowledge or effort.
- D. Every exterior door shall comply with the following:
 1. Every exterior door, door hinge, door lock, and strike plate shall be maintained in good condition.
 2. Every exterior door, when closed, shall fit reasonably well within its frame and be weather-tight.
 3. Every doorframe shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling.
- E. Every interior door and doorframe shall be maintained in a sound condition for its intended purpose with the door fitting within the doorframe.

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29.30.110 Interior Walls, Floors, and Ceilings.

- A. Every interior wall, floor, ceiling, and cabinet shall be maintained in a clean, sanitary, safe, and structurally sound condition, free of large holes and serious cracks, loose plaster or wallpaper, flaking or scaling paint.
- B. Every toilet compartment, bathroom, and kitchen floor surface shall be constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

29.30.120 Interior Dampness.

Every dwelling, including basements, and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

29.30.130 Insect and Rodent Harborage.

Every dwelling shall be kept free from insect and rodent infestation, and where insects and rodents are found, they shall be promptly exterminated. After extermination, proper precautions shall be taken to prevent reinfestation.

29.30.140 Cleanliness and Sanitation.

(Amended by Ordinance Nos. 176381, 177254 and 181699, effective April 25, 2008.)

- A. All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. All household garbage shall be stored in receptacles which are free from holes and covered with tight fitting lids.
- B. The interior of every dwelling shall be maintained in a clean and sanitary condition and free from any accumulation of rubbish or garbage so as not to breed insects and rodents, produce dangerous or offensive gases, odors and bacteria, or other unsanitary conditions, or create a fire hazard.
- C. The owner of a residential rental property shall provide, for each dwelling unit, at least one 20 gallon receptacle into which garbage and rubbish from each dwelling unit may be emptied for storage and collection. Receptacles must be of sufficient capacity to prevent the overflow of garbage and rubbish from occurring. Receptacles and lids shall be watertight and provided with handles. All receptacles shall be maintained free from holes and covered with tight-fitting lids at all times. The owner of the residential rental property shall subscribe to and pay for weekly garbage removal service for the receptacles required by this Subsection, by a refuse collection permittee or franchisee as defined in Chapter 17.102 of the Code of the City of Portland.

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- D. The owner of any owner occupied residential property shall be required to subscribe and pay for weekly garbage removal service by a refuse collection permittee or franchisee as defined in Chapter 17.102 of the Code of the City of Portland if the property has been posted two or more times within one year for violation of Section 29.20.010 G.1. or 2.

29.30.150 Bathroom Facilities.

Except as otherwise noted in this Section, every dwelling unit shall contain within its walls in safe and sanitary working condition:

- A. A toilet located in a room that is separate from the habitable rooms and that allows privacy;
- B. A lavatory basin; and
- C. A bathtub or shower located in a room that allows privacy.

In hotels and apartment houses where private toilets, lavatories, or baths are not provided, there shall be on each floor at least one toilet, one lavatory, and one bathtub or shower each provided at the rate of one for every twelve residents or fraction of twelve residents. Required toilets, bathtubs, and showers shall be in a room, or rooms, that allow privacy.

29.30.160 Kitchen Facilities.

- A. Every dwelling unit shall contain a kitchen sink apart from the lavatory basin required under Section 29.30.150, with the exception of single-room occupancy housing units which shall comply with Subsection 29.30.290 B.
- B. Except as otherwise provided for in Subsections 29.30.290 B and C, every dwelling unit shall have approved service connections for refrigeration and cooking appliances.

29.30.170 Plumbing Facilities.

(Amended by Ordinance 180330, effective August 18, 2006.)

- A. Every plumbing fixture or device shall be properly connected to a public or an approved private water system and to a public or an approved private sewer system.
- B. All required sinks, lavatory basins, bathtubs and showers shall be supplied with both hot and cold running water and have a water pressure of at least 15 psi. Every dwelling unit shall be supplied with water heating facilities which are installed in an approved manner, properly maintained, and properly connected with hot water lines to all required sinks, lavatory basins, bathtubs and showers.

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Water heating facilities shall be capable of heating water enough to permit an adequate amount of water to be drawn at every required facility at a temperature of at least 120 degrees at any time needed.

- C.** In every dwelling all plumbing or plumbing fixtures shall be:
 - 1.** Properly installed, connected, and maintained in good working order;
 - 2.** Kept free from obstructions, leaks, and defects;
 - 3.** Capable of performing the function for which they are designed; and
 - 4.** Installed and maintained so as to prevent structural deterioration or health hazards.

- D.** All plumbing repairs and installations shall be made in accordance with the provisions of Title 25 (Plumbing Regulations).

29.30.180 Heating Equipment and Facilities.

(Amended by Ordinance Nos. 179842 and 180330, effective August 18, 2006.)

- A.** All heating equipment, including that used for cooking, water heating, dwelling heat, and clothes drying shall be:
 - 1.** Properly installed, connected, and maintained in safe condition and good working order;
 - 2.** Free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards; and
 - 3.** Capable of performing the function for which they are designed.

- B.** Every dwelling shall have a heating facility capable of maintaining a room temperature of 68 degrees Fahrenheit at a point 3 feet from the floor in all habitable rooms.
 - 1.** Portable heating devices may not be used to meet the dwelling heat requirements of this Title.
 - 2.** No inverted or open flame fuel-burning heater shall be permitted. All heating devices or appliances shall be of an approved type.

- C.** All mechanical repairs and installations shall be made in accordance with the provisions of Title 27 (Heating and Ventilating Requirements.)

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29.30.190 Electrical System, Outlets, and Lighting.

(Amended by Ordinance 180330, effective August 18, 2006.) All buildings used for residential purposes shall be connected to an approved source of electric power. Every electric outlet and fixture shall be maintained and safely connected to an approved electrical system. The electrical system shall not constitute a hazard to the occupants of the building by reason of inadequate service, improper fusing, improper wiring or installation, deterioration or damage, lack of access to a dwelling unit's breaker or disconnect switch or similar reasons.

In addition to other electrical system components that may be used to meet cooking, refrigeration, and heating requirements listed elsewhere in this Title, the following outlets and lighting fixtures are required:

- A. Every habitable room shall contain at least two operable electric outlets or one outlet and one operable electric light fixture.
- B. Every toilet compartment or bathroom shall contain at least one supplied and operable electric light fixture and one outlet. Every laundry, furnace room, and all similar non-habitable spaces located in a dwelling shall have one supplied electric light fixture available at all times.
- C. Every public hallway, corridor, and stairway in apartment houses and hotels shall be adequately lighted at all times with an average intensity of illumination of at least one foot candle at principal points such as angles and intersections of corridors and passageways, stairways, landings of stairways, landings of stairs and exit doorways, and at least ½-foot candle at other points. Measurement of illumination shall be taken at points not more than 4 feet above the floor.
- D. All electrical repairs and installations shall be made in accordance with the provisions of Title 26 (Electrical Regulations.)

29.30.200 Ceiling Heights.

(Amended by Ordinance Nos. 180330 and 181699, effective April 25, 2008.) Habitable rooms in existing one and two family dwelling buildings shall have a clear ceiling height of at least 7 feet. Habitable rooms in other existing buildings shall have a clear ceiling height of at least 7 feet 6 inches. The following height exceptions may be used for the one and two family dwelling ceiling height requirements:

- A. **Flat ceilings.** Where the ceiling is flat, ceiling heights may be a minimum of 6 feet 8 inches. Pipes, ducts, beams, or similar objects projecting from the ceiling may be as follows:
 - 1. Ceiling projections may be as low as 6 feet where they are located within 2 feet from the wall; or

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2. Ceiling projections may be as low as 6 feet 2 inches where they do not occupy more than 10 percent of the floor area in the room where they are located.

B. Sloped ceilings.

1. **General.** Where the ceiling is sloped, the height may be as follows:
 - a. The minimum ceiling height must be at least 6 feet 8 inches over an area comprising at least 50% of the overall room area; and
 - b. Portions of the room with a ceiling height less than 5 feet shall not be counted toward the overall room area.
2. **Bathrooms.** In bathrooms with sloped ceilings not more than 75% of the floor area of a bathroom is permitted to have a sloped ceiling less than 7 feet in height, provided an area of 21 inches by 24 inches in front of toilets and lavatories has a minimum of 6 feet 4 inches in height. An area of 24 inches by 30 inches in front of and inside a tub or shower shall have a minimum of 6 feet 4 inches in height.

- C. These exceptions to the current building codes shall not apply where any occupancy has been changed, or the occupant load has been increased, contrary to the provisions of this Title.

29.30.210 Sleeping Room Requirements.

Every room used for sleeping purposes:

- A. Shall be a habitable room as defined in this title;
- B. Shall not be a kitchen;
- C. Shall have natural light, ventilation, and windows or other means for escape purposes as required by this Title; and
- D. Shall comply with the following minimum requirements for floor area:
 1. Shall have a minimum area of at least 70 square feet of floor area, except that where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each person in excess of two. No portion of a room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the room's minimum area.

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2. Any dwelling or portion of any dwelling constructed pursuant to permit or lawfully constructed prior to permit requirements shall be deemed in compliance with respect to sleeping room area provided that the deficiency in floor area is no more than 15 percent of that required by Subsection 29.30.210 D 1. This subsection shall not apply where any occupancy has been changed, or the number of occupants has been increased, contrary to the provisions of this Title.
3. Floor area requirements for single-room occupancy housing units shall be in accordance with Section 29.30.290 of this Title.

29.30.220 Overcrowding.

No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one plus one additional resident for every 100 square feet of floor area of the habitable rooms in the dwelling unit.

29.30.230 Emergency Exits.

(Amended by Ordinance Nos. 176381 and 180330, effective August 18, 2006.)

- A. Every sleeping room shall have at least one operable window or exterior door approved for emergency escape or rescue that is openable from the inside to a full clear opening without the use of special knowledge, effort, or separate tools. Windows used to meet this requirement shall meet the size and sill height requirements described in 29.30.090 D. and E. All below grade windows used to meet this requirement shall have a window well the full width of the window, constructed of permanent materials with a minimum 3 foot by 3-foot clearance in front of the window measured perpendicular to the outside wall. If the bottom of the window well is more than 44" below the ground level, approved steps or an approved permanently attached ladder shall be used.
- B. Required exit doors and other exits shall be free of encumbrances or obstructions that block access to the exit.
- C. All doorways, windows and any device used in connection with the means of escape shall be maintained in good working order and repair.
- D. In addition to other exit requirements, in hotels and apartment houses:
 1. All fire escapes shall be kept in good order and repair and painted so as to prevent corrosion of metal, in a manner approved by the Fire Marshal.

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2. Every fire escape or stairway, stair platform, corridor or passageway which may be one of the regular means of emergency exit from the building shall be kept free of encumbrances or obstructions of any kind.
3. Where doors to stair enclosures are required by City code to be self-closing, the self-closing device shall be maintained in good working order and it shall be unlawful to wedge or prop the doors open.
4. Windows leading to fire escapes shall be secured against unwanted entry with approved devices.
5. Every apartment house and hotel shall have directional signs in place, visible throughout common passageways, that indicate the way to exit doors and fire escapes. Emergency exit doors and windows shall be clearly labeled for their intended use.

29.30.240 Smoke Detectors.

(Amended by Ordinance Nos. 176381 and 180330, effective August 18, 2006.) Smoke detectors sensing visible or invisible particles of combustions or alarms shall be required in all buildings where a room or area therein is designated for sleeping purposes either as a primary use or use on a casual basis. Smoke detectors or alarms shall be installed in each sleeping room or area, in the immediate vicinity of the sleeping rooms and on each additional story of the dwelling, including basements and attics with habitable space. All detectors or alarms shall be approved, shall be installed in accordance with the manufacturer's instructions, shall plainly identify the testing agency that inspected or approved the device, and shall be operable.

29.30.250 Fire Safety Conditions for Apartment Houses and Hotels of More than Two Stories.

(Amended by Ordinance No. 178745, effective October 1, 2004.) In addition to other fire safety requirements of this title, hotels and apartment houses of more than two stories in height shall meet the following requirements:

- A. Minimum fire safety standards shall be as provided in Appendix Chapter 12 of the State of Oregon Structural Specialty Code, 1979.
- B. Residential High Rise Buildings constructed in accordance with the high-rise building requirements of the Oregon Structural Specialty Code shall maintain all the required fire and life safety systems and equipment in good repair and working order. Upon request of the Director the owner shall produce proof that required fire and life safety systems are fully operational.

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29.30.260 Hazardous Materials.

(Amended by Ordinance No. 180330, effective August 18, 2006.)

- A. When paint is applied to any surface of a residential structure, it shall be lead-free.
- B. Residential property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other circumstances that would render the property unsafe. Where a governmental agency authorized by law to make the determination has verified that a property is unfit for use due to hazardous conditions on the property, the property shall be in violation of this Title. Any such property shall remain in violation of this Title until such time as the agency has approved the abatement of the hazardous conditions. The Director may order such property vacated pursuant to Section 29.60.070 of this Title.
- C. No residential property shall be used as a place for the storage and handling of highly combustible or explosive materials or any articles which may be dangerous or detrimental to life or health. No residential property shall be used for the storage or sale of paints, varnishes or oils used in the making of paints and varnishes, except as needed to maintain the dwelling
- D. Residential property shall be kept free of friable asbestos.

29.30.270 Maintenance of Facilities and Equipment.

In addition to other requirements for the maintenance of facilities and equipment described in this Chapter:

- A. All required facilities in every dwelling shall be constructed and maintained to properly and safely perform their intended function.
- B. All non-required facilities or equipment present in a dwelling shall be maintained to prevent structural damage to the building or hazards of health, sanitation, or fire.

29.30.280 Swimming Pool Enclosures.

(Amended by Ordinance Nos. 180330 and 181699, effective April 25, 2008.) Swimming pool enclosures shall comply with either the provisions in the 2005 Oregon Residential Specialty Code or Oregon Administrative Rule 333.060.0105 (effective 09-1-1994) as appropriate.

29.30.290 Special Standards for Single-Room Occupancy Housing Units.

(Amended by Ordinance Nos. 176955 and 180330, effective August 18, 2006.) In addition to meeting requirements for residential structures defined elsewhere in this Title, hotels containing single-room occupancy housing units shall comply with the following:

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- A. The unit shall have at least 100 square feet of floor area, except that any single-room occupancy housing unit constructed pursuant to permit or lawfully constructed prior to permit requirements shall be deemed in compliance with respect to floor area provided it has at least 85 square feet of floor area. This exception shall not apply where any occupancy has been changed or increased contrary to the provisions of this Title.
- B. Either a community kitchen with facilities for cooking, refrigeration, and washing utensils shall be provided on each floor, or each individual single-room occupancy housing unit shall have facilities for cooking, refrigeration and washing utensils. In addition, facilities for community garbage storage or disposal shall be provided on each floor.
- C. Where cooking units are provided in individual single-room occupancy housing units, they shall conform to the requirements set forth below.
 - 1. All appliances shall be hard-wired and on separate circuits or have single dedicated connections;
 - 2. All cooking appliances shall be fixed and permanent;
 - 3. The Mechanical Specialty Code, as adopted by Section 27.01.030, shall be used for setting standards for cooking appliances. Cabinets over cooking surfaces shall be 30 inches above the cooking surface, except that this distance may be reduced to 24 inches when a heat shield with 1-inch airspace and extending at least 6 inches horizontally on either side of the cooking appliance is provided. Cooking appliances are limited to two cooking elements or burners and located with at least a 6-inch clear space in all directions from the perimeter of the cooking element or burner. In lieu of two-burner cooking appliances, standard third-party tested and approved ranges with ovens are acceptable, provided that the units are fixed and hard-wired or have single dedicated connections;
 - 4. All cooking appliances shall be installed under permit from the Bureau of Development Services; and
 - 5. All cooking appliances shall be installed so as to provide a minimum clear workspace in front of the appliance of 24 inches.

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Chapter 29.40

DANGEROUS AND DERELICT STRUCTURES

Sections:

- 29.40.005 Generally.
- 29.40.010 Derelict Buildings.
- 29.40.020 Dangerous Structures
- 29.40.030 Abatement of Dangerous Structures.

29.40.005 Generally.

No property shall contain any dangerous structure or derelict building as described in this chapter. All such structures shall be repaired or demolished.

29.40.010 Derelict Buildings.

(Amended by Ordinance Nos. 176381 and 181699, effective April 25, 2008.)

- A.** A derelict building shall be considered to exist whenever any building, structure, or portion thereof which is unoccupied meets any of the following criteria or any residential structure which is at least 50% unoccupied meets any of the following two criteria:
 - 1.** Has been ordered vacated by the Director pursuant to Chapter 29.60;
 - 2.** Has been issued a correction notice by the Director pursuant to Section 29.60.050;
 - 3.** Is unsecured;
 - 4.** Is boarded;
 - 5.** Has been posted for violation of Chapter 29.20 more than once in any two year period; or
 - 6.** Has, while vacant, had a nuisance abated by the City pursuant to this Title.
- B.** Any property which has been declared by the Director to include a derelict building shall be considered in violation of this Title until:
 - 1.** The building has been lawfully occupied;

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2. The building has been demolished and the lot cleared and graded under building permit, with final inspection and approval by the Director; or
3. The owner has demonstrated to the satisfaction of the Director that the property is free of all conditions and in compliance with all notices listed in the definition of a derelict building in this Section.

29.40.020 Dangerous Structures.

Any structure which has any or all of the following conditions or defects to the extent that life, health, property, or safety of the public or the structure's occupants are endangered, shall be deemed to be a dangerous structure and such condition or defects shall be abated pursuant to Sections 29.60.050 and 29.60.080 of this Title.

- A. High loads.** Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.
- B. Weakened or unstable structural members or appendages.**
 1. Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the Oregon State Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location; or
 2. Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuaries, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Oregon State Structural Specialty and Fire and Life Safety Code.
- C. Buckled or leaning walls, structural members.** Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- D. Vulnerability to earthquakes, high winds.**
 1. Whenever any portion of a structure is wrecked, warped, buckled, or has settled to such an extent that walls or other structural portions have

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materially less resistance to winds or earthquakes than is required in the case of similar new construction; or

2. Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Oregon State Structural Specialty Code and Fire and Life Safety Code for such buildings.

E. Insufficient strength or fire resistance. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:

1. Has in any non-supporting part, member, or portion, less than 50 percent of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location; or
2. Has in any supporting part, member, or portion less than 66 percent of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

This subsection does not apply to strength required to resist seismic loads. For application of seismic requirements see Chapter 24.85.

F. Risk of failure or collapse.

1. Whenever any portion or member of appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property; or
2. Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:
 - a. Dilapidation, deterioration, or decay;
 - b. Faulty construction;
 - c. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

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- d. The deterioration, decay, or inadequacy of its foundation.
- G. **Excessive damage or deterioration.** Whenever the structure exclusive of the foundation:
 - 1. Shows 33 percent or more damage or deterioration of its supporting member or members;
 - 2. 50 percent damage or deterioration of its non-supporting members; or
 - 3. 50 percent damage or deterioration of its enclosing or outside wall coverings.
- H. **Demolition remnants on site.** Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure;
- I. **Lack of approved foundation.** Whenever any portion of a structure, including unfilled excavations, remains on a site, including:
 - 1. Where a structure is not placed on an approved foundation and no valid permit exists for a foundation for that structure: or
 - 2. For more than 90 days after issuance of a permit for a foundation for a structure, where the structure is not placed on an approved foundation.
- J. **Fire hazard.** Whenever any structure is a fire hazard as a result of any cause, including but not limited to: Dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.
- K. **Other hazards to health, safety, or public welfare.**
 - 1. Whenever, for any reason, the structure, or any portion thereof, is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or
 - 2. Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.

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L. Public nuisance.

1. Whenever any structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence; or
2. Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become:
 - a. An attractive nuisance, or
 - b. A harbor for vagrants or criminals.

M. Chronic dereliction. Whenever a derelict building, as defined in this Title, remains unoccupied for a period in excess of 6 months or period less than 6 months when the building or portion thereof constitutes an attractive nuisance or hazard to the public.

N. Violations of codes, laws. Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the Oregon State Structural Specialty Code and Fire and Life Safety Code or any law or ordinance of this State or City relating to the condition, location, or structure or buildings.

29.40.030 Abatement of Dangerous Structures.

All structures or portions thereof which are determined after inspection by the Director to be dangerous as defined in this Title are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Director determines that a structure is dangerous, as defined by this Title, the Director may commence proceedings to cause the repair, vacation, demolition, or warehousing of the structure.

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Chapter 29.50

OTHER REQUIREMENTS

Sections:

- 29.50.010 Permits Required.
- 29.50.020 Inspections Required.
- 29.50.030 Requested Inspections for Residential Structures.
- 29.50.040 Occupancy of Residential Property After Notice of Violation.
- 29.50.050 Illegal Residential Occupancy.
- 29.50.060 Interference with Repair, Demolition, or Abatement Prohibited.
- 29.50.070 Warehousing of Structures.

29.50.010 Permits Required.

No person, firm or corporation shall construct, alter, repair, move, improve, or demolish any structure without first obtaining applicable building permits as required by City code.

29.50.020 Inspections Required.

(Amended by Ordinance No. 180330, effective August 18, 2006.) All buildings, structures, or other improvements within the scope of this Title and all construction work for which a permit is required shall be subject to inspection as required by the City Code.

29.50.030 Requested Inspections for Residential Structures.

(Amended by Ordinance No. 176528, effective June 28, 2002.) Requested inspections that are not part of the City's code enforcement program will be made as soon as practical after payment to the Director of the fee specified in the Property Maintenance Regulations Fee Schedule as approved by City Council.

29.50.040 Occupancy of Residential Property After Notice of Violation.

(Amended by Ordinance Nos. 172088, 176381, and 176528, effective June 28, 2002.)

- A. If a notice of violation of Chapters 29.30 or 29.40 has been issued, and if the affected structure or any portion thereof is or becomes vacant, it shall be:
 - 1. Unlawful to re-enter the affected structure or any portion thereof between the hours of 10:00 p.m. 7:00 a.m. for any use of, or presence in, the affected structure or portion thereof unless authorized in writing by the Director.
 - 2. Unlawful to re-enter the affected structure or portion thereof between the hours of 7:00 a.m. and 10:00 p.m. for any purpose other than work

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associated with the correction of violations noted in the Notice of Violation.

3. Except as provided above in subsection 2., it is unlawful to occupy the affected structure or portion thereof without prior written approval from the Director.
- B.** In addition to any civil penalties imposed pursuant to Section 22.05.010 A.5. or Section 29.70.020 D., and as collected through a municipal lien process, any person unlawfully occupying any such affected structure or portion thereof shall upon conviction be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.

29.50.050 Illegal Residential Occupancy.

When a property has an illegal residential occupancy, including but not limited to occupancy of tents, campers, motor homes, recreational vehicles, or other structures or spaces not intended for permanent residential use or occupancy of spaces constructed or converted without permit, the use shall be abated or the structure brought into compliance with the present regulations for a building of the same occupancy.

29.50.060 Interference with Repair, Demolition, or Abatement Prohibited.

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

- A.** The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this Title;
- B.** The abatement of a nuisance pursuant to the provisions of this Title; or
- C.** The performance of any necessary act preliminary to or incidental to such work as authorized by this Title or directed pursuant to it.

29.50.070 Warehousing of Structures.

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

- A.** When the Director determines that a structure is suitable, due to its historic designation or other significant features, the owner may be permitted to warehouse such structure, as defined in this Title, for a period of up to 30 months. An extension for one further period of 1 year may be permitted by the Director, provided that the condition of the warehoused structure is determined by inspection, to be satisfactory.
- B.** The Director shall have the authority to adopt and enforce written rules concerning the maintenance and monitoring of warehoused structures. The

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requirements for the warehousing of each structure under the rules shall be recorded in the files of the Bureau of Development Services.

- C.** All work necessary in warehousing a structure shall be carried out under permits required by City Codes.
- D.** Owners of a warehoused structure shall continue to be subject of the penalties set forth in Chapter 29.70 to pay the Bureau of Development Services for the cost of regular inspections of their buildings during the warehousing period.

Chapter 29.60

ADMINISTRATION AND ENFORCEMENT

Sections:

- 29.60.010 Administration Authority and Responsibility.
- 29.60.020 Authorization to Inspect.
- 29.60.030 Enforcing Compliance.
- 29.60.040 Right of Entry; Inspection Warrants.
- 29.60.050 Notice and Order.
- 29.60.060 Nuisance Abatement; Warrants.
- 29.60.070 Vacating Structures in the Event of Immediate Danger.
- 29.60.080 Referral to the Hearings Officer for Repair or Demolition of Dangerous Structures.
- 29.60.085 Demolition; Warrants
- 29.60.090 Contracts to Repair or Demolish.
- 29.60.100 Exceptions.

29.60.010 Administration Authority and Responsibility.

The Director is hereby authorized to administer and enforce all of the provisions of this Title. In accordance with approved procedures, the Director may employ qualified officers, inspectors, assistants, and other employees as shall be necessary to carry out the provisions of this Title. The authority of the Director to enforce the provisions of this Title is independent of and in addition to the authority of other City officials to enforce the provisions of any other Title of the City Code.

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29.60.020 Authorization to Inspect.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Director is authorized to make inspection of property for the purposes of enforcing this Title. Wherever possible, inspections made by the personnel of the Bureau of Development Services or Fire shall be coordinated in order to avoid the issuance of multiple or conflicting orders.

29.60.030 Enforcing Compliance.

To enforce any of the requirements of this Title, the Director may gain compliance by:

- A. Instituting an action before the Code Hearings Officer as set out in Title 22 of City code;
- B. Causing appropriate action to be instituted in a court of competent jurisdiction; or
- C. Taking other action as the Director in the exercise of the Director's discretion deems appropriate.

29.60.040 Right of Entry; Inspection Warrants.

(Replaced by Ordinance No. 173248; amended by Ordinance Nos. 174225 and 176381, effective May 10, 2002.)

- A. Right of Entry. The Director may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any building regulations, or whenever the Director has reasonable cause to believe that there exists in any structure or upon any property any condition which makes such property substandard as defined in any building regulations. In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:
 - 1. Occupied Property. If any structure on the property is occupied, the Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection warrant;
 - 2. Unoccupied Property.
 - a. If the property is unoccupied, the Director shall contact the property owner, or other persons having charge or control of the property, and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection warrant.
 - b. If structures on the property are unoccupied, the Director shall first make a reasonable attempt to locate the owner or other persons

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having charge or control of the property and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection warrant; or

3. Open, Unoccupied Property. If any structure on the property is unoccupied and open:
 - a. The Director shall notify the owner of the property's condition and order the owner, or other persons having charge or control of the property, to immediately secure the premises against the entry of unauthorized persons. If the property is not secured within fifteen (15) days from the date notice is sent, the Director may secure the property as provided in PCC Chapter 29.20.
 - b. If the Director believes that a hazardous condition exists, the Director may immediately secure the property as provided in PCC Chapter 29.20. Following the summary abatement, the Director shall notify the owner, or other persons having charge or control of the property, of the condition of the property and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection or abatement warrant.

B. Grounds for Issuance of Inspection Warrants; Affidavit.

1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the property to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.
2. Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is probable cause to believe that a condition of nonconformity with any building regulation exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with building regulations.

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C. Procedure for Issuance of Inspection Warrant.

1. Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police Assistance. In issuing an inspection warrant on unoccupied property, including abatement warrants pursuant to Section 29.60.060, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the Director or representative of the department inspecting the property in any way necessary to complete the inspection.

D. Execution of Inspection Warrants

1. Occupied Property. Except as provided in subsection 2. of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.
3. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10

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working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

29.60.050 Notice and Order.

(Amended by Ordinance Nos. 177254 and 180330, effective August 18, 2006.)

A. Notification Required. Except in the case of summary abatement or immediate danger, if the Director finds one or more violations of the provisions of this Title on a property or adjacent right of way, the Director shall notify the property owner to repair, remove or take any other action as necessary to correct the violations. Notification to the property owner shall be accomplished by mailing a notice to the owner, at the owner's address as recorded in the county assessment and taxation records for the property. The notice may be sent via First Class Mail or certified mail at the Director's discretion. Notice to the property owner may also be accomplished by posting notice on the property.

In addition to the above notice to the property owner, prior notice before towing a disabled vehicle must be provided by mailing a notice to the registered owner(s) and any other persons who reasonably appear to have an interest in the vehicle within 48 hours, Saturdays, Sundays and holidays excluded, after the notice has been posted on the property. The Director shall also provide notice to the registered owner and other persons who have an interest in the disabled vehicle by posting written notice on the vehicle.

B. Content of the Notice. The notice shall include:

1. The date of posting (if notice was posted at the property);
2. The street address or a description sufficient for identification of the property;
3. A statement that one or more violations of this Title exist at the property with a general description of the violation(s);
4. Disclosure that penalties, charges, and liens may result from a failure to remedy the violations, and in the case of a disabled vehicle, a statement that the City intends to tow and remove the vehicle if the violation is not corrected;
5. Specification of a response period during which the property may be brought into compliance with this Title before penalties, charges, or liens will be assessed; and

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6. Disclose the owner's right to appeal the findings of the notice of violation and a description of the time limits for requesting an administrative review or a hearing, as described in Chapter 29.80 of this Title.
- C. Notification by Mail.** An error in the name of the property owner or address listed in the county assessment and taxation records for the property shall not render the notice void, but in such case the posted notice, if a notice was posted on the property, shall be deemed sufficient.
- D. Notification Following Summary Abatement.** When summary abatement is authorized by this Title, the decision regarding whether or not to use summary abatement shall be at the Director's discretion. In the case of summary abatement, notice to the owner or occupant of the property prior to abatement is not required. However, following summary abatement, the Director shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a Notice of Summary Abatement shall be mailed to the property owner. The Notice of Summary Abatement shall include:
1. The date the nuisance on the property was abated;
 2. The street address or description sufficient for identification of the property;
 3. A statement of the violations of Title 29 that existed at the property and were summarily abated;
 4. Disclosure that penalties, charges and liens will result from the summary abatement;
 5. Disclosure of the owner's right to appeal the findings of the notice.
- E. Compliance Inspections and Penalties.** The Director shall monitor compliance with the notice through periodic tracking and inspection. Once a notice has been mailed, the owner shall be responsible for all enforcement penalties associated with the property, as described in Chapter 29.70, until the violations are corrected and the Director has been so notified. Except in the case of summary abatement, whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the Director.
- F. Time Limits for Repair.** The Director may set time limits in which the violations of this Title are to be corrected. Failure to comply with the time limits shall be a violation of this Title.

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- G. Effective Date of Notice.** All notices served pursuant to this section shall be considered served as of the date and time of mailing the notice described in subsections A. and C. of this section.
- H. Information Filed with County Recorder.** If the Director finds violations of this Title on any property, the Director may record with the County Recorder information regarding City code violations and possible liens on the property.

29.60.060 Nuisance Abatement; Warrants.

(Replaced by Ordinance No. 173248; amended by Ordinance No. 176381, effective May 10, 2002.)

- A. Abatement.** If, within the time limit set by the Director in the notice of violation, any nuisance described in the notice has not been removed and abated, or cause shown, as specified in Chapter 29.80 of this Title, why such nuisance should not be removed or abated, or where summary abatement is authorized, the Director may cause the nuisance to be removed and abated, including disposal in an approved manner.
- B. Warrants.** The Director may request any Circuit Court judge to issue an nuisance abatement warrant whenever entry onto private property is necessary to remove and abate any nuisance, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any nuisance which makes such property substandard as defined in any building regulations.
- C. Grounds for Issuance of Nuisance Abatement Warrants; Affidavit.**
 - 1. Affidavit.** A nuisance abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal and abatement of the nuisance, the building or property to be entered, the basis upon which cause exists to remove or abate the nuisance, and a statement of the general types and estimated quantity of the items to be removed or conditions abated.
 - 2. Cause.** Cause shall be deemed to exist if reasonable legislative or administrative standards for removing and abating nuisances are satisfied with respect to any building or upon any property, or if there is cause to believe that a nuisance violation exists, as defined in this Title, with respect to the designated property.
- D. Procedure for Issuance of a Nuisance Abatement Warrant.**

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1. Examination. Before issuing a nuisance abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the removal and abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police Assistance. In issuing a nuisance abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the nuisance.

E. Execution of Nuisance Abatement Warrants.

1. Occupied Property. Except as provided in subsection 2. of this section, in executing a nuisance abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing a nuisance abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the nuisance abatement warrant shall be conspicuously posted on the property.
3. Return. A nuisance abatement warrant must be executed within 10 working day of its issue and returned to the judge by whom it was issued

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within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

- F.** Disposal of Nuisance Items Removed. The Director may cause the nuisance items removed pursuant to the nuisance abatement warrant to be disposed of in an approved manner whenever the Director, in the Director's sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making the above determination, the Director may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances, and all other reasonable and necessary expenses of holding the sale

29.60.070 Vacating Structures.

(Amended by Ordinance No.176381, effective May 10, 2002.)

- A.** Any structure found to be in violation of Chapter 29.30 to such an extent as to be a hazard or declared a dangerous structure under Chapter 29.40 may be vacated, secured, and maintained against entry by order of the Code Hearings Officer.
- B.** If the Director finds violations to the extent that an immediate danger is posed to the health, safety, or welfare of the occupants, or that of the general public, the Director may order part of the structure, or all of the structure, to be vacated or demolished forthwith, if in the Director's discretion, circumstances are found that do not allow time for prior application to the Hearings Officer.
- 1.** The owner or any tenant of the property, who has been affected by the Director's determination to vacate may appeal that determination to the Code Hearings Officer by following the procedure contained in Section 22.20.030 of City code.
 - 2.** Upon receipt of a request for hearing pursuant to Section 22.20.030 of City code, the Code Hearings Officer shall schedule and hold an appeal hearing within ten (10) days after the receipt of the request.
- C.** Upon vacation of the structure a notice shall be posted at or on each exit of the building. Whenever such notice is posted, the Director shall include in such notice a statement declaring the building unsafe to occupy and specifying the conditions that necessitate the posting.
- D.** Unless authorized by the Director, it is unlawful for any person knowingly to enter or remain in any structure that the Director has ordered vacated pursuant to this Section. In addition to any civil penalties imposed pursuant to Section 22.05.010A.5. or Chapter 29.70 of City code, any person knowingly entering or

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remaining in such a structure shall upon conviction be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.

29.60.080 Referral to the Hearings Officer for Repair or Demolition of Dangerous Structures.

(Amended by Ordinance No. 176955, effective October 9, 2002.) At any time after the Director identifies a property as containing a dangerous structure and has notified the owner as specified in Section 29.60.050, the Director may cause an action to be instituted before the Code Hearings Officer as provided in Title 22 of City code. In the event the owner fails or neglects to comply with any order of the Hearings Officer to repair or demolish a structure, the Hearings Officer may authorize the Bureau of Development Services to carry out such repairs or demolish the structure.

29.60.085 Demolition; Warrants

(Added by Ordinance No. 174265; amended by Ordinance No. 176381, effective May 10, 2002.)

- A.** Abatement. If, within the time limit set by the Hearings Officer's Order for Demolition, the dangerous structure described in the Order has not been removed and abated, or cause shown, as specified in Chapter 29.80 of this Title, why such dangerous structure should not be removed or abated, or where summary abatement is authorized, the Director may cause the dangerous structure to be removed and abated, including disposal in an approved manner.
- B.** Warrants. The Director may request any Circuit Court judge to issue a demolition warrant whenever entry onto private property is necessary to demolish a dangerous structure.
- C.** Grounds for Issuance of Demolition Warrants; Affidavit
 - 1.** Affidavit. A demolition warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the demolition of the dangerous structure, the building or property to be entered, the basis upon which cause exists to demolish the dangerous structure and a general statement describing the structure to be demolished. In addition, the affidavit shall contain a statement describing the conditions under which the demolition is to be completed, including completion of all work on the property within a thirty-day period.
 - 2.** Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards are satisfied with respect to the demolition of the dangerous structure.

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D. Procedure for Issuance of a Demolition Warrant.

1. Examination. Before issuing a demolition warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the demolition of any dangerous structure exists and that the other requirements for granting the application are satisfied, the judge shall issue the demolition warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement describing the structure to be demolished and the work to be performed. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police Assistance. In issuing a demolition warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and demolish the dangerous structure.

E. Execution of Demolition Warrants.

1. Execution. In executing the demolition warrant, the person authorized to execute the warrant need not inform anyone of the person's authority or purpose but may promptly enter the designated property if it is or at the time reasonably appears to be a) unoccupied, or b) not in the possession of any person. A copy of the demolition warrant shall be conspicuously posted on the property.
2. Return. A demolition warrant must be executed within 10 working days of its issuance by the judge. The authority to enter into the property and perform the demolition work shall continue for a period of up to 30 days after the date of execution, unless the judge extends this time before it has expired. The executed warrant shall be returned to the judge upon the completion of the demolition or the expiration of the authorized time, whichever occurs first. If the warrant is not executed within 10 days after the issuance by the judge, the warrant shall be void.

F. Disposal of Demolition Debris. The Director may cause the debris to be removed pursuant to the demolition warrant and disposed of in an approved manner

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whenever the Director, in the Director's sole discretion, finds that the fair and reasonable value of the debris would be less than the cost of storing and selling the items. In making the above determination, the Director may include in the costs of sale the reasonable cost of removing debris to a place of storage, of storing the items for resale, of holding the resale including reasonable allowances for costs of staff, and any other reasonable and necessary expenses of holding a sale.

29.60.090 Contracts to Repair or Demolish.

(Amended by Ordinance No. 176955, effective October 9, 2002.) If the Bureau of Development Services is authorized to repair or demolish a structure by the Hearings Officer pursuant to 29.60.080, the Director is authorized to enter into a contract or contracts for such work on behalf of the City in a sum not to exceed \$18,000 on any single structure.

Repair or demolition contracts in excess of \$18,000 shall be approved by Council by ordinance. Any sums expended by the City for repair or demolition of any structure pursuant to this Chapter shall be a lien upon the structure and/or real property on which the structure is located pursuant to the provisions of Chapter 22.06 of City code.

29.60.100 Exceptions.

(Replaced by Ordinance No. 177254, effective March 14, 2003.)

- A. The Director may grant an exception when the enforcement of the requirements of this Title would cause undue hardship to the owner or occupants of the affected property, or whenever the Director deems it necessary in order to accomplish the purpose of this Title.
- B. To carry out the intent of this Section the Director shall establish written policies in the form of waivers to explain the exceptions that are available to property owners. The waivers shall include the following information:
 - 1. An explanation of the purpose of the waiver;
 - 2. A list of the requirements the owner must meet in order to qualify for the waiver;
 - 3. An explanation of the period of time during which the waiver will be in effect;
 - 4. A list of the actions the owner must perform to fulfill their responsibilities to maintain the waiver and to prevent the waiver from being cancelled.
- C. The owner must apply for a waiver in writing. This Section shall not be construed so as to evade the provisions of Title 22.

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Chapter 29.70

COSTS AND PENALTIES

Sections:

- 29.70.005 Generally.
- 29.70.010 Enforcement Fees for Housing and Dangerous and Derelict Buildings.
- 29.70.020 Costs and Penalties for Abatement of Nuisances, Disable Vehicles, and Re-occupancy in Violation.
- 29.70.030 Building Demolition Costs and Penalties.
- 29.70.040 Chronic Offender.

29.70.005 Generally.

In order to defray the costs of enforcement of, and to encourage compliance with, this Title, the Director shall impose penalties on those properties which are found to be in violation of this Title.

29.70.010 Enforcement Fees for Housing and Dangerous and Derelict Buildings.

(Amended by Ordinance Nos. 176528 and 181699, effective April 25, 2008.)

- A.** The City may charge a penalty in the form of a monthly enforcement fee for each property found in violation of Chapters 29.30 or 29.40 of this Title that meets the following conditions:
 - 1.** The property is a subject of a notice of violation of this Title as described in Section 29.60.050;
 - 2.** A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - 3.** The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- B.** The amount of the monthly enforcement fee shall be charged according to the Property Maintenance Regulations Fee Schedule as approved by the City Council. If all violations are not corrected within six months from the date of the initial notice of violation, subsequent enforcement fees shall be twice the amount stated

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in the Property Maintenance Regulations Fee Schedule as approved by the City Council.

- C.** Whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall so notify the Director. Upon receipt of such notice, the Director shall promptly schedule an inspection of the property and shall notify the owner if any violations remain uncorrected.
- D.** Once monthly enforcement fees begin, they shall continue until all violations listed in the first or any subsequent notice of violation have been corrected, inspected and approved.
- E.** When a property meets the conditions for charging an enforcement fee as described in this Section, the Director shall file a statement with the City Auditor that identifies the property, the amount of the monthly fee, and the date from which the charges are to begin. The Auditor shall then:
 - 1.** Notify the property owner(s) of the assessment of enforcement fees;
 - 2.** Record a property lien in the Docket of City Liens;
 - 3.** Bill the property owner(s) monthly for the full amount of enforcement fees owing, plus additional charges to cover administrative costs of the City Auditor; and
 - 4.** Maintain lien records until:
 - a.** The lien and all associated interest, penalties, and costs are paid in full; and
 - b.** The Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

29.70.020 Costs and Penalties for Abatement of Nuisances, Disable Vehicles, and Re-occupancy in Violation.

(Replaced by Ordinance No. 176528; amended by 176955, effective October 9, 2002.)

- A.** Nuisances.
 - 1.** Whenever a nuisance is abated by the City, the Director shall keep an accurate account of all expenses incurred for each nuisance abated including but not limited to abatement costs, civil penalties, administrative

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costs, recorders fees and title report charges according to the Property Maintenance Regulations Fee Schedule as approved by City Council.

2. When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property, owned by the same person, an additional civil penalty according to the Property Maintenance Regulations Fee Schedule shall be added to the costs, charges and civil penalties provided for in subsection A. of this Section. The additional civil penalty shall be imposed without regard to whether the nuisance abated by the City involved the same real property or are of the same character.
3. Costs and penalties resulting from nuisance abatement shall be assessed as a lien upon the real property as provided in subsection D.

B. Disabled Vehicles.

1. Whenever a vehicle is removed from real property by the City, the Director shall keep an accurate account of all expenses and penalties incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, recording fees, and title report charges according to the Property Maintenance Regulations Fee Schedule as approved by the City Council.
2. Whenever a disabled vehicle, which has been tagged by the City of Portland, is removed from real property and placed on the public right-of-way, the owner of the real property shall be responsible for that vehicle. The Director shall remove the disabled vehicle from the right-of-way and keep an accurate account of all expenses and penalties incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, recording fees and title report charges according to the Property Maintenance Regulations Fee Schedule as approved by the City Council.
3. Costs and penalties resulting from the abatement of disabled vehicles shall be assessed as a lien upon the real property as provided in subsection D.

C. Occupancy of Property After Notice of Violation.

1. Whenever an owner causes or permits a vacant structure or portion thereof to be occupied in violation of this Title, a penalty according to the Property Maintenance Fee Schedule as approved by the City Council shall be imposed per structure or portion thereof.

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2. Costs and penalties resulting from the occupancy of property after notice of violation shall be assessed as a lien upon the real property as provided in subsection D.

D. When a property meets the conditions for assessment of costs and/or penalties as described in sections A., B. or C. above, the Bureau of Development Services shall file a statement of such costs and/or penalties with the Auditor. Upon receipt of the statement, the Auditor shall mail an assessment notice to the property owner. The notice shall include the amount due plus charges to cover the administrative costs of the City Auditor. At the same time the notice is mailed by the Auditor, the Auditor shall enter the amount due or the amount of the unpaid balance, plus charges to cover the administrative cost of the City Auditor, in the Docket of City Liens which shall thereafter constitute a lien against the property. The property owner is responsible for paying all liens assessed against the property.

29.70.030 Building Demolition Costs and Penalties.

(Amended by Ordinance No. 176528, effective June 28, 2002.)

A. Whenever a building is demolished by the City, the Director shall keep an accurate account of all expenses incurred for each building demolished, including but not limited to abatement costs, civil penalties plus administrative costs according to the Property Maintenance Regulations Fee Schedule as approved by the City Council.

B. Costs and penalties resulting from demolition by the City of any structure pursuant to this Title plus charges to cover the administrative costs of the City Auditor shall be assessed as a lien upon the real property on which the structure was located pursuant to the provisions of Chapter 22.06 of City code.

29.70.040 Chronic Offender.

(Added by Ordinance No. 181699, effective April 25, 2008.)

A. A Chronic Offender is any person whose property has accumulated, within any 12-month period, multiple violations under Title 29 which have a negative impact on the public health or welfare and cause repeat inspections and enforcement efforts by the Director.

B. The Director shall adopt policies and procedures setting forth the type and number of Title 29 violations that result in a Chronic Offender designation.

C. The Director may pursue any of the following actions against a Chronic Offender:

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1. Refer the Chronic Offender to the Code Hearings Officer, as provided in Title 22 of the City Code, for additional sanctions; or
2. Refer the Chronic Offender for Criminal Prosecution and criminal penalties of a fine of up to \$500 per violation or six (6) months in jail as provided for in City Code Chapter 1.01.

Chapter 29.80

APPEALS

Sections:

- 29.80.010 Administrative Review.
29.80.020 Appeals to the Code Hearings Officer.
29.80.030 Further Appeals

29.80.010 Administrative Review

(Amended by Ordinance Nos. 176381 and 176955, effective October 9, 2002.)

- A. Whenever an owner has been given a notice pursuant to this Title and has been directed to make any correction or to perform any act and the owner believes the finding of the notice was in error, the owner may have the notice reviewed by the Director. If a review is sought, the owner shall submit a written request to the Bureau of Development Services within 15 days of the date of the notice. Such review shall be conducted by the Director. The owner requesting such review shall be given the opportunity to present evidence to the Director. Following the review, the Director shall issue a written determination.
- B. Nothing in this Section shall limit the authority of the Director to initiate a proceeding under Title 22.

29.80.020 Appeals to the Code Hearings Officer.

A determination issued pursuant to 29.80.010 may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City code.

29.80.030 Further Appeals.

All appeals from the Code Hearings Officer's determination pursuant to 29.80.020 shall be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010 - 34.100.

Chapter 29.90

HOUSING RECEIVERSHIP

Sections:

29.90.010	Purpose and Scope.
29.90.020	Authority.
29.90.030	Selection of Properties.
29.90.040	Notice to Interested Parties and Application.
29.90.050	Selection of Receivers.
29.90.060	Powers of a Receiver.
29.90.070	Plan and Estimate.
29.90.080	Record Keeping.
29.90.090	Purchasing.
29.90.100	Liens.
29.90.110	Foreclosure.
29.90.120	Termination of Receivership.

29.90.010 Purpose and Scope.

The purpose of this Chapter is to establish authority and procedures for the use of the Oregon Housing Receivership Act (ORS 105.420 to 105.455), and shall apply to all residential property.

29.90.020 Authority.

(Amended by Ordinance Nos. 176955 and 180330, effective August 18, 2006.)

- A.** When the Director finds that any residential property is in violation of Titles 24, 25, 26, 27, 28, 29, 31, or 33 and believes that violation is a threat to the public's health, safety or welfare, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement. As used in this Chapter, abatement shall mean the removal or correction of any condition at a property that violates any provision of Titles 24, 25, 26, 27, 28, 29, 31, or 33 of the City Code as well as the making of other improvements or corrections as are needed to rehabilitate the property or structure. Abatement may include demolition, but does not include securing a structure against entry.

- B.** In administering the provisions of this Chapter, the Director's authority shall include, but is not limited to:
 - 1.** The selection of properties;

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2. The selection of appropriate receivers; and
3. The establishment of written rules and procedures as are deemed necessary for the administration of this Chapter.

29.90.030 Selection of Properties.

(Amended by Ordinance No. 180330, effective August 18, 2006.) In selecting properties where the City may seek appointment of a receiver, the Director shall consider those properties that have, at a minimum, the following characteristics:

- A. A violation of any provision of Titles 24, 25, 26, 27, 28, 29, 31 or 33 that threatens the public health, safety or welfare;
- B. The owner has not acted in a timely manner to correct the violations; and
- C. Abatement of the violations on this property would further the Housing Policy of the City of Portland as articulated in Goal 4 of the City's Comprehensive Plan.

29.90.040 Notice To Interested Parties and Application.

- A. At least 60 days prior to the filing of an application for appointment of a receiver, the Director shall cause a notice to be sent by regular mail to all interested parties.
- B. The notice shall give the date upon which the City has the right to file with the court for the receiver, and in addition shall:
 1. State the address and legal description of the property;
 2. List the code violations which give rise to the proposed application; and
 3. Give the name, address and telephone number of a person who can provide additional information concerning the violations and their remedy.
- C. If no interested party has taken any action to foreclose their security interest within 60 days of the date of the notice, the Director may thereafter apply for the appointment of a receiver.

29.90.050 Selection of Receivers.

In selecting specific receivers, the Director shall choose either the Housing Authority of Portland, a City bureau, an urban renewal agency, or a private not-for-profit corporation, the primary purpose of which is the improvement of housing conditions within the City. In making the selection, the Director shall consider, at a minimum, the following:

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- A. The location of the property relative to other properties owned or managed by the receiver.
- B. The receiver's experience in rehabilitating and managing this type of property.
- C. The receiver's capacity to take on additional property management responsibilities.

29.90.060 Powers of a Receiver.

A receiver appointed by the court pursuant to the Oregon Housing Receivership Act shall have the authority to do any or all of the following, unless specifically limited by the court:

- A. Take possession and control of the property, including the right to enter, modify and terminate tenancies pursuant to ORS Chapters 90 and 105, and to charge and collect rents and apply rents collected to the costs incurred due to the receivership.
- B. Negotiate contracts and pay all expenses associated with the operation and conservation of the property, including, but not limited to all utility, fuel, custodial, repair, and insurance costs.
- C. Pay all accrued property taxes, penalties, assessments, and other charges imposed on the property by a unit of government, as well as any charge of like nature accruing during the pendency of the receivership.
- D. Dispose of all abandoned personal property found on the property pursuant to ORS Chapter 90.
- E. Enter into contracts and pay for the performance of any work necessary to complete the abatement.
- F. Enter into financing agreements with public or private lenders and encumber the property so as to have moneys available to correct the conditions at the property giving rise to the abatement.
- G. Charge an administrative fee at an hourly rate approved by the court or at a rate of 15 percent of the total cost of abatement, whichever the court deems more appropriate.

29.90.070 Plan and Estimate.

Within 30 days after appointment by the court, a receiver shall submit to the Director a written plan for the abatement. The Director shall approve the plan before the receiver commences work on the abatement.

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29.90.080 Record Keeping.

The receiver shall keep a record of all moneys received and expended and all costs and obligations incurred in performing the abatement and managing the property. Records shall be kept in a form as shall be agreed upon by the receiver and the Director, and copies shall be provided to the Director upon request.

29.90.090 Purchasing.

All abatement work done under this Chapter is exempt from the purchasing and contracting provisions of Chapters 5.32 and 5.68 of City code.

29.90.100 Liens.

- A.** All moneys expended and all costs and obligations incurred by the receiver in performing the abatement shall be reviewed by the court for reasonableness and their necessity in performing the abatement. To the extent that the court finds the moneys, costs, or obligations, to be reasonable and necessary, it shall issue an order reciting this fact as well as the amount found to be reasonable and necessary.
- B.** If the costs and obligations incurred due to the abatement have not been paid, the order of the court shall be filed with the county recorder within 60 days of its filing with the court and shall thereafter constitute a lien on the property.

29.90.110 Foreclosure.

In the event that the lien created pursuant to the terms of this Chapter and the Oregon Housing Receivership Act is not paid in a timely fashion, the receiver or their assignee or other successor in interest may bring a suit or action in foreclosure as provided for by law.

29.90.120 Termination of Receivership.

(Amended by Ordinance No. 180330, effective August 18, 2006.) The receivership authorized pursuant to the terms of this Chapter and the Oregon Housing Receivership Act shall terminate only by an order of the court after a showing by an interested party or the receiver that:

- A.** The abatement has been completed;
- B.** The costs and obligations incurred due to the abatement have been paid by an interested party or a lien has been filed pursuant to Section 29.90.100 of this Chapter; and
- C.** The interested party will manage the property in conformance with the applicable provisions of Titles 24, 25, 26, 27, 28, 29, 31 and 33 of City code.

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Chapter 31.10

ADMINISTRATION

(Title replaced by Ordinance No. 180276,
effective June 28, 2006.)

Sections:

- 31.10.010 Title.
- 31.10.020 Purpose and Scope.
- 31.10.030 Definitions.
- 31.10.040 Organization.
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- 31.10.110 Collections.
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31.10.010 Title.

The authority established in this Title shall be known as the “Fire Regulations” and may be so cited and pleaded and is referred to herein as “this Title.”

31.10.020 Purpose and Scope.

- A.** This Title shall be deemed an exercise of the police powers of the City for the preservation and protection of the public health, peace, safety and welfare, and all of its provisions shall be liberally construed for that purpose.
- B.** This Title establishes regulations affecting or relating to structures, premises, processes, and safeguards regarding:
 - 1.** The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
 - 2.** Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
 - 3.** Fire hazards in the structure or on the premises from occupancy or operations;

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- 4. Matters related to the construction, extension, repair, alteration or removal of fire suppression, fire alarm systems and hazardous material storage, dispensing and use.
- C. The provisions of this Title shall apply equally to both public and private property, and shall be binding upon public officers and employees and all other persons except as may be otherwise specifically provided herein.
- D. This Title shall be applicable in addition to the measures of fire prevention as set forth in the laws and regulations of the State of Oregon and the United States. The provisions of this Title, insofar as they are substantially the same as existing titles and/or ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

31.10.030 Definitions.

(Amended by Ordinance Nos. 180917 and 181956, effective June 25, 2008.)

- A. “Building” is any structure used or intended for supporting or sheltering any use or occupancy.
- B. “Certificate of Fitness” means a written statement issued by the Fire Marshal certifying that the person to whom the certificate is issued has passed an examination as to his or her qualifications to perform the specifically identified work and that he or she has authority to perform such work during the term specified.
- C. “Commercial Building” means any structure, tank or yard that is subject to regulation under applicable fire codes. It includes any temporary structure or vehicle that is used for commercial purposes and is not moved for 60 days. It includes occupancies on public and private property as well as on all other types of ownership. It does not include one and two-family residential structures.
- D. “Entity” includes a corporation, foreign corporation, nonprofit corporation, profit and nonprofit unincorporated association, business trust, estate, partnership, trust, sole proprietorship, individual, two or more persons having a joint or common economic interest, any state, the United States and any foreign government.
- E. “Fee Schedule” means a listing of fees, penalties, discounts and other payments payable to the City of Portland for services or other requirements set forth in this Title, which is adopted by City Council.
- F. “Fire Bureau” shall mean Portland Fire & Rescue.

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- G.** “Fire Code” means the Oregon Fire Code, 2007 edition, with City of Portland Amendments.
- H.** “Fire Hazard” means any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or which may obstruct, delay, hinder or interfere with the operations of the Fire Bureau or the egress of occupants in the event of fire.
- I.** "Fire Regulations" means the statutes and administrative rules adopted by the State of Oregon and the Portland City Code adopted by the Council and the policies adopted under the authority granted under this Chapter to the Fire Marshal which are for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.
- J.** “Key Box”, also known as a “lock box”, is a secure metal box used to hold keys for a specific site, to provide Fire Bureau personnel access to that site.
- K.** “Occupancy” means the activity in a building or on property outside a building where services or housing are provided or commodities are bought, sold, handled, manufactured or stored. A single business entity with multiple uses or activities in a building as defined by the Oregon Structural Specialty Code is considered one occupancy. Any structure, yard or group of tanks outside a building such as tank farms, moorage and outside storage are considered one occupancy. The definition includes individual businesses within a multiple occupancy commercial building but it does not include individual dwelling units within a multiple residential building. The Oregon Structural Specialty Code shall define classification of all buildings and structures as to use and occupancy.
- L.** “Owner/occupant” means the owner, operator, occupant or entity legally responsible for a premise or the delivery of services or housing, or the buying, selling, handling, manufacture or storage of commodities, and/or the condition of the building.
- M.** “Periodic Inspection” means an inspection performed periodically by a member of the Fire Bureau for the purpose of determining that the entire occupancy is in compliance with the requirements of fire regulations. A “periodic inspection” is also known as a “regular inspection” by the Fire Bureau. It does not include specific requests for inspection.

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- N. “Permit” means a written permission of the Fire Marshal issued pursuant to the provisions of this Title.
- O. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Webster’s Third New International Dictionary of the English Language, Unabridged, copyright 1985, shall be considered as providing ordinary accepted meanings.

31.10.040 Organization.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. The Fire Bureau shall administer the provisions of this Title unless otherwise specified in this Title.
- B. The Fire Chief shall be responsible for all fire prevention efforts in the City and for enforcing the provisions of this Title or any subsequent amendments to the same.
- C. The personnel of the Fire Prevention Division shall consist of a Fire Marshal and as many Deputy Chief Fire Marshals, Fire Captains, Senior Fire Inspectors, Fire Inspectors and other employees as may be allowed and provided by the Fire Chief and City Council. Such personnel may act to enforce provisions of this Title as assigned by the Fire Marshal. The Fire Marshal shall report directly to the Fire Chief.
- D. There shall be, in the Fire Prevention Division of the Fire Bureau, a section designated as the “Fire and Arson Investigation Unit”, which shall be considered a law enforcement unit of the City of Portland. Personnel assigned to this unit shall be designated peace officers, for fire and life safety purposes including determining the cause of fires, for detecting arson, and for enforcing this Code and any other codes, rules or regulations incorporated therein. This unit shall be charged with the enforcement of the criminal laws of the State of Oregon relating to the crimes of arson, reckless burning, insurance fraud, and other related crimes.

31.10.050 Authority.

(Amended by Ordinance Nos. 180514 and 181956, effective June 25, 2008.)

- A. Rules and Regulations. The Fire Marshal, with the approval of the Fire Chief, is authorized to make and enforce such rules, regulations and policies for the prevention and control of fires and fire hazards, as may be necessary to carry out the intent of this Title.

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- B.** Adoption of Oregon State Statutes. In order to obtain an exempt jurisdiction status from the State Fire Marshal, in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this title by reference the following provisions of the Oregon Revised Statutes: 162.225, 162.235, 162.375, 162.255, 476.005, 476.010, 476.150 through 476.290, 476.380, 476.715, 479.015 through 479.170, 479.190, 479.195, 479.210 through 479.300, 479.990(6), and all of ORS 480 except 480.350, 480.355, 480.375(2), 480.432 through 480.440.

Where reference is made to the State Fire Marshal in the Oregon Revised Statutes in this Title, the term "City Fire Marshal" shall be substituted for it.

- C.** Adoption of Oregon State Administrative Rules, Fire Marshal Chapter 837. In order to obtain an exemption in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this Title by reference the following administrative rules adopted by the State Fire Marshal:

1. OAR 837 - Division 12, Public Display of Fireworks in Oregon
2. OAR 837 - Division 20, Flammable and Combustible Liquids
3. OAR 837 - Division 30, Liquefied Petroleum Gas, Sections 837-030-0140 through 837-030-0180 and 837-030-0230
4. OAR 837 – Division 40, Adoption of the Oregon Structural Specialty Code and Mechanical Special Code, Section 837-040-0140
5. OAR 837 - Division 41, Fire Protection Regulations Relating to Existing Non-Conforming High Hazard Facilities - Exitway Protection
6. OAR 837 - Division 45, Smoke Detectors

Where reference is made in this Title to the State Fire Marshal in the Oregon State Fire Marshal Administrative Rules, the term "City Fire Marshal" shall be substituted for it.

- D.** Oregon Residential Specialty Code. In order to allow alternative methods of fire protection for the development of one and two family dwellings, the City hereby adopts and incorporates into this Title by reference Oregon Administrative Rule 918-480-0100.
- E.** Adoption of Oregon Fire Code, 2007 Edition. In addition to the provisions of this Title, and as a supplement thereto, in order to regulate those conditions hazardous

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to life and property from fire or explosion that are not specifically addressed by this Title, the City hereby adopts the 2007 Edition of the Oregon Fire Code with amendments as shown in Ordinance No. 181956, Attachment B, adopted June 25, 2008.

- F.** Standards of the National Fire Protection Association. When requested by a building owner, the Fire Marshal may use criteria from an edition of a National Fire Protection Association Standard that is more current than adopted by Chapter 45 of the 2007 Oregon Fire Code.

31.10.060 Authority to Require Address Change.

The Fire Marshal is authorized to require a property address change when, in the opinion of the Fire Marshal, the existing address may delay emergency response by emergency service providers.

31.10.070 Citations.

(Amended by Ordinance Nos. 180514 and 181956, effective June 25, 2008.)

- A.** Authority Established.

If, after investigation, the Fire Marshal determines that a violation of this Title has occurred, and that the person, entity or owner/occupant committing the violation knew or should have known that the action was in violation of this Title, a citation may be issued to the person, entity or owner/occupant committing the violation. Citable violations include, but are not limited to:

1. Failure to obtain a permit
2. Failure to adhere to permit conditions
3. Failure to adhere to assigned occupant load limit in assembly occupancy
4. Exit blocked, obstructed
5. Exit corridor or aisle obstructed or width reduced
6. "Exit" sign missing or not working
7. Fire extinguisher missing, discharged or wrong type
8. Firefighting appliance blocked, obstructed or otherwise rendered unusable
9. Fire alarm device or fire extinguishing system blocked, obstructed or otherwise rendered unusable

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10. Failure to use, maintain, store or secure propane bottle as required by this Title
 11. Performing work that requires a Certificate of Fitness without a valid certificate
 12. Assigning an employee to perform work that requires a Certificate of Fitness without a valid certificate
 13. Parking on a posted fire access road
 14. Blocking or obstructing any fire hydrant or fire department connection
 15. Conducting mobile fueling operation in violation of Fire Code regulations
 16. Possession or use of illegal fireworks
 17. Illegal storage of fireworks
 18. Illegal sale of fireworks
 19. Illegal commercial fireworks display
 20. Illegal occupancy in violation of International Building Code
 21. Burning in violation of Fire Code
 22. Repetitive false alarms in occupancies equipped with fire, smoke and/or water flow detection systems.
 23. Violations that would constitute or contribute to an immediate and/or imminent hazard to life and property
- B.** Each day a person, owner or occupant violates or fails to comply with a provision of this chapter may be considered a separate violation for which a citation may be issued.
- C.** Fines Authorized. Citations shall result in monetary fines as set forth in Fee Schedule adopted by City Council. Fines may escalate for two or more occurrences of the same or similar violations by the same person, owner or occupant within a four-year period. Fines may escalate for failure to pay within 30 days of issuance. The Fire Marshal may suspend 1/2 of any citation fine, providing the person, owner or occupant cited agrees in writing to immediately

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cease and/or abate the violation. If the person, owner or occupant is found to be in violation of the same or similar violation within a four year period, the original fine may be reinstated and shall be in addition to any other fine authorized by this title.

D. Citation Process. Citation shall be delivered as would reasonably be expected to provide notice, including in person, by certified mail or posted conspicuously on property. Citation shall include:

1. Name and address of person, owner or occupant being cited
2. A description of the property where the violation occurred
3. Date(s) of the violation
4. Reference to the particular code(s) violated
5. A statement explaining actions required of person, owner or occupant being cited
6. A statement of applicable monetary penalty, and
7. A statement of the right to appeal the citation

31.10.080 Appeals.

A. Standing for Appeals. The following persons, owners or occupants, herein called appellants, may submit an appeal as described in this Title:

1. Any person, owner or occupant who has been ordered by the Fire Marshal to incur any expense under any provision of this Title;
2. Any person, owner or occupant who has been cited by the Fire Marshal for violation of any provision of this Title;
3. Any person, owner or occupant whose application for a permit or approval under this Title has been refused by the Fire Marshal;
4. Any person, owner or occupant whose special case is not specifically covered by this Title.

B. Board of Appeals. The Fire Code Board of Appeals, having been established, is hereby continued.

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1. The Board shall consist of three members, and an alternate for each member. Each member and alternate shall serve a term of three years. The Mayor shall appoint and may remove any member or alternate from the Board at any time.
2. Board members and alternates must by experience and training in building construction, building operations or fire protection systems, be qualified to pass on the provisions of this Title as they affect the interest of the City as a whole. No two members or alternates shall be engaged in the same business, profession or occupation. No member or alternate shall be an officer, official or employee of the City.
3. No member or alternate shall hear or act on a matter in which he or she has any interest, direct or indirect, pecuniary or otherwise. In the event of such an interest, the member's alternate shall hear and determine the matter.
4. The Board annually shall elect a Chairman from among the three members of the Board. Meetings of the Board shall be held at the call of the Chairman, who shall call meetings at the Fire Marshal's request.

C. Appeal Procedure.

1. Appellant shall serve written notice of appeal on the Fire Marshal no more than ten days after the Fire Marshal's order or action. The notice of appeal shall be in such form as specified by the Fire Marshal, and shall be accompanied by appeal fee.
2. The Fire Marshal may approve, approve with conditions or deny the requested relief. The decision of the Fire Marshal, with a brief statement for its basis, shall be transmitted to the appellant in writing. If the appellant is not satisfied with the decision, the appellant may, within ten days after notice, serve written notice on the Fire Marshal requesting a hearing before the Fire Code Board of Appeals.
3. The Fire Marshal shall transmit copies of the notice of appeal to the Board of Appeals and to the Commissioner-in-Charge. Not less than 10 days prior to the date of the hearing, the Board shall mail notice of the date, time and place of the hearing to the appellant, by certified mail, return receipt requested.
4. After the hearing, the Board may by a majority vote, affirm, annul or modify the action of the Fire Marshal provided any modification of a strict

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application of this Title shall be made only on condition that a substantially equivalent degree of safety is provided and is generally conforming to national standards concerning fire prevention, fire safety measures and building construction requirements for safety. The decision of the Board interpreting the provisions of this Title may be by a majority vote of the Board. The Board shall deliver a certified copy of its decision to the appellant.

5. Where unquestionably and clearly, practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of this Title may result from the literal interpretation and enforcement thereof, the Board of Appeals may grant variances from this Title, in a specific case with such conditions and safeguards as the Board may determine, in harmony with the general purpose, intent and spirit of this Title, so that the public safety and welfare shall be secured and substantial justice shall be done. The grant of a variance shall be by unanimous vote of the Board.
6. The Board of Appeals shall submit to the Council on or before the first day of August of each year a report summarizing its decisions for the preceding fiscal year together with its recommendations for amendments to this Title.

31.10.090 Remedies.

In enforcing any of the requirements of this Title, the Fire Marshal may gain compliance by:

- A. Instituting a proceeding before the Code Hearings Officer as set out in Title 22 of the City Code; or
- B. Causing appropriate action to be instituted in a court of competent jurisdiction; or
- C. Taking such other action as the Fire Marshal, in the exercise of the Fire Marshal's discretion, deems appropriate.

31.10.100 Waivers and Adjustments.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. Commissioner-in-Charge of the Fire Bureau is authorized to waive any fees, fines and penalties in this Title based on guidelines established by the Commissioner. The authority to waive fees, fines and penalties based on the established guidelines may be delegated to the Fire Marshal.

- B.** At the discretion of the supervisor in charge of customer accounts, account balances may be zeroed out if that balance represents only residual unpaid principal, interest or penalties.

31.10.110 Collections.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** The City may bring legal action to collect any fee, fine, penalty or interest provided for in this Title and assessed by a Fire Bureau member.
- B.** Accounts with amounts 91 days or more past due will be handled according to the collection policy established by the Fire Bureau; this may include use of a professional collection agency. Fees imposed by collection agency may be added onto the current fee liability of the account. Invoices returned by the U.S. Postal Service as “refused” or payments returned by a financial institution for insufficient funds will be considered delinquent and subject to immediate collection actions.

31.10.120 Rewards.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** Fund Authorized. The Fire Chief, in consultation with the Commissioner-in-Charge, is authorized to establish a reward fund to assist with investigations of violations of this Title. Such fund may include up to \$1000 of Bureau budget allocations as well as donations from individuals, businesses and non-profit organizations.
- B.** Reward Fund Disbursements. The Fire Marshal may, in consultation with the Fire Chief and Commissioner-in-Charge:
 - 1.** Contribute funds to other public agencies or non-profit organizations to facilitate the investigation of specific arson crimes;
 - 2.** Offer and disburse rewards directly to individuals, except as limited by this Title, who have assisted with the investigation or prosecution of a violation of this Title.
- C.** A reward under the provisions of this Code shall not be paid to any United States, State, County, or municipal officer or employee. Bounty hunters are not entitled to rewards under this Chapter.

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31.10.130 Request for Records.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** Upon written application, under the Public Records Law, accompanied by the fee adopted by the City Council, the Fire Marshal may furnish copies of fire incident reports, non-confidential fire investigation reports, fire prevention inspection reports and other bureau-related information. If there is no copy on file, the fee will not be refunded.

- B.** Nothing in this section shall be construed as applying to any City, County, State or Federal agency, or subdivision thereof, or any nationally recognized nonprofit agency engaged in the suppression or prevention of fire.

Chapter 31.20

GENERAL REQUIREMENTS

Sections:

- 31.20.010 Authority at Fires or Other Emergencies.
- 31.20.020 Eliminating Fire Hazards.
- 31.20.030 Violator Assumes Costs.
- 31.20.040 Fire Marshal Authorized to Abate Hazard and Assign Costs.
- 31.20.050 Fire Marshal Authorized to Require Building Alterations.
- 31.20.060 Unsafe Buildings.
- 31.20.070 Temporary Fire Watch.
- 31.20.080 Authority to Establish Fire Escape Maintenance and Removal Standards.
- 31.20.090 Authority to Require Key Boxes and Charge Installation Fee
- 31.20.100 Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.
- 31.20.110 Certificates of Fitness.
- 31.20.120 Use of Helicopters.

31.20.010 Authority at Fires or Other Emergencies.

- A.** The Fire Marshal or any of his or her assistants, the Fire Chief, or any member of the Fire Bureau in charge of fire fighting at a fire, or the Chief of Police or any member of the Police Bureau in charge of police officers attending a fire, may immediately, summarily and without being required to give any notice whatsoever

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1. Cause the use and/or occupancy of all or any portion of a building or structure which is found to be in danger of fire resulting from the spread of an existing fire to be discontinued;
2. Close said building or structure or part thereof during such period of danger;
3. Prevent the use and occupancy thereof.

Such officer may use such force as he or she may find reasonably necessary to protect human life. It is unlawful for any person to refuse to leave such building, structure or portion thereof when ordered to vacate the same under authority of this Section.

- B.** The Fire Chief or the Fire Chief's authorized representatives shall be in charge of the scene of any emergency involving the saving of life and/or property from fire or other disaster, emergency medical services, hazardous materials incidents, or other emergency aid and shall have the power and authority to direct such operation as may be necessary in the reasonable performance of their duty.

31.20.020 Eliminating Fire Hazard.

Any owner/occupant, using or having charge or control of any premises, or any part of any premises, who creates or maintains a condition, or situation which constitutes a fire or life safety hazard, or who fails to promptly comply with the written notice of the Fire Bureau, shall be deemed guilty of violating this Title.

31.20.030 Violator Assumes Costs.

If a violation of this chapter results in or contributes to any emergency, including a fire, the violator may be civilly liable for the full cost of the emergency response as well as cleanup costs. The Commissioner-in-Charge of the Fire Bureau shall fix the amount of such expense. The amounts of all such charges assessed pursuant to this Section shall be paid to the City Treasurer, for deposit into the general fund of the City.

31.20.040 Fire Marshal Authorized to Abate Hazard and Assign Costs.

Where the Fire Marshal or Fire Bureau official in charge of the incident deems conditions exist that are deemed hazardous to life and property, except as limited by this Title, he/she is authorized to abate summarily such hazardous conditions that are in violation of this Title. Any costs associated with such summary abatement shall be charged against the property using the procedure provided for in City Code Chapter 22. The owner, occupant or other person in charge shall be immediately notified of the action taken and ordered by the Fire Marshal to secure the premises in full compliance with this Title.

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31.20.050 Fire Marshal Authorized to Require Building Alterations.

Whenever the Fire Marshal finds that the means of egress from a building or portion thereof, or that the means of preventing the origin or spread of fire or of extinguishing fire in any building or portion thereof, are insufficient or inadequate, the Fire Marshal is hereby authorized and empowered to direct and require that any such building or portion thereof be rearranged, altered, or repaired to be sufficient and adequate in such respects.

31.20.060 Unsafe Buildings.

- A.** Notwithstanding the mandatory directives to the Fire Marshal contained in this subsection, the Fire Marshal may, in the exercise of his authority, and in lieu of ordering the vacation of such building or structure, impose alternative interim measures, including, but not limited to, the imposition of a fire watch as established in this Title, when, in the opinion of the Fire Marshal, such interim measures will reduce such hazard so that it is no longer imminently dangerous so that persons may temporarily occupy such building or structure until such hazard has been abated.
- B.** The owner, the owner's agent, or the occupant shall reimburse the City for any expenditures used in precautionary measures under this Section; or such expenditures shall be included as an additional item and be spread as an assessment against the property.
- C.** If a building or structure used for low income multi-family housing is found to be imminently dangerous, as set forth in this Title, the Fire Marshal shall not cause the use and/or occupancy of the building or structure to be discontinued immediately, but shall report the matter to the Commissioner-In-Charge who shall report the matter to the Council for consideration of rehabilitation and repair by the City, provided that the Fire Marshal, in the exercise of his discretion, finds that interim measures, including but not limited to a fire watch, will reduce the hazard so that it is no longer imminently dangerous.

31.20.070 Temporary Fire Watch.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** In order to avoid relocating persons from, or the vacation of, any structure, place of business or place of habitation that is imminently dangerous, as described in this Title, the Fire Marshal or senior fire officer may, if he determines that a reasonable level of fire and life safety can be obtained, order the owner/occupant to provide either a licensed, bonded security agency or other means approved by the Fire Bureau, to perform as a fire watch, making periodic patrols, as designated by the Fire Bureau, as a condition of allowing continued occupancy. If such patrols are not available or cannot be established as ordered by the Fire Marshal or senior fire officer, or if owner/occupant is unavailable, or if owner/occupant

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does not comply with such orders of the Fire Bureau, then the Fire Marshal or senior fire officer may:

1. Order off duty Fire Bureau personnel back to duty to provide the fire watch patrol, or
 2. Contract with a licensed, bonded security company to provide such service
- B.** The owner /occupant shall be responsible for paying all costs incurred by the Fire Bureau to the City Treasurer, who will reimburse the Fire Bureau's budget for this expense. If such costs are not paid within 30 days of billing, an assessment shall be made by ordinance and entered in the docket of City liens. Such entry shall constitute a lien upon the property and collected in all respects as provided for in this Title, and shall bear interest at the rate of 9 percent per year from 10 days after the date of entry into the lien docket.

31.20.080 Authority to Establish Fire Escape Maintenance and Removal Standards.

The Fire Marshal is authorized to develop and enforce standards for the maintenance and removal of fire escapes in accordance with provisions of ORS Chapter 479.

31.20.090 Authority to Require Key Boxes and Charge Installation Fee.

The Fire Marshal is authorized to require the installation of a key box in or on a building or area when access to or within the building or area may be difficult for firefighting purposes. The Fire Marshal may charge a fee for installation of a key box, regardless of whether the installation is mandatory or voluntary.

31.20.100 Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.

(Amended by Ordinance No. 181956, effective June 25, 2008.) The owners of five-story apartment buildings of Type V-A construction approved under City Code Section 24.95 shall be responsible for assuring that the fire and life-safety systems required by the City Code Section 24 are maintained in an operable condition at all times. Approved persons shall conduct quarterly tests of such systems; a written record shall be maintained and be available to the inspection authority, unless otherwise required by the Fire Chief.

31.20.110 Certificates of Fitness.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** A Certificate of Fitness shall first be obtained from the Fire Marshal before doing any of the following:
1. Automatic sprinkler system installation, alteration, testing, service or repair;
 2. Fire extinguisher refilling, service or repair;

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- 3.** Fixed fire extinguishing systems installation, alteration, testing, service or repair;
 - 4.** Privately owned fire mains or hydrant systems installation, alteration, testing, service or repair;
 - 5.** Commercial cooking hood and duct system cleaning.
- B.** When an applicant has successfully complied with regulations administered by the Fire Marshal, and upon receipt of the first annual fee as specified in the fee scheduled adopted by City Council, the Fire Marshal shall issue a Certificate of Fitness to the applicant. The Fire Marshal shall issue subsequent annual Certificates of Fitness on payment of an annual fee, unless the certification has lapsed, been suspended or been revoked.
- C.** Each Certificate of Fitness issued shall remain valid and in effect for one year from the date of issue unless suspended or revoked for due cause by the Fire Marshal. The certificate shall not be transferable.
- D.** It is unlawful for any person firm or corporation to assign an employee or other person to perform any of the activities regulated by this Chapter unless such employee or person is certified, or working under an on-site supervisor who is certified.
- E.** Whenever the Fire Marshal determines after investigation that any person holding a Certificate of Fitness as provided herein has performed work so as to create a hazard to life or property, the Fire Marshal is authorized and empowered to suspend or revoke the Certificate of Fitness. Notice shall be given of the suspension or revocation and the reasons for the suspension or revocation shall be identified in the notice.
- F.** The Fire Marshal may issue a citation to firms or corporations in violation of this Chapter.
- G.** Any person, firm or corporation so affected may appeal such suspension, revocation or citation as provided in this Title.
- H.** Once a Certificate of Fitness has been revoked, an applicant shall reapply, meet the requirements of certification and pay fees for a new Certificate before performing work on equipment requiring a Certificate. The Fire Marshal may delay issuance of new Certificate for up to 90 days following revocation.

31.20.120 Use of Helicopters.

Notwithstanding any other provisions of this Code, the Fire Bureau may use and land helicopters any place within the City, subject to Federal and State regulations for the purpose of training Fire Bureau personnel and helicopter operators in fire suppression techniques and disaster relief procedures and for the purpose of conducting disaster relief drills subject to the consent of the property owner or in the case of City property, the director of the affected bureau.

Chapter 31.30

DEVELOPMENT AND BUILDING REQUIREMENTS

Sections:

- 31.30.010 Fire Chief Authorized to Establish Access Standards.
- 31.30.020 Removal of On-Street Parking.
- 31.30.030 Fire Chief Authorized to Require Water Supply.
- 31.30.040 Permits and Fees Required.
- 31.30.050 Additional Permit Requirements.
- 31.30.060 Special Inspections.
- 31.30.070 Expiration of Plan Review.

31.30.010 Fire Chief Authorized to Establish Access Standards.

The Fire Chief shall prescribe standards for streets and roadways that provide access for fire department apparatus. Such standards shall apply to every building hereafter constructed. Standards shall prescribe minimum unobstructed width, turning radius, load capacity, clearance, grade and other criteria deemed necessary for apparatus access. Where practical the adopted standards shall be consistent with development standards for public and private streets.

- A.** The Fire Chief may require an increase in minimum access widths where such width is not adequate for fire or rescue operations.
- B.** Dead-end fire department access roads more than 300 feet in length shall include provisions for turning around fire department apparatus within 150 feet of the closed end.

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31.30.020 Removal of On Street Parking.

- A. The Fire Chief shall have authority to designate any street, whether public or private, or portion of a street as “No Parking” where the street width is less than 32 feet and:
 - 1. The Chief determines that site-specific conditions such as roadway alignment impedes access of fire apparatus, or
 - 2. Actual emergency response experience clearly demonstrates that emergency vehicles cannot reasonably provide service.
- B. When required by the Chief the street shall be marked with permanent “No Parking” signs.

31.30.030 Fire Chief Authorized to Require Water Supply.

The Fire Chief shall have authority to establish and enforce standards for water supply for fire protection. Where required by the Fire Chief, a minimum of two fire pumps independently driven shall be provided and sized for the sprinkler demand or standpipe demand, whichever is greater.

31.30.040 Permits and Fees Required.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. It is unlawful for any person or entity to construct, install, alter, repair, move, demolish or change any fire protection system or equipment, or construct, install, alter, repair, move, demolish or change any equipment, piping or storage container used for flammable or combustible liquids, flammable gases or hazardous materials, for which a permit is required in this Title, without first obtaining such permit from the Fire Marshal. In instances where laws or regulations are enforced by other agencies, joint approval shall be obtained.
- B. All permits issued under this Title shall be presumed to contain the provision that the applicant or the applicant’s agents shall carry out the proposed activity in compliance with all the requirements of this Title and any other federal and State laws and City regulations, and other design guidelines as adopted by City Council that apply, whether specified or not, and in complete accordance with the approved plans and specifications.
- C. A permit issued under this Title shall continue until revoked or for such a period of time as designated therein at the time of issuance. It shall not be transferable and any change in use, occupancy, operation or ownership shall require a new permit.

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- D.** Work or activity without a Permit. Whenever any work for which a permit is required by this Title has commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Title nor from any penalty prescribed by law.
- E.** Work and Equipment Requiring Permits. Except in one and two-family dwellings, permits and associated fees are required:
- 1.** To install, alter, repair or remove,
 - a.** Automatic sprinkler systems and standpipes or equipment pertaining thereto
 - b.** Fixed extinguishing systems or related equipment
 - c.** Fire alarm systems or equipment pertaining thereto
 - d.** Pre-manufactured paint spray booths or related equipment
 - e.** Private fire hydrants or related piping or devices
 - f.** Liquefied natural gases (LNG), liquefied petroleum gases (LPG) or compressed natural gas (CNG) of 100 gallon water capacity or more
 - 2.** To install containers, piping and related equipment for the manufacture, storage, handling or use of compressed gases.
 - 3.** To install, alter or remove tanks and related equipment used for storage, handling, transport or use of flammable or combustible liquids or hazardous materials as defined in the Fire Code.
 - a.** Exception: Fuel supply for portable generators outside of buildings, limited to 60 days on a single premises during a 12 month period.

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4. To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of any equipment or piping in connection with the manufacture, storage, handling, use or sale of flammable or combustible liquids or hazardous materials.
5. To change the type of contents stored in tanks containing flammable or combustible liquids or hazardous materials to a material other than that for which the tank was designed and constructed.
6. Heating Oil Tank Decommissioning. When requested by an owner for the purposes of documenting the decommissioning of a commercial or a one or two-family residential underground heating oil storage tank, a permit may be issued and an inspection made after payment of a fee in the amount specified in adopted Fee Schedule.

F. Permit Applications.

1. Applications for permits shall be made by the owner or authorized agent to the Fire Prevention Division in such form and detail as prescribed by the Fire Bureau. The application shall be accompanied by:
 - a. Sufficient plans, specifications, and engineering data to verify that the proposed activity or design complies with applicable codes, standards and regulations. When the applicant fails to provide adequate specifications and plan detail, the Fire Marshal may require additional information including all submittals to be prepared by an architect or engineer registered in the State of Oregon.
 - b. Payment as set forth in Fee Schedule adopted by City Council.
 - c. Exception: When the installation of a fire protection system is not required but is voluntarily installed, but not as an alternative to another requirement, the fees specified in the Fee Schedule shall be reduced by 50%.
2. Any permit issued under this Title shall be personal to the party for whom it has been issued.

G. Voiding, Revocation or Suspension of Permit.

1. Any permit that purports to sanction a violation of this Title or any applicable law or regulations shall be void and any approval of plans and specifications in the issuance of such permit shall likewise be void.

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2. After an administrative hearing by the Fire Marshal, any such permit may be suspended or revoked under the following conditions:
 - a. It is transferred or assigned to a party other than the party to whom the permit was issued;
 - b. It is used for a location other than that for which it was issued;
 - c. Approved plans, conditions or limitations set forth in the permit have been violated;
 - d. The permittee fails, refuses, or neglects to comply with any order or notice duly served under the provisions of this Title;
 - e. The permitted work was initiated without the owner's or other governmental agency's consent;
 - f. Work has not begun within 180 days of permit issuance;
 - g. Work, once commenced, has not progressed for a period of 90 days.
 - h. Payment for the permit has been returned or refused by the paying agent.
3. Any permit may be suspended for up to three business days without a hearing if the Fire Marshal finds that a fire hazard exists or there has been any false statement, misrepresentation or omission as to a material fact, or change in condition from those stipulated in the application or plans upon which the permit was based. The permittee shall be given notice of the precise violations.
4. A permittee whose permit has been revoked or suspended may appeal the action as provided in this Title. The permit shall remain valid, pending the decision of the Board of Appeals.

31.30.050 Additional Permit Requirements.

A. Plan Review.

Plans for construction, alteration, repair, or other work involving or affecting the fire and life safety features of any building regulated by the Fire Marshal shall be

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reviewed by representatives of the Fire Prevention Division prior to issuance of the building permit.

B. Inspection of Permitted Work.

All construction, work, or activity for which a permit is required shall be subject to inspection by the Fire Marshal. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Fire Marshal nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

C. Inspection Requests.

It shall be the duty of the person doing the work authorized by a permit to notify the Fire Marshal that such work is ready for inspection. The Fire Marshal may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing, by telephone, or by other means at the option of the Fire Marshal. Upon inspection the fire Marshal may require corrections. It shall be the duty of the permit applicant requesting an inspection to promptly comply with the written notice of corrections required by the Fire Marshal as a condition of the permit. A fee may be charged for re-inspections when the work is not ready for the requested inspection.

D. Inspection Record Card.

Work requiring a permit shall not be commenced until the permit holder or his agent shall post an inspection record card in a conspicuous place on the premises which allows the Fire Marshal to conveniently make the required entries regarding the work. This card shall be maintained as described until final approval of permitted work has been granted by the Fire Marshal.

31.30.060 Special Inspections.

When inspections are requested or required outside of normal working hours to verify compliance with approved plans or permits, an hourly fee shall be paid as set forth in fee schedule adopted by City Council, with a minimum charge of four hours.

31.30.070 Expiration of Plan Review.

Applications shall expire by limitation when no permit is issued within 180 days following the date of application due to incomplete information or failure to provide requested corrections. In such cases plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Fire Marshal. The Fire Marshal may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more

than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

Chapter 31.40

SPECIAL USE PERMITS

Sections:

- 31.40.010 Permits and Fees Required.
- 31.40.020 Activities Requiring Temporary Permits.
- 31.40.030 Applications.
- 31.40.040 Inspection of Permitted Work.
- 31.40.050 Revocation and Suspension of Permits.
- 31.40.060 General Requirements for Explosives, Blasting Agents, Pyrotechnics and Fireworks.
- 31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.
- 31.40.080 Additional Requirements for Blasting Activities.

31.40.010 Permits and Fees Required.

It is unlawful for any person or entity to use a building or premises or to engage in any activities for which a permit is required in this Title without first obtaining such permit from the Fire Marshal. In instances where laws or regulations are enforced by other agencies, joint approval shall be obtained.

All permits issued under this Title shall be presumed to contain the provision that the applicant or the applicant's agents shall carry out the proposed activity in compliance with all the requirements of this Title and any other Federal and State laws and City regulations, and other design guidelines as adopted by City Council that apply, whether specified or not, and in complete accordance with the approved plans and specifications.

A permit issued under this Title shall continue until revoked or for such a period of time as designated therein at the time of issuance. It shall not be transferable and any change in use, occupancy or operation shall require a new permit.

31.40.020 Activities Requiring Temporary Permits.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** Temporary permits and associated fees are required for:

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1. Festivals, celebrations and special events of a temporary nature where occupant load of 500 or more people as calculated by the Fire Marshal, in an assembly building without fixed seating
2. Gatherings of 50 or more people for civic, social, recreational or religious functions in structures not approved for assembly use
3. Use of tents or membrane structures with sides and/or fencing on greater than 75% of the perimeter with a calculated occupant load of 50 or more
4. Gatherings of 50 or more people that are fenced on four sides
5. Trade shows with gatherings of fewer than 500 people when, in the opinion of the Fire Marshal, conditions warrant additional safety precautions
6. Display of four or more motorized vehicles in a building when not associated with a permitted event
7. Theatrical firearms, use of blanks or use of open flame associated with a live performance
8. Storage or use of liquid propane (LP) gas in excess of 17 ounces
9. Temporary use of LP gas within buildings in excess of the amounts allowed by this Title
10. Storage or use of LP gas in outdoor markets with gatherings of 50 or more people
11. Use of lasers that require a Federal variance
12. Pyrotechnic special effects, other than fireworks
13. Public fireworks display
14. Retail sales of fireworks
15. Blasting
16. Transportation of explosives
17. When cutting or welding is performed in restricted areas, including:

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- a. Where the sprinkler system is impaired
 - b. Where there exists the potential of an explosive atmosphere, such as locations where flammable gasses, liquids or vapors are present
 - c. Areas with readily ignitable materials, such as storage of large quantities of bulk sulfur, baled paper, cotton, lint, dust or loose combustible materials
 - d. On board ships at dock or ships under construction or repair
 - e. At other locations as specified by the Fire Marshal
- 18.** To place and use roofing kettles on any surface above grade.
- 19.** To conduct a spraying or dipping operation using flammable or combustible liquids or the application of combustible powders regulated by the Fire Code outside of a permitted spray booth or room.
- B.** Annual Permits.
- 1.** An annual permit and associated fee is required for permanent installation of 90 days or more of LP gas containers greater than 25 gallons WC or 100 lbs.
 - 2.** Any commercial occupancy that allows fire performance art shall obtain an annual permit.
 - 3.** Any assembly occupancy with an occupant load of 500 or greater and a maximum floor space of 20,000 square feet may apply for an annual permit for up to four pre-approved floor plans. The floor plan(s) must include detailed information regarding exiting, stage set-up and set-up of fixtures and furnishings. If approved, the annual permit may substitute for individual permits providing there is no deviation from the approved plan.
- Exceptions:
- a. Any exiting, stage or floor plan that deviates from a pre-approved plan requires an individual permit with associated fee.
 - b. Any plan that includes booths or vendors requires an individual permit with associated fee.

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- c. Any annual permit may, at the discretion of the Fire Marshal, be revoked for cause.

31.40.030 Applications.

- A. Applications for permits shall be made to the Fire Prevention Division in such form and detail as prescribed by the Fire Bureau. The application shall be accompanied by payment as set forth in Fee Schedule adopted by City Council. Applications for the permit and required plans shall be submitted for approval not less than two weeks prior to the event or the commencement of advance ticket sales, whichever occurs first. Applications submitted less than one week prior to the event shall be charged double the permit fee set forth in the Fee Schedule.
- B. The application for the permit shall state the name, address and telephone number of the owner or party legally occupying the building or premises on which the activity will be conducted. The application shall be accompanied by the written permission of the owner or legal occupant, signed by a person with authority to do so, authorizing the applicant to carry on the activity described in the application, in the building or on the premises described.
- C. When required by the Fire Marshal, sufficient plans, specifications, and engineering data must be submitted for the purpose of verifying that the proposed activity or design complies with applicable codes, standards and regulations. When the applicant fails to provide adequate specifications and plan detail, the Fire Marshal may require additional information including all submittals to be prepared by an architect or engineer registered in the State of Oregon.
- D. The Fire Marshal may refuse to issue a permit if the applicant has unpaid fees for prior permits or unpaid citations.

31.40.040 Inspection of Permitted Work.

All activity for which a permit is required shall be subject to inspection by the Fire Marshal. An approved set of plans and the permit shall be kept at the event site. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Fire Marshal nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

31.40.050 Revocation and Suspension of Permits.

- A. Any permit that sanctions a violation of this Title or any applicable law or regulations shall be void and any approval of plans and specifications in the issuance of such permit shall likewise be void.

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- B.** Any permit issued under this Title may, after an administrative review by the Fire Marshal, be suspended or revoked under the following conditions:
1. It is used by a person other than the person to whom the permit was issued;
 2. It is used for a location other than that for which it was issued;
 3. Approved plans, conditions or limitations set forth in the permit have been violated;
 4. The permittee fails, refuses, or neglects to comply with any order or notice duly served under the provisions of this Title;
 5. The permitted work was initiated without the owner's or other governmental agency's consent;
 6. The Fire Marshal finds that a hazard other than that anticipated in the permit approval exists, or there has been a false statement, misrepresentation or omission as to a material fact, or a change in condition from that stipulated in the application or plans upon which the permit was based.
 7. Payment for the permit has been returned or refused by the paying agent.
- C.** The Fire Marshal may, as an alternative remedy, suspend the permit:
1. For the first offense in any two-year period, revoke the permit for one day and/or performance, or until the condition is corrected;
 2. For the second offense in any two-year period, revoke the permit for three days and/or performances, or until the condition is corrected;
 3. For the third offense in any two-year period, revoke the permit for fifteen days and/or performances;
 4. For the fourth and subsequent offenses in any two-year period, revoke the permit for 30 days and/or performances.
- D.** The City shall not be responsible for any losses arising from the permit suspension or revocation.

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31.40.060 General Requirements for Explosives, Pyrotechnics, Blasting Agents and Fireworks.

- A.** The applicant shall follow all federal, state, county and city laws and regulations applicable to obtaining, owning, transporting, storing, handling and using explosive materials in addition to obtaining all blasting permits required and issued by the City. The Fire Marshal may adopt policies and procedures consistent with these regulations for the purpose of protecting the public, providing safety to life and property and to assure consistent practices in enforcement and administration of these requirements.
- B.** Shipments at Terminals.
- 1.** Carriers shall immediately notify the Fire Marshal when explosives, pyrotechnics, blasting agents or fireworks are delivered within the City. Carriers delivering such cargo at a waterfront terminal shall also notify the Harbor Master of such delivery.
 - 2.** Carriers of explosives, pyrotechnics, blasting agents or fireworks for delivery within the City shall immediately upon arrival at the destination notify the consignee or the consignee's agent of the arrival of the cargo. The consignee or the consignee's agent shall, within 24 hours after the arrival of the cargo in the City, move the cargo outside the City or to a storage facility within the City approved by the Fire Marshal. Upon a showing of extreme hardship and minimal risk of danger to life and property, the Fire Marshal may extend the 24 hour period. If, after notification, the consignee or the consignee's agent does not move the cargo as specified above and within the time specified above, the carrier shall so notify the Fire Marshal, who shall instruct the carrier as to the disposition of the cargo.
 - 3.** No explosives, pyrotechnics, blasting agents or fireworks awaiting further shipment to destinations outside the City shall be held at a terminal within the City for more than 24 hours unless under direct order of the Fire Marshal.
- C.** Transportation by Water.
- 1.** All explosives, blasting agents, fireworks and pyrotechnics transported from land to water or from water to land are subject to regulation under applicable provisions of this Chapter and Portland City Code 19 "Harbors" and shall be subject to supervision by the Harbor Master with regard to loading, unloading and handling on any waterfront facility in the City. The Harbor Master shall notify the Fire Marshal when any vessel having

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explosives, blasting agents, pyrotechnics or fireworks on board enters the City limits.

2. The party with legal custody shall provide adequate security of explosives, blasting agents, pyrotechnics and fireworks during the time that they are held at any waterfront facility.

31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.

- A. It is unlawful to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks or pyrotechnics within the City, except as specified by ORS 480.120. For the purpose of this Chapter, the Fire Marshal of the City is recognized as an ex-officio Deputy State Fire Marshal as provided by State statute.
- B. All permitted public fireworks displays may be supervised and controlled by the Fire Chief, acting by and through the Fire Marshal.
- C. Violations - The Fire Marshal is authorized to receive for storage or transfer explosives, blasting agents, pyrotechnics or fireworks obtained by law enforcement officers or others. The Fire Marshal shall confiscate, remove, or have removed at the owner's expense, all stocks of fireworks or other combustibles exposed for sale or held in stock in violation of this Title, and may destroy same, when the Fire Marshal finds such measures necessary for the preservation of the public safety.

31.40.080 Additional Requirements for Blasting Activities.

- A. A blasting permit is required for every individual project requiring blasting. It shall be a violation of this Title for any person or entity to do any of the following without first obtaining a permit from the Fire Marshal.
 1. be in possession of high explosive materials, as defined by the adopted fire code;
 2. transport explosives;
 3. conduct an operation or activity requiring the use of explosive materials;
or
 4. perform, order or supervise the loading and firing of high explosive materials for the purpose of blasting.

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B. Certificate of Insurance.

The applicant shall provide a certificate of liability insurance to include X, C, U coverage in a form to be approved by the City:

1. In an amount not less than one million dollars (\$1,000,000), or
2. Such additional amount as may be reasonable under all of the circumstances then existing as determined by the Fire Marshal.

The certificate of insurance shall state on its face that the underlying liability insurance policy includes coverage for and indemnification of the City, its officers, agents (including any blasting consultant in the employ of the City, and any employees of such blasting agent) as additional insured, against any claims brought by owners of any property for loss or damage that resulted from such blasting and coverage to indemnify, hold harmless and defend the City, its officers, agents, and employees in and from any cost, attorney's fees or judgments arising in any way from the actions of the permittee as a result in whole or in part from the blasting. The certificate shall also state that the insurance company must give the City a minimum of 10 days' notice of cancellation of the required liability insurance coverage. Notice shall include notice to the Fire Marshal.

C. Additional Permissions.

1. A valid Certificate of Possession from the Bureau of Alcohol, Tobacco and Firearms must be obtained prior to issuance of a permit.
2. High explosive materials shall not be transported, sold, given, delivered, or transferred to anyone in the City not in possession of a valid blasting permit.
3. Permits for blasting projects in a public right-of-way or adjacent to a public right-of-way when the blast may affect operation of the right-of-way shall not be issued unless approved by other City Bureaus or other public agencies as deemed appropriate by the Fire Marshal.

D. City Assumes No Liability.

By the passage of the ordinance codified in this chapter or the issuance of any permit under this chapter, the City assumes no responsibility for any damage caused by the person or entity blasting within the City.

Chapter 31.50

BUILDING INSPECTIONS

Sections:

- 31.50.010 Purpose and Scope.
- 31.50.020 Organization.
- 31.50.030 Process.
- 31.50.040 Administrative Warrants.
- 31.50.050 Fees Authorized.

31.50.010 Purpose and Scope.

The Fire Marshal shall establish a program for the periodic inspection of all occupancies of commercial buildings for compliance with the fire regulations. The Fire Marshal shall adopt a policy regarding the frequency, priority, and type of inspection of occupancies in commercial buildings subject to the availability of budgeted funds and staff. The Fire Marshal or the Fire Marshal's designees may, at all reasonable hours, enter into all buildings and upon all premises, except private residences, to conduct an inspection to determine if fire hazards exist.

31.50.020 Organization.

The Fire Marshal shall establish minimum qualifications of individuals performing inspections. Individuals may be members of the Fire Prevention Division, members of other Divisions within the Fire Bureau, members of other public agencies operating under an interagency agreement, or employees or individuals working under contract with the Fire Bureau.

31.50.030 Process.

- A.** Prior to a periodic inspection, each owner/occupant shall be sent a letter by first class mail, giving notice of the inspection and listing commonly found violations of fire regulations. Failure to correct the common violations listed in the letter shall result in an additional fee for each class of violation.
- B.** When a periodic inspection reveals a violation of fire regulations, the Fire Marshal shall so notify the owner/occupant and the owner/occupant shall be responsible for immediately abating the violation. Failure to abate the violation as prescribed by the Fire Marshal shall result in additional penalties as set forth in a fee schedule adopted by City Council.

**TITLE 31
FIRE REGULATIONS**

31.50.040 Administrative Warrants.

(Amended by Ordinance No. 181956, effective June 25, 2008.) Where entry for the purpose of periodic inspection or investigation has been sought and refused, or an inspection or investigation may, in the opinion of the Fire Marshal, be jeopardized without an inspection warrant, the Fire Marshal may seek and execute such warrant as allowed under the provision of ORS 476.155 through 476.170.

31.50.050 Fees Authorized.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** There shall be an inspection fee payable by the building owner/occupant for all periodic inspections as well as inspections requested by the owner/occupant. The building owner will be billed in situations where the occupant shows the Fire Marshal a lease agreement or some other legal arrangement with the building owner which places the responsibility for fire inspection and the payment of fees on the building owner.
 - 1.** Exception: Inspections of primary and secondary schools and nonprofit hospitals buildings with an Oregon State Structural Code occupancy designation of I – 2 (Hospitals), shall be exempt from all fees except illegal occupancy, violation and reinspection fees.

- B.** Fees for periodic inspections, reinspections, violations and penalties shall be set forth in a fee schedule adopted by City Council. All fees shall be paid to the City Treasurer within 30 days of the invoice date and shall be considered delinquent after that date. A penalty shall be assessed if a person fails to pay the fee when due.