

## UPDATE INFORMATION SHEET

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

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

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

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

<b>Update Packet Enclosed</b>	December 31, 2010
Previous Update Packet	September 30, 2010



**CODE OF THE CITY OF PORTLAND, OREGON**  
**Insertion Guide for Code Revisions**  
**Office of the City Auditor 503-823-4082**  
**4th Quarter 2010 (December 2010) - Corrected**

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

- A.**     The Bureau of Development Services shall be responsible for the operation and management of the City's Development Services Center.
- B.**     The Bureau of Development Services has management responsibility for assigned personnel through direct assignment or through interagency agreements, and manages the daily operation of the Center.

**3.30.030      Development Review Advisory Committee.**

(Amended by Ordinance Nos. 176955, 178954, 184046 and 184183, effective November 26, 2010.)

- A.     Purpose.** The Development Review Advisory Committee is a citizen advisory body, representing those with interests in the outcome of policies, budgets, regulations, and procedures that affect development review processes. The purpose of the Committee is to foster a timely, predictable and accountable development review process that implements the City's goals for land use, transportation, housing, economic development, neighborhood livability and the environment. The Committee advocates for and supports consistent and fair application and implementation of regulations. The Committee provides public input into the development review process by:
  - 1.**     Providing leadership and expertise on issues affecting development;
  - 2.**     Providing feedback to Bureaus, Review Bodies, and City Council on the impact of potential regulations and administrative rules on the development review process, taking into consideration the full range of City goals and objectives;
  - 3.**     Providing recommendations for regulatory, code, and administrative rule changes affecting the development review process;
  - 4.**     Monitoring the application and enforcement of regulations for their effectiveness in achieving the City's development goals;
  - 5.**     Recommending customer service, permitting, process, and compliance improvements to Bureaus, Review Bodies, and/or City Council;
  - 6.**     Serving as an advisory board to Development Review Directors and Bureaus on development review processes and procedures;

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7. Providing input to ensure budgets of development review agencies are adequate to meet service goals and desired system outcomes.

**B. Membership.** The Development Review Advisory Committee shall consist of seventeen members. The members shall be appointed by the Commissioner-in-Charge of the Bureau of Development Services and confirmed by the City Council. The members shall be selected to provide representation of those persons concerned about planning, design and development. The areas of interest of members shall include, but not be limited to, development, planning, construction contracting, public works, design professions, neighborhood interests, business interests, historic preservation, environmental organizations, and institutional properties. Members shall be appointed so that the Committee consists of one member from organizations representing each of the following groups, or if organizations do not exist, an individual advocate for the representative group will be appointed:

1. Frequent development review customers
2. Citywide neighborhood interests
3. Design professionals
4. Environmental conservation and green building
5. Historic preservation
6. Home builders
7. Home remodelers
8. Land use planning professions
9. Large developers
10. Large construction contractors
11. Low-income housing developers
12. Major facilities landowners
13. Minority construction contractors and development professionals
14. Neighborhood Coalition Land Use Committees

15. Small businesses
  16. Planning and Sustainability Commission, as designated by the Planning and Sustainability Commission President, and serves as an ex officio member of the Committee.
  17. Public works permit customers
- C. Appointments and Terms.** Appointment to the Development Review Advisory Committee shall be for a three-year term. If a position is vacated during a term, it shall be filled for the unexpired term. Members of the Development Review Advisory Committee shall serve no more than two, complete three-year terms.
- D. Meetings, Officers, and Subcommittees.**
1. The Development Review Advisory Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with adopted rules of procedure. Seven members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Development Review Advisory Committee and to conduct any other Committee responsibilities. The election of officers shall take place at the first meeting of each calendar year.
  2. The officers of the Committee shall consist of a Chairperson and a Vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice chairperson shall act as chair when the chairperson is not available.
  3. The Development Review Advisory Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.
- E. Attendance.** Members of the Development Review Advisory Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.
- F. Compensation.** Development Review Advisory Committee members shall serve without compensation.

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#### **3.30.040 Establishment of Enforcement Priorities and Remedies.**

(Amended by Ordinance Nos. 175327, 176955 and 183793, effective May 19, 2010.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

- A.** Adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Establish enforcement fees or penalties for non-compliance. Establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by City Council.
- B.** Gain compliance by:
  - 1.** Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code; or
  - 2.** Causing appropriate action to be instituted in a court of competent jurisdiction; or
  - 3.** Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.
  - 4.** Taking other lawful action.
  - 5.** Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 by using the following procedures:
    - a.** If the Director determines that cause for revocation of a permit exists, the Director shall provide written notice thereof to the permittee. The notice shall contain a brief description of the facts supporting the revocation, the date the revocation shall become final and a notice of the permittee's right to appeal the revocation.
    - b.** The notice shall be mailed by certified mail, return receipt requested, and regular mail to the permittee. The notice shall be effective upon three days after mailing.
    - c.** The revocation shall become final and effective ten days after the notice is effective, unless an appeal is filed.

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- d. Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of City Code Chapter 22.10. The filing of an appeal shall stay the effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.
- C. Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:
  1. Initiating the notification procedures provided in Section 29.60.050.
  2. Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
    - a. The property is the subject of a notice of violation by the Bureau of Development Services; and
    - b. A response period of 30 days has passed since the effective date of the initial notice of violation; and
    - c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
  3. Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.
  4. Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
  5. All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties may be updated annually or on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
  6. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.
  7. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.010.
  8. Allowing exceptions as provided in Section 29.60.100.

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#### **3.30.050 Special Jurisdiction.**

(Amended by Ordinance Nos. 176585, 176955 and 182456, effective December 24, 2008). The Bureau of Development Services shall have authority to enforce Section 14A.20.070, and Subsections 16.10.200 L., 16.20.120 H., and 16.20.130 I., 16.20.160 and Sections 16.20.170, 16.70.450 and 16.70.800. The Bureau shall have authority to issue parking citations and order the towing and storage and/or removal of such vehicles and objects. In addition, violations of Section 16.20.160 are also subject to the Bureau of Development Services enforcement remedies as described in Subsection 3.30.040 C.

#### **3.30.060 Nuisance Abatement Contracts.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) When authorized elsewhere in this Code to abate a nuisance, the Bureau of Development Services may either abate the nuisance with City personnel as may be provided by this Code, or when necessary, the Bureau of Development Services, acting through its Director, may contract with eligible contractors for the performance of nuisance abatement services pursuant to the procedures established in Sections 3.30.040 through 3.30.060 of this Code.

#### **3.30.070 Inspections**

- A.** Definitions. The terms used in this Section shall be defined as provided in this subsection, unless the context requires otherwise:
  - 1.** Building Regulations means any city code title listed in 3.30.010, or any other safety or health statute, ordinance, regulation, rule, standard or order the Director is authorized to enforce.
  - 2.** Property means real property and all improvements or structures on real property, from property line to property line.
- B.** Warrants. Whenever an inspection is necessary to enforce any of the provisions authorized by this Title, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any condition which makes such property substandard as defined in any building regulations, the Director may request any Circuit Court judge to issue an inspection warrant for the inspection or investigation of any building or upon any property as required or authorized by city code or by statute. The inspection warrant is an order authorizing a safety or health inspection or investigation to be conducted at a designated building or property.
- C.** 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 building or 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 cause to believe that a condition of nonconformity with any building regulations 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 any building regulations.

**D. Procedure for Issuance of Inspection Warrant.**

1. Examination. Before issuing an inspection 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 inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly 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 other time of the day or night.

**E. 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.

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2. **Unoccupied Property.** In executing an inspection 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 search warrant shall be conspicuously posted on the property.
3. **Police Assistance.** In issuing an inspection 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 assist the building inspector or representative of the bureau inspecting the property in any way necessary to complete the inspection.
4. **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 5 working days from its date of execution, unless such judge before the expiration of such time extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

#### **3.30.080 Stop Work Orders.**

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

- A. When it is necessary to obtain compliance with this Title, or any violations of provisions administered by the Bureau of Development Services, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the responsible party may not resume work until such time as the Director give specific approval in writing. The stop work order will be in writing and will include:
  1. Date of order;
  2. Permit or registration number, where applicable;
  3. Site address, legal description or project location of stop work order;
  4. A description of violations observed; and
  5. The conditions under which the work may resume.

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- B.** The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy will be sent to the responsible party by Certified mail. Where the responsible party is not the property owner, a copy of the stop work order will also be sent to the property owner.
- C.** It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D.** A stop work order is effective upon posting.
- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written notice under Section A, above, within 24 hours.

**Chapter 3.32**

**BUREAU OF LICENSES**

(Repealed by Ordinance No. 179566,  
effective October 1, 2005.)

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**Chapter 3.33**

**BUREAU OF PLANNING  
AND SUSTAINABILITY**

(Chapter added by Ordinance No. 182671,  
effective May 15, 2009.)

- 3.33.010 Purpose.
- 3.33.030 Functions.
- 3.33.020 Organization.

**3.33.010 Purpose.**

The purpose of this Chapter is to describe the organization and functions of the Bureau of Planning and Sustainability.

**3.33.020 Organization.**

The Bureau is administered by the Commissioner in charge and led by the Director of Planning and Sustainability. The organizational structure of the Bureau shall be determined by the Director of the Bureau after consultation with the Commissioner in charge.

**3.33.030 Functions.**

(Amended by Ordinance No. 184046, effective September 10, 2010.) The Bureau of Planning and Sustainability is responsible for planning, implementing, and managing complex programs and projects related to sustainability, urban design, land use, and long range planning.

The Bureau of Planning and Sustainability:

- A. Works with the City Council, Planning and Sustainability Commission, and the community to define shared values and develop a cohesive vision for the future of Portland;
- B. Maintains, modifies, and updates a Comprehensive Plan to guide the development and redevelopment of the city;
- C. Ensures that City policies, implementation tools, and zoning designations are consistent with the Comprehensive Plan, the Metro Functional Plan, Statewide Planning Goals, and other requirements. Implementation tools include Title 33,

**Chapter 3.38  
PORTLAND HOUSING ADVISORY  
COMMISSION (PHAC)**

(Substituted by Ordinance No. 184329,  
effective December 15, 2010.)

**Sections:**

- 3.38.010 PHAC Established.
- 3.38.020 PHAC Mission.
- 3.38.030 Duties.
- 3.38.040 Membership.
- 3.38.050 Staffing.
- 3.38.060 Consolidated Plan Consortium.
- 3.38.070 Cooperation.

**3.38.010 PHAC Established.**

Upon adoption of this ordinance by the City of Portland, the Portland Housing Advisory Commission (PHAC) is established. The PHAC is designated as the primary public forum for discussion of housing policy, strategy, and resources in the City of Portland.

**3.38.020 PHAC Mission.**

The mission of the PHAC is to advise the Director of the Portland Housing Bureau (PHB), the Housing Commissioner, and the Portland City Council on housing and homelessness policy, strategy, and resource issues, promote improvements within the Portland Housing Bureau and the larger housing system, highlight opportunities for influence between the City housing system and other systems, as well as provide a forum for public input on housing and homelessness issues.

**3.38.030 Duties.**

The PHAC is delegated to carry out the following functions:

- A. Housing Policy and Planning.
  - 1. Provide a sounding board on Portland housing policy issues.
  - 2. Promote improvements within PHB.
  - 3. Identify opportunities where PHB might influence the larger housing system to become more streamlined and to better align system resources, to support PHB's mission.
  - 4. Advise PHB on City priorities for affordable housing development.

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5. Monitor and periodically recommend updates to PHB's Strategic Plan.
  6. Monitor and annually recommend updates to the Consolidated Plan Priorities for allocation of federal housing and community development resources.
  7. Recommend annual production and performance goals to carry out PHB's Strategic Plan and the Consolidated Plan.
  8. Press PHB to implement its commitment to equity in all facets of its work.
- B. Budget Review and Recommendations.**
1. Function as the Budget Advisory Committee for the Portland Housing Bureau.
  2. Assist PHB to align its resources from all sources to its mission and priorities.
  3. Identify opportunities for PHB to influence other public agency budgets and proposed work programs in furtherance of its mission.
- C. Resource Development.** Assist PHB to identify and recommend ways to increase the resources available to maintain and expand the supply and availability of affordable housing and necessary support services through new initiatives and programs.
- D. Program Development and Evaluation.**
1. Advise PHB on the effectiveness of housing programs at meeting PHB's mission.
  2. Advise on strategies for investment of public resources in furtherance of the PHB's mission.
- E. Public-Private Partnerships.**
1. Advise PHB on strategies to improve access to public and private sources of financing for affordable housing initiatives. Sources of financing include banks, philanthropic institutions and other socially-motivated investors, the State Housing Trust Fund, Block Grant and entitlement funders, and bond issuing agencies.

2. Foster housing production by identifying opportunities to streamline the regulatory process.
3. Actively encourage the support, personal commitment, and participation of highly respected community leaders in furthering the City's affordable housing agenda.

**F. Community and Intergovernmental Relations.**

1. Provide a forum for members of the community to provide comment about community needs and priorities.
2. Advise PHB on its legislative agenda to increase federal and state support for housing and supportive services.
3. Advise PHB on opportunities to coordinate regional housing policy with the Metropolitan Service District and other local governments.
4. Advise PHB on opportunities to coordinate policy development with local housing and social service groups.
5. Assist PHB to extend and deepen its community partnerships.
6. Assist PHB to integrate the perspectives of Urban Renewal Advisory Committees (URACs), and advise it on other ways it can engage the URACs to inform its broader agenda.
7. Periodically review PHB's broader public involvement strategy and implementation to make sure that community members and stakeholders have many opportunities to participate in PHB's work.
8. Advise PHB on its external communications strategy to make sure that it supports PHB's mission.
9. Periodically review PHB's information and referral strategy to make sure that it operates effectively and recommend changes.

**3.38.040 Membership.**

- A. The PHAC shall consist of at least twelve and no more than fifteen members.
- B. The City of Portland shall appoint all members.

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- C.** Membership appointment shall achieve a balanced citizen-based perspective embracing a high level of knowledge of and expertise in market-rate and rent-restricted housing development and finance, asset management, homeownership, and housing access and stabilization services.
- D.** Membership appointment shall take into account the income, racial, ethnic, cultural, and geographic diversity of the community
- E.** Members will be expected to transcend their individual interests and affiliations to focus on the big picture.
- F.** For the initial appointments to PHAC, the following terms will apply: six members shall be appointed for a term of two years; and six for a term of three years.
- G.** All subsequent appointments to the PHAC shall be for terms of two years.
- H.** Members appointed for one two-year term shall be eligible to renew for one additional two-year term.
- I.** Members shall serve without compensation. However, the City may authorize reimbursement of the reasonable expenses of the members for carrying out the work of the PHAC.
- J.** The PHAC shall adopt rules of procedure (bylaws) as necessary for the governance of its proceedings.

#### **3.38.050      Staffing.**

PHB staff shall be provided for the ongoing functions of the PHAC. The Bureau shall provide notice of PHAC meetings to liaison staff representing the other key implementing and policy agencies in the local housing delivery system.

#### **3.38.060      Consolidated Plan Consortium.**

The Portland Housing Bureau shall continue to lead the Portland Consortium that includes the City of Gresham and Multnomah County, for the purpose of applying for federal housing and community development entitlement funds, and funding for homeless programs and services. PHB shall also continue to lead the same Consortium in preparing the Analysis of Impediments to Fair Housing and its periodic updates. PHB shall continue to provide staffing for these efforts, according to funding agreements reached among the participating jurisdictions.

#### **3.38.070      Cooperation.**

All city boards, bureaus, and agencies of any kind shall cooperate with the PHAC and shall provide information at the Commission's request.



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**5.08.070 Clothing Allowance.**

(Amended by Ordinance Nos. 131329, 141241 and 180917, effective May 26, 2007.)  
Each employee of the Bureau of Police or Portland Fire & Rescue who is to receive an annual clothing allowance as provided in Section 3.20.170 or Section 3.22.100 shall be paid such clothing allowance as follows:

- A. The clothing allowance shall be at the rates specified in the current contracts with the Portland Fire Fighters Association Local 43 IAFF and the Portland Police Association.
- B. The clothing allowance shall be payable on or after July 1 of each year from funds budgeted for this purpose. Eligibility for such payment and the amount of the payment for each eligible employee shall be dependent on the assignment of the employee and the duration of such assignment during the previous fiscal year.
- C. An employee who has served for less than a full year in a position for which a clothing allowance is authorized shall receive an allowance prorated for the number of full calendar months served. For the purpose of this Section, time served shall not include leave without pay, nor time on sick leave and/or disability benefits in excess of a total of 30 days during the fiscal year.
- D. An eligible employee who separates from the City service shall receive a prorated allowance at the time of separation. The rate of such payment shall be the same as that paid during the fiscal year of separation.

**5.08.075 Year Defined.**

“Year” means the fiscal year, from July 1 to June 30 inclusive, as established by ORS 294.095 and 293.605, unless otherwise expressly indicated in this Code.

**5.08.090 Travel Expenses.**

(Repealed by Ordinance No. 175485, effective July 1, 2001.)

**5.08.095 Miscellaneous Expenses.**

(Repealed by Ordinance No. 175485, effective July 1, 2001.)

**5.08.100 Rules For Travel and Miscellaneous Expenses.**

(Repealed by Ordinance No. 176302, effective April 5, 2002.)

**5.08.105 Reimbursement to employees in Educational Programs Authorized by the Council.**

(Added by Ordinance No. 133632; passed and effective Nov. 10, 1971.) Whenever the Council has authorized an off-duty educational program for employees on an individual basis to improve professional skills and has provided for reimbursing the employee for specific expenditures upon his successful completion of a course in accordance with the

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requirements for the program, reimbursement will be made upon requisition to the City Auditor approved by the City Personnel Officer. For employees on a General Fund payroll, the reimbursement shall be charged to the General Fund. Reimbursement for an employee on a special fund payroll shall be charged to that special fund.

#### **5.08.110 Bus Fare for Meter Readers.**

Meter readers of the Bureau of Water Works shall be paid additional compensation over and above their salary as an allowance for bus fare while traveling in the line of duty if such bus fare has not been paid directly by the Bureau of Water Works. The additional compensation to be paid each meter reader shall be at the rate of \$17.50 per month, which shall be prorated for any part of a month in which the employee has not been required to pay his own bus fare.

#### **5.08.120 Payment of Salaries and Wages at Other Than Times Specified.**

Whenever it becomes necessary to pay for labor or overtime at other than the specified times indicated by this Chapter, time reports shall be certified as soon as may be required and transmitted to the Auditor for payment.

#### **5.08.130 Salaries Chargeable to More Than One Fund.**

(Amended by Ordinance No. 173369, effective May 12, 1999.) When the payroll of any bureau or department is made up of persons whose salaries are chargeable to more than one fund, such salaries may be paid by checks drawn on one such fund in the manner provided for regular payrolls provided that in such cases the bureau or department head shall draw an interdepartmental bill at the end of each month, charging the appropriation of the proper fund and crediting the revenue of the fund from which payment was made.

#### **5.08.140 Salary Deductions.**

(Replaced by Ordinance No. 172205; amended by 172562, 173326, 176426, 177833, 179023, 179643, 181483, 182887, 184215 and 184257, effective December 1, 2010.)

A. Salary and wage deductions, other than Public Employees Retirement System, Worker's Compensation Self-Insurance and assignments or garnishments prescribed by law or authorized by an employee, shall be made on the biweekly payrolls. Only the employee may authorize voluntary deductions or changes in exemptions for tax withholding purposes. Each authorization bearing the signature of the employee shall be kept on file by the Office of Management and Finance.

1. Federal Income and Withholding Tax
2. Social Security and Medicare
3. State Income and Withholding Tax

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4. Savings Bonds-City Treasurer
5. Workers' compensation Self-Insurance
6. Public Employees Retirement System
7. PACE Credit Union
8. MULTCO Employees Credit Union
9. IBEW Credit Union
10. ING Financial Advisors, LLC
11. PACE Credit Union-Deferred Compensation
12. ICMA-Deferred Compensation
13. ITT Hartford-Deferred Compensation
14. Nationwide Retirement Solutions
15. Portland Police Commanding Officers Association-PPCOA
16. Portland Metropolitan Employees Union, DCTU, Local 189
17. Painters and Allied Trade Union, Local 10
18. International Brotherhood of Electrical Workers, Local 48
19. Willamette Lodge, IAMAW, Local 63
20. Operating Engineers, Local 701
21. United Association of Plumbing & Pipe Fitting, Local 290
22. Auto Mechanics, Mt. Hood Lodge, Local 105
23. Municipal Employees Union, Local 483
24. Portland Police Association
25. Fire Fighter Association, Local 43

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26. City of Portland Professional Employees Association, COPPEA
  27. City Treasurer Trustee Fund for Benefit of Portland Police Contributions Committee-Police Special Contributions
  28. Portland Police Beneficiary Association
  29. Portland Police Historical Society
  30. Portland Police Athletic Association
  31. Fire & Police Insurance Association
  32. Fire & Police Disability and Retirement Fund
  33. Nationwide Auto Insurance
  34. Family Cancer Plan Insurance Company
  35. Kaiser Health Plan
  36. Standard Insurance
  37. Portland Building Fitness Center
  38. Maintenance Bureau Fitness Center
  39. Parking Patrol's Fitness Center
  40. Portland Police Fitness Room Trustee Fund
  41. C-Tran Employee Transit Program
  42. Portland Police Relocation Loan Program Repayment Fund.
  43. Z-Man Scholarship Foundation.
  44. Portland Police Association Cover Foundation.
  45. Police Activities League of Greater Portland.
- B.** Each entity or agency authorized by Subsection A. to receive money through the use of the payroll deduction system, except those agencies or entities referred to

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in Subsection C., shall pay to the City a fee of 50 cents for each payroll deduction that is made from an employee's paycheck.

- C. The entities or agencies whose names are preceded by the numbers described herein shall not be required to pay the fee described in Subsection B: 1., 2., 3., 4., 5., 6., 10., 11., 12., 13., 14., 15., 16., 17., 18., 19., 20., 21., 22., 23., 24., 25., 26., 31., 32., 35., 36, 43, 44 and 45.

**5.08.150 State Tax Street Fund.**

Whenever salaries chargeable to the State Tax Street Fund are paid on payrolls charged to the General Fund, the Commissioner of Public Works may at the beginning of each month, estimate the amount of service to be charged during the ensuing month and transfer such amount from the State Tax Street Fund to the General Fund by departmental bill. At the end of each month, when the exact amount chargeable to the State Tax Street Fund is determined the amount transferred must be correct by departmental bill.

**5.08.160 Delivery of Checks payable to Deceased Persons.**

(Amended by Ordinance Nos. 133986 and 173369, effective May 12, 1999.) Delivery of checks payable to any person employed by the City, or payable to any person receiving disability or retirement benefits from the City, shall be made in the following manner upon the death of such person:

- A. Where the person's estate is admitted to probate in any county in Oregon, delivery shall be made to the representative thereof after the Auditor has been furnished a certified copy of letters testamentary or letters of administration;
- B. Where the person's estate is admitted to probate outside this state, delivery shall be made as provided in Subdivision A of this Section, except that the Auditor shall first notify the Department of Revenue of the total amount to be paid. Delivery of checks shall not be made less than 30 days after notice to the department of revenue and 90 days after death;
- C. Where the person's estate is not probated, and the heir or next of kin making claim for checks is a resident of Oregon, delivery shall be made to that heir or next of kin after that individual has furnished the Auditor a hold harmless agreement as provided in Section 5.08.170;
- D. Where the person's estate is not probated, and the heir or next of kin making claim for checks is not a resident of Oregon, delivery shall be made to that heir or next of kin after that individual has furnished the Auditor a hold harmless agreement as provided in Section 5.08.170 and if the amounts total more than \$200 a bond, underwritten by a surety authorized to do business in this State, to defend and indemnify the City, its officers, agents and employees against any

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claim, suit, action or judgment arising out of the delivery or payment of the checks;

- E.** Checks payable to deceased employees, or to persons entitled to disability or retirement benefits prior to their death, shall be drawn in the usual course of business only, and shall be delivered by the Auditor as provided by this Section, without further action of Council;
- F.** The Auditor shall attach to each check issued under this Section an authorization for transfer in the following form:

**AUTHORIZATION FOR CHECK TRANSFER**

**KNOW ALL MEN BY THESE PRESENTS**

That . . . . . (name of applicant) has applied for transfer of Check No. . . . . dated . . . . . 19 . . . , payable to . . . . . (name of payee), deceased, as . . . . . (Heir, next of kin, executor or administrator of the estate), that pursuant to Title 5 of the Code of the City of Portland, as amended, I am authorized to deliver said check to . . . . . (name of applicant) and the Treasurer of the City of Portland is directed to cash the same upon.. . . . endorsement thereof.

**PLEASE DO NOT DETACH**

.....  
Auditor of the City of Portland  
By

Deputy

The Auditor shall furnish the Treasurer a copy of all authorizations for transfer he issues, and the Treasurer shall honor all checks described in the authorizations for transfer when endorsed by the applicant named therein.

**5.08.170 Hold Harmless Agreements.**

(Amended by Ordinance No. 173369, effective May 12, 1999.) Hold harmless agreements required by subdivisions C and D of Section 5.08.160 shall be in the following form:

**HOLD HARMLESS AGREEMENT**

**WHEREAS** there was due and owing by the City of Portland, Oregon, to  
.....who died ....., 19 ....., the sum of  
\$ .....representing .....  
..... and the Auditor of the City of Portland holds said sum in the form of  
checks drawn payable to the said deceased; and

**TITLE 5**  
**REVENUE AND FINANCE**

**WHEREAS** there will be no probate of the decedent's estate and I, as . . . . .  
. . . . . (heir, next of kin) of the deceased, have applied to the Auditor of the  
City of Portland for delivery of these checks according to the provisions of Title 5 of the  
Portland Municipal Code, as amended, whereby the Auditor may deliver these checks to  
me, as . . . . ., (heir, next of kin) only upon condition that I first  
release and discharge the City of Portland, its officers, agents and employees from all  
liability with respect to delivery of these checks and payment thereof, and agree to defend  
and indemnify the City of Portland, its officers, agents and employees therefrom;

**NOW, THEREFORE**, in consideration of the payment to me of said sum, I  
hereby release and discharge the City of Portland, its officers, agents and employees from  
all liability arising from or consequent upon the payment to me of said sum and I hereby  
assume and agree to and with said City, its officers, agents and employees that I will  
defend and indemnify them against any claim, suit, action or judgment in consequence of  
the delivery of checks for, or payment of, said sum.

**IN WITNESS WHEREOF**, I have hereunto set my hand and seal this  
. . . . . day of . . . . ., 19 . . . .  
. . . . .(SEAL)  
. . . . .  
Address

**WITNESS:**  
. . . . .  
. . . . .  
Address

Approved as to form:  
  
. . . . .  
City Attorney

**5.08.180      Effect of Death upon Assignments and Levies.**

- A.**    The Auditor shall recognize no power of Attorney or assignment of wages, salary, disability or retirement benefits, reimbursement of expenses or contributions, or any other monies owing a person by virtue of past or present employment with the City, after the death of that person, notwithstanding Section 5.12.030.
  
- B.**    If the Auditor receives notice of garnishment (except from the State Tax Commission of Oregon) or an order for payment of money into any federal or state court in Oregon, which notice or order applies to wages, salary or other monies due an employee of the City, and the employee is deceased or dies at any time before return is made thereon, the Auditor shall hold all monies pending further order of court and shall immediately notify the City Attorney of the notice or order and of the employee's death. Upon receipt of this notice the City

## **TITLE 5**

### **REVENUE AND FINANCE**

Attorney shall file a supplemental pleading in the case wherein the garnishment or levy was undertaken, to advise the court of the employee's death and to obtain an order of court as to what disposition should be made of the monies held by the Auditor. The procedure authorized herein shall be followed notwithstanding Section 5.12.050.

- C.** The Auditor shall make a return upon any notice of levy issued by the United States Treasury Department and any notice of garnishment issued by the State Tax Commission of Oregon, of wages, salary or other monies due an employee of the City, if the employee is living at the time the notice is served. If the employee is deceased at the time the notice is served, the Auditor shall:
- 1.** Make payment as provided in Section 5.08.160, advising the recipient thereof, in writing, of the existence of the tax lien; and
  - 2.** Notify the taxing authority, in writing, of the fact and date of the employee's death, the date and amount of the payment, the name and address of the recipient thereof, and the recipient's relationship to the deceased. The procedure authorized herein shall be followed notwithstanding Section 5.12.050.



**TITLE 14**  
**PUBLIC ORDER AND POLICE**

**14A General Provisions and Private Citizens**

**Chapter 14A.10      DEFINITIONS**

14A.10.010      Definitions.

**Chapter 14A.20      PROCEDURES**

14A.20.010      General Purpose of Title.  
14A.20.020      Principles of Construction.  
14A.20.030      Constitutionality.  
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14A.20.050      Prohibited Acts Generally.  
14A.20.060      Penalty for Violation.  
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**Chapter 14A.30      MISCELLANEOUS ACTS OF MISCONDUCT**

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14A.30.020      Unlawful Operation of Sound Producing Equipment.  
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**Chapter 14A.40      INTERFERENCE WITH PERSONS AND SEXUAL MISCONDUCT**

14A.40.010      Interfering with Privacy.  
14A.40.020      Offensive Physical Contact Prohibited.  
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**Chapter 14A.50      CONDUCT PROHIBITED ON PUBLIC PROPERTY**

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- 14A.50.060     Resale of Tickets to Events at Municipal Facilities at Premium Price Prohibited
- 14A.50.070     Misuse of Public Property.
- 14A.50.110     Misuse of a Public Restroom.
- 14A.50.120     Misuse of Public Drinking Fountain.
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**Chapter 14A.55            PARADE EVENT MARKING**

- 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.

**Chapter 14A.60            WEAPONS AND EXPLOSIVES**

- 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.60.050     Endangering a Child By Allowing Access to a Firearm.
- 14A.60.060     Failure to Report Theft.

**Chapter 14A.70            GAMBLING, SOCIAL GAMES, AND UNLAWFUL AMUSEMENT GAMES OR CONCESSIONS**

- 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.
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- 14A.70.060     Social Games Permit Application Process.
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- 14A.70.090     Appeal of Denial, Revocation, or Suspension of Social Games Permit.
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**Chapter 14A.80            MINORS**

- 14A.80.010     Curfew.
- 14A.80.020     Truancy Reduction.

- 14A.80.030 Unlawful Tattooing of a Minor.
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**Chapter 14A.90      ILLEGAL FIREARMS USE HOTSPOTS.**

- 14A.90.010 Illegal Firearms Use Hotspots.
- 14A.90.020 Designation of Illegal Firearms Use Hotspots.
- 14A.90.030 Civil Exclusion.
- 14A.90.035 Violation of an Exclusion – Penalties.
- 14A.90.040 Issuance of Exclusion Notices.
- 14A.90.050 Procedure.
- 14A.90.060 Appeal, Review and Variances.
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## **14B Regulatory Schemes and Business**

### **Chapter 14B.10 BURGLARY AND ALARM SYSTEMS**

- 14B.10.010 Purpose and Scope.
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- 14B.10.090 Automatic Dialing Device - Certain Interconnections Prohibited.
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- 14B.20.030 Civil Exclusion.
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- 14B.20.070 Listing of Drug-Free Zones.

### **Chapter 14B.30 PROSTITUTION-FREE ZONES**

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### **Chapter 14B.40 IMPOUNDMENT AND INVESTIGATION FOR DUI**

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- 14B.100.020 Delegation of Application Recommendation Authority.
- 14B.100.030 Application Procedure.
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- 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.
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## **14C Police Policy, Regulations, and Procedures**

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- 14C.10.010 Purpose.
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**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.

**TITLE 14A**  
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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.60.050 Endangering a Child By Allowing Access to a Firearm.
- 14A.60.060 Failure to Report Theft.

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

(Amended by Ordinance No. 184274, effective December 31, 2010.)

- 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.

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5. A government employee authorized or required by his or her employment or office to carry firearms.
  6. A person summoned by a police officer to assist in making arrests or preserving the peace, while such person is actually engaged in assisting the officer.
  7. A merchant who possesses or is engaged in lawfully transporting unloaded firearms as merchandise.
  8. Organizations which are by law authorized to purchase or receive weapons from the United States or from this state.
  9. Duly authorized military or civil organizations while parading, or their members when going to and from the places of meeting of their organization.
  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.

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**E. Penalty**

1. In the absence of the aggravating factors listed in Subsection 14A.60.010 E.2., the court may impose a sentence of up to 6 months imprisonment and a fine not to exceed \$500 for violation of this section.
2. When this offense is committed by carrying a loaded firearm containing ammunition that employs gunpowder as a propellant in a vehicle, including a transit vehicle, the court must impose a mandatory minimum sentence of 30 days for violation of this Section.

**14A.60.020 Discharge of a Firearm.**

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

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

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6. Persons, who have not been convicted of any felony, who possess or use tear gas, provided that it is contained in a device that is commercially manufactured to dispense tear gas from an aerosol tube as a self-defense weapon, and is designed to contain not more than 4 fluid ounces per device;
  7. Persons, who have not been convicted of any felony, and who are 18 years of age or older who possess or use a stun gun for the purpose of self-defense.
- C. Exemptions numbers 4., 5., and 6. of this Subsection, above, do not apply to devices that project tear gas by means of firing any type of cartridge by powder discharge, spring action, compressed air, or any other means.
- D. It is unlawful for any person to use, or attempt or threaten to use tear gas or a stun gun against any person known to be, or who should reasonably be known to be, a police officer engaged in the performance of official duties.

**14A.60.040 Explosives and Bottle Bombs.**

- A. The following definitions apply to this Section:
1. Explosive: any substance or material that on ignition by heat, impact, friction, or detonation will explode with such force as to injure a person or damage property in the immediate vicinity of the explosion.
  2. Bottle bomb: any sealed device containing dry ice (CO<sub>2</sub>) 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.

**14A.60.050 Endangering A Child By Allowing Access To A Firearm.**

(Added by Ordinance No. 184274, effective December 31, 2010.)

- A.** A person commits the offense of endangering a child if a person fails to prevent access to a firearm by a minor when the person knew or reasonably should have known that a minor could gain access to the firearm under the following circumstances:

  - 1.** A person possesses or controls an operable firearm, whether loaded or unloaded, within premises under the person's custody or control and a minor gains access to the firearm without the permission of the person, a parent or guardian.
  - 2.** A person possesses or controls an operable firearm, whether loaded or unloaded, within premises under the person's custody or control and a minor gains access to the firearm without the permission of the person, a parent or guardian and the minor carries the firearm off the premises.
- B.** Violation of Subsection A.1. is punishable by incarceration for not more than 10 days and a fine of not more than \$500.
- C.** Violation of Subsection A.2. is punishable by incarceration for not more than 20 days and a fine of not more than \$750.
- D.** Violation of Subsection A.2. is punishable by incarceration for not more than 30 days and a fine of not more than \$2,500 when the firearm is carried by the child off premises to any school, school-sponsored or school-related event.
- E.** Defenses: This section shall not apply if any one of the following circumstances exists:

  - 1.** The minor obtains the firearm as a result of an illegal entry into any premises by any person.
  - 2.** The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure from entry by the minor.
  - 3.** The firearm is locked with a device that has rendered the firearm inoperable and is designed to prevent minors and unauthorized users from firing the firearm. The device may be installed on the firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

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**14A.60.060 Failure to Report Theft.**

(Added by Ordinance No. 184274, effective December 31, 2010.)

- A.** Any person who possesses, owns or controls a firearm in the City of Portland shall report the theft or misplacement of the firearm to the Chief of Police or designee, providing a description of the firearm including serial number, within 48 hours of knowing, or having reason to know, the firearm is stolen or cannot be located through reasonable effort.
- B.** A person who possesses, owns or controls a firearm in the City of Portland and fails to provide the serial number of the firearm when reporting the firearm is stolen or cannot be located is subject to a \$200 administrative fee.
- C.** Violation of Subsection 14A.60.060 A. is punishable by a fine of \$2,500.



**Chapter 14A.70**

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

**Sections:**

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

**14A.70.010 Definitions.**

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

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

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

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

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

**14A.70.030 Unlawful Chain Letter or Pyramid Scheme.**

It is unlawful for any person, whether acting as principal, agent, servant or employee to establish, maintain, conduct, manage, profit from, or operate any chain letter or pyramid

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scheme; or to solicit or advertise any such scheme; or to list persons who have surrendered any sum of money or any other thing of value to any such scheme. It is unlawful for any person, firm, or corporation to let, lease, or rent any real property and allow any such scheme to be established, maintained, conducted, managed or operated therein or thereon.

**14A.70.040 Social Games Authorization Limited.**

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

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

**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

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consistent with the regulations provided in this Chapter, including but not limited to a description of the premises subject to the permit, and the fingerprints of the owner(s), officers, principal managing employees, and all employees who are involved in conducting the game activities or operating the game premises of the applicant. The permittee shall notify the Director within 10 days of any change in owners, officers, or principal managing employees that occurs subsequent to permit issuance.

1. For the purposes of this Section, "principal managing employee" shall include:
    - a. Any person who is a proprietor or partner of the applying organization;
    - b. Any person who owns or controls 5 percent or more of the outstanding capital stock where the organization is a corporation;
    - c. Any person who has supervisory authority over employees and/or operations of the business as it relates to the conduct of permitted social games; and
    - d. Any person who has the authority to supervise the premises and conditions under which permitted social games are conducted.
  2. Where the permit applicant is a nonprofit membership organization, "principal managing employee" shall also mean the chief elected official of the organization and any other elected official(s) whose authority extends to the supervision or management of permitted social games.
  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.

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- C. Each application for a permit shall be accompanied by a nonrefundable fee of \$500.
- D. Before issuance of a permit, the Director or appropriate designee shall confer with the Chief of Police or proper designee, who shall advise whether or not and on what basis there exists law enforcement concerns about the particular applicant's suitability to obtain a permit. If the Chief of Police so recommends, then no permit shall be issued, provided that Council may finally determine, upon appeal by the applicant that permit shall be issued.

**14A.70.070 Social Games Permit Issuance, Denial.**

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

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with assistance from the Bureau of Police, then the permit shall be issued as soon as practicable.

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

- A.** The permit required under this Chapter may be temporarily suspended for up to 30 days or revoked by the Bureau of Licenses for any reason that would be grounds for denial of an application for a permit. Additionally, such permit may be suspended or revoked when investigation reveals that:

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

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- 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 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:



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



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and has concluded such contest but before he or she has left the amusement concession or game location.

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**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.**

(Amended by Ordinance No. 184274, effective December 31, 2010.)

- A.** It is unlawful for any minor to be in or upon any public property or public right of way between the hours specified in this Section, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right of way during the hours specified in this Section. For minors under the age of 14 years who have not begun high school, curfew is between 9:15 p.m. and 6 a.m. of the following 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. For minors who have been found by a court to have possessed, purchased, used, transferred or transported a firearm unlawfully and are under the jurisdiction of the court as a result of that adjudication, curfew is between 7 p.m. and 6 a.m. of the following morning except for minors attending, or traveling directly to or from, a school-sponsored event, or a church, with written approval from the school, organization or church or to any activity or place with the permission of the minor's probation or parole officer or juvenile court counselor.
- B.** If a minor is taken into protective custody in violation of curfew, it is the responsibility of the parent, guardian, or other person having legal care and custody of the minor to come immediately and take custody of the minor from the police.

**14A.80.020    Truancy Reduction.**

- A.** For purposes of this Section, "regular school hours" are the hours of the full-time school that the minor would attend in the school district where the minor resides, on any day that school is in session, or, if the school in the school district of residence is unknown, "regular school hours" are the school hours of the Portland School District No. 1J on any day that school is in session.
- B.** A minor who is at least seven (7) years of age and under eighteen (18) years of age and who has not completed the 12th grade may not be upon any public property or public right of way during regular school hours except while attending school as required by ORS 339.010 to 339.065, unless the minor is:

  - 1.** Absent from the school with the school's permission, but not including students who have been suspended or expelled; or
  - 2.** Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours, and which is authorized by the parent, guardian, or other person having legal care and custody of the minor; or
  - 3.** Lawfully emancipated pursuant to ORS 419B.550 to 419B.558; or
  - 4.** Exempt from compulsory school attendance pursuant to ORS 339.030.
- C.** If a police officer has reasonable suspicion to believe that a minor is in violation of this Section, the officer is authorized to detain the minor and make reasonable inquiry regarding a potential violation of Subsection B of this Section.
- D.** If a police officer has probable cause to believe that a minor is in violation of this Section, the officer is authorized to take the minor into protective custody pursuant to ORS 419B.150.

**14A.80.030    Unlawful Tattooing of a Minor.**

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

**14A.80.040    Unattended Minors in Vehicles.**

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

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**Chapter 14A.90**

**ILLEGAL FIREARMS USE HOTSPOTS**

(Chapter added by Ordinance No. 184274,  
effective December 31, 2010.)

**Sections:**

- 14A.90.010 Illegal Firearms Use Hotspots.
- 14A.90.020 Designation of Illegal Firearms Use Hotspots.
- 14A.90.030 Civil Exclusion.
- 14A.90.035 Violation of an Exclusion – Penalties.
- 14A.90.040 Issuance of Exclusion Notices.
- 14A.90.050 Procedure.
- 14A.90.060 Appeal, Review and Variances.
- 14A.90.070 Listing of Illegal Firearms Use Hotspots.

**14A.90.010 Illegal Firearms Use Hotspots.**

- A.** For the purposes of this chapter, the following definitions apply:
  - 1.** Essential needs: food, physical care, and medical attention.
  - 2.** Reside: to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
  - 3.** Travel: the movement on foot or within or upon a vehicle within a Illegal Firearms Use Hotspot from one point to another without delay other than to obey traffic control devices.
- B.** Illegal Firearms Use Hotspots are those areas of the City as designated by the City Council or designee under Chapter 14A.90 of this Code, which are areas where the number of firearms-related crimes or illegal discharges for a 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 an Illegal Firearms Use Hotspot.

**14A.90.020 Designation of Illegal Firearms Use Hotspots.**

- A.** The City Council may designate a geographic area meeting the criteria of Section 14A.90.010 of this Code to be an Illegal Firearms Use Hotspot. If Council makes the designation, it shall do so by ordinance. The designation shall be valid for a period of 3 years and shall be posted on the City's website, the Police Bureau's website, and listed on subsequent notices of exclusion. Notices of exclusion shall require excluded persons to check the City and Police Bureau websites for changes in Hotspot locations and boundaries.
- B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least 90 days before the end of the period referred to in Subsection 14A.90.020 A., as to whether there is a need to re-configure the Illegal Firearms Use Hotspots.

**14A.90.030 Civil Exclusion.**

- A.** A person is subject to exclusion under the process described in this chapter from any City-owned space, public right of way and park within an Illegal Firearms Use Hotspot designated in Code Chapter 14A.90 for the duration of a sentence of probation or parole or the duration of juvenile court jurisdiction over the person if the probation, parole or jurisdiction is based on a court finding the person committed any of the following offenses:

  - 1.** Any state firearm use or possession crime; or
  - 2.** Any City of Portland firearm use crime.
- B.** An exclusion from all Illegal Firearms Use Hotspot shall take effect upon the day after conviction or finding of jurisdiction for any of the offenses enumerated in Subsection 14A.90.030 A. of this Section when the person has both been given actual notice prior to the exclusion that the City would impose an exclusion upon conviction or adjudication and notified of the right of appeal and the process for initiating an appeal.
- C.** A person excluded from an Illegal Firearms Use Hotspot under authority of this Section may not enter that Illegal Firearms Use Hotspot 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;

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3. Comply with court-ordered 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 Illegal Firearms Use Hotspot on a Tri-Met vehicle; or
7. Travel through that Illegal Firearms Use Hotspot 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 Illegal Firearms Use Hotspot;
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;

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14. Be present at any place or event as specified by a variance issued by the Chief of Police or designee pursuant to Subsection 14A.90.060 B.

D. An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by Section 14A.90.050; including notice of the limitations to the exclusion contained in Section 14A.90.020.

**14A.90.035 Violation of an Exclusion - Penalties.**

A. It is unlawful for a person to enter or remain in an Illegal Firearms Use Hotspot 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 an Illegal Firearms Use Hotspot in violation of a valid exclusion issued pursuant to this Code is subject to arrest for Criminal Trespass (ORS 164.245).

**14A.90.040 Issuance of Exclusion Notices.**

The Chief of Police and/or designees are the persons in charge of City property, the public rights of way and parks in the Illegal Firearms Use Hotspots for purposes of issuing notices of exclusion in accordance with this Chapter.

**14A.90.050 Procedure.**

A. When a court has entered a judgment that a person has committed any of the offenses enumerated in Subsection 14A.90.030 A. and the person is on probation, parole or under the jurisdiction of the court for that offense, the Chief of Police and/or designees may exclude that person from all Illegal Firearms Use Hotspots. The exclusion takes effect immediately once the requirements of this subsection are met.

B. At the time a person is issued a notice of exclusion from Illegal Firearms Use Hotspots, 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 14A.90.060 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 areas designated as an Illegal Firearms Use Hotspot from which that person is excluded;

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2. Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code;
3. A statement identifying the conviction or adjudication that supports the exclusion;
4. Notice that the exclusion will remain in effect for the duration of any probation, parole or jurisdiction resulting from the supporting conviction or adjudication; and
5. Conviction of the offense for which the person was arrested and excluded will result in exclusion for the duration of any resulting probation, parole or juvenile court jurisdiction and information concerning the right to appeal exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

**14A.90.060 Appeal, Review and Variances.**

- A. 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 an exclusion must be filed, in writing, by 5 p.m. of the fifth business day following the date the exclusion takes effect.
  4. 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 p.m. of the fifth business day following the action regarding the variance.



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5. A 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.
  6. At the hearing on an appeal of an exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant was convicted of, or found to be within the jurisdiction of the court as a result of having committed, any of the offenses enumerated in Subsection 14A.90.030 A.
  7. At the hearing on an appeal of a denial of a request for a variance as provided in Subsection 14A.90.060 A.4.a., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
  8. At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in Subsection 14A.90.060 A.4.b., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
  9. At the hearing on an appeal of a revocation or amendment of a variance as provided in Subsection 14A.90.060 A.4.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.
  10. At the hearing on an appeal of a 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 14A.90.030 A.
- B. 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 exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within an Illegal Firearms Use Hotspot.

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2. All Police Bureau Precincts shall receive and process requests for 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 Subsection 14A.90.050 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 a Hotspot 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.

**C. 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 Subsection 14A.90.030 A. in a Hotspot subsequent to the issuance of the variance;
3. The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;
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 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to Subsection 14A.90.060 B.3. unless the excluded person appeals the determination by following the procedures in Section 14A.90.060.

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**14A.90.070 Listing of Illegal Firearms Use Hotspots.**

The following descriptions shall comprise the boundaries of the Illegal Firearms Use Hotspots listed, and the Hotspots shall include the entire area on and within the listed boundaries.

- A.** Central Hotspot: The area encompassed by the west bank of the Willamette River, the centerlines of SW Madison Street, SW Naito Parkway, SW Jefferson Street, the center divider of I-405, the centerline of NW Glisan Street and a line extended from the centerline of NW Glisan to the west bank of the Willamette River.
- B.** North / Northeast Hotspot: The area encompassed by the centerlines of N. Interstate Avenue, N and NE Russell, NE Martin Luther King Blvd. and N and NE Lombard.
- C.** East Hotspot: The area encompassed by the centerlines of NE Glisan Street, 148th Avenue, SE Stark Street and 162nd Avenue.

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**Chapter 14B.10**

**BURGLARY AND ALARM SYSTEMS**

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

**Sections:**

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

**14B.10.010 Purpose and Scope.**

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

**14B.10.020 Definitions.**

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

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

**14B.10.030 Alarm User Permits Required.**

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

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

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

- 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

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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 10<sup>th</sup> 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;
  - 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.

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- 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.
- 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.

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- C. The failure or omission to comply with any section of this ordinance shall be deemed a violation and may be so prosecuted, subject to the penalty provided in paragraph B. of this Section.

**14B.10.140 Liability.**

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

**Chapter 14B.20**

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

**Sections:**

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

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

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

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**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 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;

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- 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 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

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- 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.
  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 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

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2. Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.
3. Notice that conviction of the offense for which the person was arrested and excluded will result in a one-year exclusion and information concerning the right to appeal a conviction-based exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

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

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

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4. An appeal of a one (1) year conviction-based exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date of conviction.
5. An appeal of:
  - a. a denial of a request for a variance; or
  - b. a denial of a request for an amendment to a variance; or
  - c. a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance.
6. A ninety (90) day exclusion shall not take effect during the time that an appeal of the ninety (90) day exclusion is pending.
7. A one (1) year conviction-based exclusion shall take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, shall remain in effect unless the Code Hearings Officer issues a contrary decision.
8. At the hearing on an appeal of a ninety (90) day exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in Subsection A. of Section 14B.20.030, and that the conduct supporting the exclusion occurred within a drug-free zone.
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.

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

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they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station.

3. Variance. The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in 14B.20.050 B., the Chief of Police and/or designees shall grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within the drug-free zone only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

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

1. The excluded person provided false information in order to obtain the variance;
2. There is probable cause to believe the person has committed any of the offenses enumerated in Section 14B.20.030 A. in the drug-free zone subsequent to the issuance of the variance;
3. The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;
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.

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- A. Central Zone: Beginning at a point on the north edge of the Steel Bridge directly above the west shore of the Willamette River; thence westerly along the north edge of the Steel Bridge and continuing along the north edge of the northern most off-ramp from the Steel Bridge until it intersects with the east curb line of N.W. 3<sup>rd</sup> Avenue; thence northerly along an extension of the east curb line of N.W. 3<sup>rd</sup> Avenue until that line intersects with an extension of the north curb line of N.W. Hoyt Street; thence westerly along the extension of the north curb line of N.W. Hoyt Street until it intersects with the east curb line of N.W. 4<sup>th</sup> Avenue; thence in a northwesterly direction along the east curb line becoming the north curb line of N.W. 4<sup>th</sup> Avenue as it intersects with N.W. 5<sup>th</sup> Avenue and becomes N.W. Irving Street; thence continuing westerly along the north curb line of N.W. Irving Street until it intersects with the west curb line of N.W. Broadway Avenue; thence southerly along the west curb line of N.W. Broadway Avenue until it intersects with the north curb line of N.W. Hoyt Street; thence westerly along the north curb line of N.W. Hoyt Street until it intersects with the west curb line of N.W. 15<sup>th</sup> Avenue; thence southerly along the west curb line of N.W. 15<sup>th</sup> Avenue until it intersects with north curb line of N.W. Glisan Street; thence westerly along the north curb line of N.W. Glisan Street until it intersects with the east curb line of N.W. 16<sup>th</sup> Avenue; thence northerly along the east curb line of N.W. 16<sup>th</sup> Avenue until it intersects with the north curb line of N.W. Irving Street; thence westerly along the north curb line of N.W. Irving Street until it intersects with the west curb line of N.W. 23<sup>rd</sup> Avenue; thence southerly along the west curb line of N.W. 23<sup>rd</sup> Avenue until it intersect with the south curb line of West Burnside Street; thence easterly along the south curb line of West Burnside Street until it intersects with the west curb line of S.W. King Avenue; thence southerly along the west curb line of S.W. King Avenue until it intersects with the south curb line of S.W. Salmon Street; thence easterly along the south curb line of S.W. Salmon Street until it intersects with the west curb line of S.W. 14<sup>th</sup> Avenue; thence southerly along the west curb line of S.W. 14<sup>th</sup> Avenue until it intersects with the south curb line of S.W. Columbia Street; thence easterly along the south curb line of S.W. Columbia Street until it intersects with the west curb line of S.W. 13<sup>th</sup> Avenue; thence southerly along the west curb line of S.W. 13<sup>th</sup> Avenue until it intersects with the south curb line of S.W. Market Street; thence easterly along the south curb line of S.W. Market Street to a point where the extension of the south curb line of S.W. Market Street intersects with the east curb line of S.W. Naito Parkway; thence easterly from that point continuing in a direct line due east to the west shore of the Willamette River; thence northerly along the west shore of the Willamette River until it intersects with the south edge of the Hawthorne Bridge; thence easterly along the south edge of the Hawthorne Bridge until it intersects with the east edge of the area known as the East Bank Esplanade, including the circular ramp on the east end and south side of the Hawthorne Bridge; thence northerly along the east edge of the area known as the East Bank Esplanade, including all of its floating walkways, until it intersects with the south side of the



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

- B.** East Zone: Beginning at a point 1000 feet west of the intersection of the north curb line of N.E. Killingsworth and the west curb line of N.E. 82<sup>nd</sup> Avenue; thence southerly following a line that is at all times parallel to and 1000 feet from the west curb line of N.E. 82<sup>nd</sup> Avenue as it crosses E. Burnside Street and becomes S.E. 82<sup>nd</sup> Avenue; thence southerly following a line that is at all times parallel to and 1000 feet from the west curb line of S.E. 82<sup>nd</sup> Avenue to a point that is 1000 feet to the west of the southwest corner of S.E. Crystal Springs Boulevard; thence easterly along the south curb line of S.E. Crystal Springs Boulevard to a point that is 1000 feet to the east of the southeast corner of S.E. Crystal Springs Boulevard; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of S.E. 82<sup>nd</sup> Avenue as it crosses E. Burnside Street and becomes N.E. 82<sup>nd</sup> Avenue; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of N.E. 82<sup>nd</sup> Avenue to a point that is 1000 feet east of the north curb line of N.E.

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Killingsworth; thence westerly along the north curb line of N.E. Killingsworth continuing to the point of beginning.

- C. North Zone: Beginning at a point on the southwest corner of N. Fremont Street as it intersects with N. Missouri Avenue; thence easterly along the south curb line of N. Fremont Street until it intersects with the west curb line of N. Vancouver Avenue; thence southerly along the west curb line of N. Vancouver Avenue until it intersects with the south curb line of N. Stanton Street; thence easterly along the south curb line of N. Stanton Street as it crosses N. Williams Avenue and becomes N.E. Stanton Street; thence easterly along the south curb line of N.E. Stanton Street until it intersects with the west curb line of N.E. Rodney Avenue; thence southerly along the west curb line of N.E. Rodney Avenue until it intersects with the south curb line of N.E. San Rafael Street; thence easterly along the south curb line of N.E. San Rafael Street until it intersects with the east curb line of N.E. 7<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 7<sup>th</sup> Avenue until it intersects with the south curb line of N.E. Wygant Street; thence easterly along the south curb line of N.E. Wygant Street until it intersects with the east curb line of N.E. 14<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 14<sup>th</sup> Avenue until it intersects with the south curb line of N.E. Wygant Street; thence easterly along the south curb line of N.E. Wygant Street until it intersects with the east curb line of N.E. 20<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 20<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Killingsworth Street; thence westerly along the north curb line of N.E. Killingsworth Street until it intersects with the east curb line of N.E. 15<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 15<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Ainsworth Street; thence westerly along the north curb line of N.E. Ainsworth Street until it intersects with the east curb line of N.E. 10<sup>th</sup> Avenue; thence northerly along the east curb line of N.E. 10<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Portland Boulevard; thence westerly along the north curb line of N.E. Portland Boulevard until it intersects with the west curb line of N.E. 6<sup>th</sup> Avenue; thence southerly along the west curb line of N.E. 6<sup>th</sup> Avenue until it intersects with the north curb line of N.E. Portland Boulevard; thence westerly along the north curb line of N.E. Portland Boulevard until it intersects with the west curb line of N.E. Martin Luther King Jr. Boulevard; thence southerly along the west curb line of N.E. Martin Luther King Jr. Boulevard until it intersects with the north curb line of N.E. Ainsworth Street; thence westerly along the north curb line of N.E. Ainsworth Street as it crosses N. Williams Avenue and becomes N. Ainsworth Street; thence westerly along the north curb line of N. Ainsworth Street until it intersects with the west curb line of N. Missouri Avenue; thence southerly along the west curb line of N. Missouri Avenue until it intersects with the north curb line of N. Killingsworth Street; thence westerly along the north curb line of N. Killingsworth Street until it intersects with the west curb line of N. Concord Avenue; thence southerly along



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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.

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**Chapter 14B.30**

**PROSTITUTION-FREE ZONES**

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

**Sections:**

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

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

- A.** For the purposes of this chapter, the following definitions apply:
  - 1.** Arrest: to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.
  - 2.** Essential needs: food, physical care, and medical attention.
  - 3.** Reside: to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
  - 4.** Travel: the movement on foot or within or upon a vehicle within a prostitution-free zone from one point to another without delay other than to obey traffic control devices.
- B.** Prostitution-free zones are those areas of the City as designated by the City Council under Chapter 14B.30 of this Code, which are areas where the number of arrests where there was probable cause to believe a person has committed any of the offenses enumerated in Section 14B.30.030 for a twelve (12) month period within the eighteen (18) months preceding its designation is significantly higher

than that for other similarly sized geographic areas of the City that are not located within a prostitution-free zone.

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

(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;

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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;
  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).

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

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

**14B.30.050 Procedure.**

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

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

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

- A.** A ninety (90) day exclusion shall take effect at 12:01 on the 22<sup>nd</sup> calendar day following issuance of the notice of exclusion if the person issued the notice of exclusion has not filed an appeal as provided in this Chapter and a Code Hearings Officer has reviewed a police report documenting the exclusion notice and has

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found that the report presents credible evidence that supports probable cause to believe the person:

1. committed any of the offenses enumerated in Subsection A of Section 14B.30.030, and ;
  2. received the notice required by 14B.30.050 A.
- B.** If a person issued a notice of exclusion files an appeal as provided in this chapter, imposition of a ninety (90) day exclusion shall be stayed pending a final, enforceable decision upholding the exclusion.
- C.** **APPEAL.** A person to whom a notice of exclusion is issued shall have a right to appeal as follows:
1. Appeals shall be made to the Code Hearings Officer of the City of Portland. Any hearings regarding such appeals shall be conducted in accordance with Chapter 22.10 of this Code.
  2. Copies of documents in the City's control which are intended to be used at the hearing shall be made available, upon request, to the appellant.
  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.

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7. A one (1) year conviction-based exclusion shall take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, shall remain in effect unless the Code Hearings Officer issues a contrary decision.
8. At the hearing on an appeal of a ninety (90) day exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in Subsection 14B.30.030 A., and that the conduct supporting the exclusion occurred within a prostitution-free zone.
9. At the hearing on an appeal of a one (1) year conviction-based exclusion, the City shall have the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in Subsection 14B.30.030 A., and that the conduct supporting the conviction occurred within a prostitution-free zone.
10. At the hearing on an appeal of a denial of a request for a variance as provided in 14B.30.060 C.5.a., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
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



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- b. An accusatory instrument charging the person to whom a ninety (90) day notice of exclusion was issued, for violation of any of the offenses enumerated in Subsection 14B.30.030 A.
14. At the hearing on an appeal of a one (1) year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Subsection 14B.30.030 A., shall be conclusive evidence that the described conduct occurred but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a prostitution-free zone.
- D. VARIANCES. Variances modify an exclusion, and shall be granted, denied, amended, or revoked in accordance with the following provisions:
1. All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a prostitution-free zone.
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:

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

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

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

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all times parallel to and 1000 feet from the west curb line of S.E. 82nd Avenue to a point that is 1000 feet to the west of the southwest corner of S.E. Crystal Springs Boulevard; thence easterly along the south curb line of S.E. Crystal Springs Boulevard to a point that is 1000 feet to the east of the southeast corner of S.E. Crystal Springs Boulevard; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of S.E. 82nd Avenue as it crosses E. Burnside Street and becomes N.E. 82nd Avenue; thence northerly following a line that is at all times parallel to and 1000 feet from the east curb line of N.E. 82nd Avenue to a point that is 500 feet to the south of the south curb line of N.E. Sandy Boulevard; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of N.E. Sandy Boulevard until it intersects with the west curb line of N.E. 92<sup>nd</sup> Avenue; thence northerly along the west curb line of N.E. 92<sup>nd</sup> Avenue until it intersects with the north curb line of N.E. Sandy Boulevard; thence easterly along the north curb line of N.E. Sandy Boulevard to a point that is 200 feet to the east of the centerline of N.E. 92nd Avenue; thence southerly along a line that is at all times parallel to and 200 feet to the east from the centerline of N.E. 92nd Avenue to a point that is 500 feet from the south curb line of N.E. Sandy Boulevard; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of N.E. Sandy Boulevard to the east curb line of N.E. 122nd Avenue; thence northerly along the east curb line of N.E. 122nd Avenue to a point 500 feet north of the north curb line of N.E. Sandy Boulevard; thence westerly following a line that is at all times 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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**Chapter 14B.40**

**IMPOUNDMENT AND  
INVESTIGATION FOR DUII**

**Sections:**

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

**14B.40.010 Impoundment.**

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

**14B.40.020 Investigation.**

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

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

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

**Chapter 14B.50**

**FORFEITURE**

**Sections:**

- 14B.50.010    Certain Vehicles as Nuisances.
- 14B.50.020    Forfeiture Proceedings.
- 14B.50.030    Prostitution.
- 14B.50.035    Disbursement of Proceeds from Prostitution Forfeiture.
- 14B.50.040    Gambling.

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

(Amended by Ordinance No. 184197, effective October 27, 2010.) 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(b).
- 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 Nos. 180260 and 184197, effective October 27, 2010.) All civil forfeitures conducted pursuant to this Chapter are subject to the procedures and limitations set forth in ORS Chapter 131A except that the distribution of proceeds in 131A.360 is not applicable.

**14B.50.030    Prostitution.**

(Amended by Ordinance No. 184197, effective October 27, 2010.) Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.002 to 167.027, excluding 167.007(a) 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 Section 14B.50.020.

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**14B.50.035 Disbursement of Proceeds from Prostitution Forfeiture.**

(Added by Ordinance No. 184197, effective October 27, 2010.) Forfeiture proceeds arising out of the prohibited conduct as defined by Section 14B.50.030 shall be separately accounted for. Seventy-five percent of the proceeds from any assets forfeited under Section 14B.50.030 shall be used to provide services, including but not limited to shelter services, for victims of human trafficking. The remaining twenty-five percent of the proceeds from any assets forfeited under or Section 14B.50.030 may be used by the Portland Police Bureau for law enforcement purposes relating to the provisions of ORS 167.002, 167.007(b), 167.012, and 167.017.

**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

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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.
- 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.

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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.
  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 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.

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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 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 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

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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:

  - 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

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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.
- 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.

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**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.
- 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:

- 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

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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



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- 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.
- 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,

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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.
  - 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

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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.
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

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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.
  - (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.

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- (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 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

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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.
- (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

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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.**

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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 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;
  - 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

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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.
- 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

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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.
- 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".

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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:
    - 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.

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- 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.
- 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:

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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 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;
  - 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.

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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;
  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

    - 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.

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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:
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.
- 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.

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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 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

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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. 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.



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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.
- 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
    - 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;

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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.
  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.**

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- 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

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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 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.)

- 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.

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- 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.
- E.** The Chief of Police shall conduct an investigation of each application for the purpose of determining the recommendation that shall be made to the OLCC. In addition to the information required by the OLCC application forms, the Chief of Police is authorized to require from the applicant any other pertinent information that the Chief of Police deems appropriate.

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

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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.
- 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.



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- 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 12<sup>th</sup> Avenue to the East, by SE Clay Street to the South, and by the Willamette River on the West.
  - 3.** Inner North/Northeast Neighborhood Impact Area. The Inner North/Northeast Neighborhood, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Inner North/Northeast Neighborhood is defined as that area bounded by NE Columbia Blvd. on the North, NE Broadway Blvd. on the South, and Interstate 5 on the West. The area's boundary on the East is NE 42<sup>nd</sup> Avenue from NE Columbia Blvd. to NE Prescott Street, NE 23<sup>rd</sup> Avenue from NE Prescott Street to

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NE Mason Street, NE 21<sup>st</sup> Avenue from NE Mason Street to NE Fremont Street and NE 7<sup>th</sup> 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.

**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,

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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 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.

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- 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 of this Section shall not exempt any amusement device from any applicable provisions of the Internal Revenue Code requiring federal gaming device tax stamps, or any applicable provisions of the statutes of the State of Oregon.

**14B.110.050 Permits Required, Fees.**

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

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

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

year, by obtaining a Temporary Location Permit, which shall require the payment of a nonrefundable fee of \$250.

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

**14B.110.060 Permit Application, Issuance, Denial.**

- A.** Applications for all permits required by this Chapter shall be made to the Bureau of Licenses on forms provided by the Bureau of Licenses. The applicant shall provide all the information relating to the purposes of this Chapter required on the form by the Bureau of Licenses. Failure to provide any information requested on this form may be cause to deny the requested permit.
- B.** The Director shall approve issuance of permits after payment of the required fee, completion of the application form and following an investigation of the applicant. However, the Director shall deny a permit application if:
  - 1.** The applicant has been convicted of any offense related to minors, juveniles, gambling, obscenity, controlled substances, prostitution or alcoholic beverages;
  - 2.** Any person has been convicted of any offense relating to minors, juveniles gambling, obscenity, controlled substances, prostitution or alcoholic beverages occurring at the location for which the permit is to be obtained;
  - 3.** Any statement in the application is found to be false;
  - 4.** The applicant has been a principal owner, operator, manager or supervisor of an amusement location and the activities or patrons of such business caused a significant increase in harassing, disorderly or violent acts, criminal activity, vandalism, litter, liquor law violations, noise or traffic congestion in or around such business;

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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.
- 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

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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

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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.
- 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.
  - 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

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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.
  2. Failure to obtain proper location permit: the penalty shall be up to \$50 per amusement device.

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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.

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**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 alcoholic beverages, ORS 471.164. 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.

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**14B.120.020 Definitions.**

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

- A.** "Alcoholic Beverage" means any liquid or solid containing more than one-half of one-percent alcohol and capable of being consumed by a human being.
- B.** "Director" means the Director of the Office of Neighborhood Involvement, or the Director's designee.
- C.** "Chief of Police" means the Chief of Police of the Portland Police Bureau.
- D.** "Licensee" means any person holding a license issued by the Oregon Liquor Control Commission.
- E.** "Establishment" means any location licensed under ORS Chapter 471 and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Establishment" also includes areas outside of a building that the Oregon Liquor Control Commission has specifically approved for serving alcoholic beverages.
- F.** "Nuisance activity" means any of the following:

  - 1.** Operation of sound producing equipment, as prohibited by City Code Section 14A.30.020.
  - 2.** Disorderly conduct as defined in ORS 166.025 (2003).
  - 3.** Offensive littering as defined in ORS 164.805 (2003).
  - 4.** Drinking on public rights of way, unless officially authorized, as prohibited by City Code Section 14A.50.010.
  - 5.** Interference with vehicle ingress and egress as prohibited by City Code Section 14A.50.035.
  - 6.** Alcoholic beverage violations in parks, as prohibited by City Code Section 20.12.040, where the violation relates to a specific licensee.
  - 7.** Discharge of a firearm at the establishment, as prohibited by City Code Section 14.A.60.020.

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

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

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

**14B.120.030 Nuisance Activity Violations.**

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

**14B.120.040 Notice.**

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

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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).



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

**14B.120.060 Enforcement.**

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

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

**14B.120.070 Hearings.**

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

**14B.120.080 Remedies.**

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

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- 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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- c. The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.
- D. Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of such officer's department.
- E. All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:
  1. A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;
  2. The property will be dealt with in such manner as directed by the Chief of such officer's department.
- F. All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in Subsection 14.10.040 E. above, will be released to the facility or agency accepting custody of the person so that they may:
  1. Hold the property for safekeeping on behalf of the person in custody, and
  2. Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

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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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**PUBLIC ORDER AND POLICE**  
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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

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

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**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.



**TITLE 17**  
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**Chapter 17.38**

**DRAINAGE AND WATER QUALITY**

(Chapter replaced by Ordinance  
No. 173330, effective June 4, 1999.)

**Sections:**

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17.38.015	Intent.
17.38.020	Definitions.
17.38.025	Rule Making.
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17.38.041	Parking Lot Stormwater Requirements.
17.38.045	Enforcement.
17.38.050	Erosion Control Required.
17.38.055	River Restoration Program.

**17.38.010 Authority.**

(Amended by Ordinance No. 174745, effective August 25, 2000.) The Director of Environmental Services is responsible for administering the requirements of this Chapter. The Director has the authority and responsibility to adopt rules, procedures, and forms to implement the provisions of this chapter and to maintain a Stormwater Management Manual.

**17.38.015 Intent.**

(Amended by Ordinance No. 182144, effective September 26, 2008.) The intent of this Chapter is to provide for the effective management of stormwater, groundwater, and drainage, and to maintain and improve water quality in the Watercourses and Water Bodies within the City of Portland as described in Section 17.38.035.

**17.38.020 Definitions.**

(Amended by Ordinance Nos. 174745, 176561, 176783, 180037, 182144 and 183397, effective January 8, 2010.)

- A. "Approved Drainage System." A system approved by BES which, in general, shall adequately collect, convey, treat and or dispose of stormwater runoff or other site discharge. Approved systems shall meet all requirements and specification laid out in this code or in any BES design guidance document plus

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any applicable plumbing code provisions relating to the piped portions of any system.

- B.** “Building Permit”. A permit required by state administrative rule or the City Code for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal or demolition of a building or structure or any appurtenances connected or attached to such buildings or structures.
- C.** "Capacity." The flow volume or rate that a facility (e.g., pipe, pond, vault, swale, ditch, drywell, etc.) is designed to safely contain, receive, convey, reduce pollutants from or infiltrate to meet a specific performance standard. Performance standards for pollution reduction, flow control, conveyance, and infiltration/discharge, vary by facility depending on location.
- D.** "Combination Facilities." Systems that are designed to meet two or more of the multiple objectives of stormwater management as detailed in the Stormwater Management Manual.
- E.** “Conveyance.” The transport of stormwater or wastewater from one point to another point.
- F.** "Director." The Director of the Bureau of Environmental Services, or the Director's designee.
- G.** “Discharge.” A discharge is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching or placing of any material so that such material enters or is likely to enter a waterbody, groundwater, or drainage conveyance structure such as a pipe or ditch.
- H.** “Discharge Point.” The ultimate destination for the stormwater leaving a particular site, also known as the stormwater disposal point. Discharge can be through:
  - 1.** Onsite infiltration (surface infiltration facilities, drywells, sumps and soakage trenches, or
  - 2.** Offsite flow to ditches, drainageways, rivers, streams, public or private separate stormwater piped systems, or combination sewers.
- I.** “Discharge Rate.” The rate of flow expressed in cubic feet per second (cfs).
- J.** "Disposal." See definition of Discharge Point.



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5. When the facility fails to have a properly recorded or inaccurate O & M plan on file with BES.
- E.** Remedies. Enforcement Mechanisms. If BES determines that a violation has occurred or is likely to occur, BES may offer technical assistance and education to the responsible party to prevent or correct the violation. In enforcing any of the requirements of this Chapter or rules adopted hereunder, the Director, or a duly authorized representative, may employ any of the following enforcement methods:
1. Take civil administrative actions, as set out in rules adopted under the authority of this chapter;
  2. Issue compliance orders;
  3. Institute an action before the Code Hearings Officer
  4. Cause an appropriate action to be instituted in a court of competent jurisdiction; or
  5. Take such other action as the Director, in the exercise of his or her discretion, deems appropriate.
- F.** Penalties. Violations of this chapter or rules adopted hereunder may result in assessment of civil penalties in an amount up to \$500 per day per violation.
1. Collection of penalties and costs. All civil penalties shall be deposited with the City Treasurer and credited to the Sewage Disposal Fund. Penalties and costs are payable upon receipt of the final order imposing penalties and costs. Penalties and costs under this chapter are a debt owing to the City and may be collected in the same manner as any other debt. Penalties shall accrue interest and any other applicable charges until the penalty is paid in full. The City may initiate appropriate legal action in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the Hearings Officer.
- G.** Appeals. Appeal of an enforcement action. Upon receipt of a final determination of an enforcement action, a person may appeal the determination to the Code Hearings Officer in accordance with the procedures set out at Chapter 22.10 of the Portland City Code provided that such appeal shall include a copy of the final determination that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

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- H.** Nuisance. A violation of this Chapter shall constitute a nuisance. Summary abatement of such nuisances is authorized.
- I.** Cost recovery. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with the violations of this Chapter, including but not limited to the costs of administration, investigations, legal or enforcement activities, damages to or contamination of the sewer and stormwater systems; and any civil penalties assessed on the City which result from activities not in compliance with this chapter or rules adopted hereunder. The Director may also make a lien on the property or properties in accordance with the provisions of Chapter 22.06.
- J.** Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to extent of such inconsistency or conflict.
- K.** Severability. If any provision, paragraph, word, Section or Chapter of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters shall not be affected and shall continue in full force and effect.

#### **17.38.050 Erosion Control Required.**

(Amended by Ordinance No. 173979, effective March 1, 2000.) All public works projects constructed within the City of Portland must comply with Title 10, Erosion and Sediment Control Regulations.

#### **17.38.055 River Restoration Program.**

(Added by Ordinance No. 184277, effective December 31, 2010.) The Director of Environmental Services is authorized to develop administrative rules for implementation of a River Restoration Program including but not limited to, a mitigation bank and in-lieu fee program for implementation of Title 33 River Plan/North Reach zoning code and accept and expend funds received from in-lieu fees, mitigation bank credits, donations, program administrative fees or other sources for environmental restoration, enhancement and improvement activities.

#### **17.38.060 Fill Mitigation In-lieu of Balanced Cut and Fill – the Johnson Creek Fill Mitigation Bank.**

(Repealed by Ordinance No. 182144, effective September 26, 2008.)

**17.102.110 Divulging Particulars of Report Forms Prohibited.**

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** Except as otherwise required by law, it shall be unlawful for the Bureau of Planning and Sustainability or any officer, employee, or agent of the City, to divulge, release or make known in any manner:
  - 1.** Any information submitted or disclosed to the City under Section 17.102.250; or,
  - 2.** Any information submitted or disclosed to the City by solid waste collectors regarding past hazardous waste remedial action surcharges.
- B.** Nothing in this Section shall be construed to prohibit:
  - 1.** The disclosure of the names and addresses of any persons to whom permits have been issued; or
  - 2.** The disclosure of general statistics in a form which would prevent the identification of financial information regarding any individual permittee.

**17.102.120 Franchise Administration.**

(Amended by Ordinance No. 182671, effective May 15, 2009.) Notwithstanding Section 3.114.020, the Bureau of Planning and Sustainability shall be responsible for administration of residential collection franchises.

**17.102.130 Franchise Size Limit.**

(Amended by Ordinance No. 184224, effective December 10, 2010.)

- A.** No franchisee shall serve residential customers greater than 40 percent of the residential customer base, as determined on a quarterly basis. For purposes of this Section, the Bureau of Planning and Sustainability will calculate the residential customer base and the residential customer cap using the most recent Quarterly Residential Customer Count Report, and shall keep this calculation on file for public reference.
- B.** No franchisee shall be a subsidiary corporation of another franchisee.

**17.102.140 Residential Collection Franchise Required.**

- A.** No person may collect residential solid waste, recyclable material or yard debris, within the City without having obtained a franchise from the City, except as provided in 17.102.150 or 17.102.170 of this Chapter.

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- B.** Having obtained a franchise for residential solid waste, recyclable material and yard debris collection from the City, no person shall provide or offer to provide such collection in an area within the City 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, recyclable materials or yard debris, except in compliance with this Chapter, other city ordinances and regulations, and state laws dealing with solid waste management.
- D.** Nothing in this section shall prohibit the City from withdrawing certain solid waste, recyclable materials or yard debris collection services by amendment of this Chapter on the basis of finding that such change is appropriate.
- E.** No person other than an approved residential recycler may remove recyclable materials or yard debris that are in or next to a residential recycling or yard debris container set out at a residence.
- F.** As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of rental residences must arrange for collection by a franchisee.

**17.102.150 Exceptions to Residential Franchise Requirement.**

- A.** A franchise is not required for the collection or transportation of residential solid waste, recyclable materials or yard debris by the following persons:
  - 1.** Persons transporting solid waste, recyclable materials, or yard debris, 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 (2007) and who collect residential recyclable materials or yard debris without charge to the person who generates those recyclable materials or yard debris;
  - 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;

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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.725 (2007);
  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 or yard debris, from non-residential sources.
- B.** An organization is not required to have a franchise for the acceptance, storage or transportation of recyclable materials or yard debris if those materials are accepted and stored at a depot or depots which accept recyclable material or yard debris without a charge to the generator of that recyclable material or yard debris.

**17.102.160 Forfeiture and Replacement.**

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** In the event that the Director finds grounds for declaring a forfeiture, according to the terms of the franchise awarded by Ordinance No. 181666 and as amended by subsequent ordinances, the Director shall make a recommendation for Council action on the matter, following procedures specified in the BPS's adopted rules.
- B.** In preparing for the transfer of a forfeited franchise to another party, the Director shall solicit applications from current franchisees and from other parties who have given a written notice of their interest following a public notification. The Director shall determine the applicants' qualifications to assume the franchise responsibilities. The Director is authorized to then use a lottery in selecting among qualified applicants. In addition, the Director may 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.

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- C.** In cases where a franchisee abruptly ceases to provide collection service, and there is insufficient time to conduct an appraisal and permanently transfer a franchise, the Director may 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.

**17.102.170 Residential Recycling Services.**

- A.** No person shall provide residential recycling collection without first applying for and receiving approval as an approved residential recycler.
- B.** To have status as an approved residential recycler an applicant must receive the City's approval of recycling collection and processing plans prior to initiation of collection service, and at subsequent times as provided in the administrative rules.
- C.** To receive approval as an approved residential recycler, an applicant shall submit a recycling collection and processing plans on forms provided by the Director and shall include, at a minimum, the following information:

  - 1.** Number of residential households to be served;
  - 2.** Description of recycling collection equipment;
  - 3.** Address and City zoning classification of all processing/storage sites that relate to collection services provided in the City;
  - 4.** Description of all processing and storage activities that relate to collection services provided in the City;
  - 5.** List of markets where each recyclable material will be sold;
  - 6.** List of the number of staff, their positions and full-time equivalent (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

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9. Any subcontracted collection services, including the names of the providers, description of the services provided and the number of customers served.
  10. Written consent of the franchisee in whose territory the applicant seeks to provide collection service.
  11. Other information as deemed relevant and necessary by the Director.
- D.** The Director shall review the recycling collection and processing plans submitted by an applicant 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. The Director shall notify the applicant of the decision on his/her status as an approved residential and any recommended modifications if approval is not given. Approved residential recyclers shall use recycling containers that meet the Director's specifications.
- E.** An applicant's failure to receive the Director's approval of a plan shall result in denial of the City's permission for that applicant to provide recycling collection service and the appointment of another approved residential recycler by the Director to provide recycling collection service to those residential customers.

**17.102.180 Franchise System Evaluation.**

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** Periodically the Director shall prepare and submit a report to the City Council on the status and performance of the franchise collection system. The report shall comment on progress toward achievement of the relevant goals identified in Section 17.102.010 and as otherwise described in BPS's 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.

**17.102.190 Residential Solid Waste and Recycling Rates and Charges.**

For all service levels of franchised residential collection, rates and charges shall be as set forth in Figures 6 and 6-1 published at the end of Title 17.



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**17.102.200 Large Size Container Service to Residential Customers.**

- A.** Any residential putrescible waste collected in containers exceeding two yards capacity 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 more than four times in a 365-day period 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 more than four times in a 365-day period to residential customers outside their franchise territory.

**17.102.210 Commercial Collection Permit Required.**

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** No person shall provide commercial collection of solid waste, compostables and recyclable material within the City without having a currently valid commercial collection permit from the Bureau of Planning and Sustainability, except as provided in Section 17.102.220. Permits shall be issued annually, with the permit being valid for the period beginning July 1 and ending June 30. No expenditure of money, lapse of time or other act or thing, shall give the permittee any vested rights or other property rights.
- B.** The Director may impose conditions upon the issuance of a permit which are necessary to implement the provisions of this Chapter or administrative rules promulgated under Section 17.102.030. Conditions shall include but not be limited to:
  - 1.** Permittees must comply with the provisions of this Chapter and administrative rules promulgated under Section 17.102.030.
  - 2.** If a permittee provides solid waste collection services to a customer, the permittee must offer recycling collection services to the customer. The permittee shall also offer compostable material collection services to a customer that is a food scrap generating business subject to the requirements of Subsection 17.102.270 A.1.c.
    - a.** Permittees may provide recycling and compostable material collection services either directly or through third-party providers. Where a permittee provides such services through a third party provider, the permittee shall be responsible for reporting to the



City the quantities of all materials collected by that provider on its behalf within the City.

- b.** In providing recycling and compostable material collection services, permittees shall use containers that comply with the City's administrative rules.
- 3.** If the Director determines that a permittee is delivering as waste, loads containing significant amounts of recyclable materials to a transfer station, reload, or landfill, the Director shall work with the permittee to identify customers on the routes serviced in those loads for the purpose of providing customer outreach, assistance and education.
- 4.** 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 subsection does not affect charges for the collection of food scraps and food soiled paper.
- C.** Any person who provides commercial collection of solid waste within the City without a current commercial collection permit from the City shall be subject to an assessment as provided by Section 17.102.090.
- D.** No person who is not authorized by the customer may remove recyclable material that is set out by the customer for recycling.
- E.** As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of multifamily complexes must arrange for collection by a permittee.

**17.102.220 Exceptions to Commercial Collection Permit Requirement.**

A commercial collection permit is not required for the collection or transportation of commercial solid waste by any of the following:

- A.** Persons transporting solid waste 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;

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- 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 459A.725 (2007);
- 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.

**17.102.230 Applications for Commercial Collection Permits, Issuance, Denial.**

- A.** Applications for commercial collection permits required by Chapter 17.102 shall be submitted to the Director. The Director shall prepare application forms and make them available upon request.
- B.** Each application for a commercial collection permit shall be accompanied by a nonrefundable fee of \$350.
- C.** An applicant for a commercial collection permit shall submit an application that sets forth the following information:
  - 1.** The name, address and telephone number of the business or proposed business;
  - 2.** Whether the applicant is organized as 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, addresses and telephone numbers of each general or managing partner.
    - b.** If a corporation, or limited liability company, the application must set forth the corporate or company name and the names, addresses

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and telephone numbers of every person owning more than twenty percent of the business;

- c. If the business is organized in some other form, the application must set forth the name, address and telephone number of the designated contact person for the business.
  4. A City of Portland business license number.
  5. A signed statement that the permittee shall hold harmless the City of Portland, its officers and employees and shall indemnify the City of Portland, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the commercial collection permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide General Liability coverage insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insures the City of Portland, their officers and employees with respect to the permittee's activities carried on under the terms of the commercial collection permit, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the Auditor.
  6. Any other information that the Director may reasonably feel is necessary to accomplish the goals of this Chapter.
- D. Applications shall contain a written declaration, verified by the applicant, to the effect that the statements made therein are true.
- E. Applications shall contain written demonstration of adequate staff, equipment and collection vehicles necessary to provide services as required under Subsection 17.102.210 B.2.
- F. The Director may investigate and verify data reported in the permit application.
- G. The permittee shall provide written notice to the Director within 10 days of any changes in the information provided in the application that occurs after the application is submitted.

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- H.** The Director shall approve issuance of a commercial collection permit to the applicant after payment of the required fee, completion of the application form and following an evaluation of the information provided with the application. The Director may deny the issuance of a commercial collection permit to an applicant under the following conditions:
- 1.** The permit application contains falsehoods or facts that cannot be verified;
  - 2.** The applicant has failed to pay fees, assessments and interest as provided in Chapter 17.102;
  - 3.** The applicant has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City; or,
  - 4.** The applicant has had their permit revoked during the two years prior to the application. For purposes of this section, "applicant" includes any individual who was a managing partner, or who owned or controlled more than 20 percent of the voting interests in the permittee whose permit was revoked.
- I.** There shall be no right to renewal of a commercial collection permit; each application shall be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.
- J.** Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

**17.102.240 Revocation or Suspension of Commercial Collection Permits.**

- A.** The Director may suspend or revoke a commercial collection permit under the following conditions:
- 1.** One or more of the permit conditions is being violated;
  - 2.** The permittee is in violation of any of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling.
  - 3.** The permittee has failed to pay fees and assessments as provided in Chapter 17.102.
  - 4.** The permittee has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City.

- B.** The Director shall consider the following criteria in determining whether to revoke or suspend the commercial collection permit due to violations of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling:
1. The nature and extent of the permittee's involvement in the violation;
  2. Whether the permittee 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 relative harms of continued collection service from the permittee and the potential for service disruption;
  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.
- C.** Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

**17.102.250 Commercial Tonnage Fee.**

(Amended by Ordinance No. 183828, effective July 1, 2010.) Commercial permittees shall, when invoiced quarterly by the Director, pay a tonnage fee to the City. Fees shall be assessed up to \$6.80 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 percent per month on balances which remain unpaid as of 30 days after the date of invoice, compounded daily from the due date.

**17.102.260 Registration Required for Independent Commercial Recyclers.**

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** No person shall provide collection service as an independent commercial recycler within the City without having registered with the Bureau of Planning and Sustainability, by providing BPS with a copy of their City of Portland Business License, with their Business License number, or with a copy of their current

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annual Business License exemption application or request submitted to the City's Revenue Bureau.

- B.** All independent commercial recyclers which collect in the City at least 25 tons of recyclables and/or compostables per year shall report quarterly to BPS on the amounts of recyclables collected in the City, on forms provided by BPS.

**17.102.270 Businesses and Multifamily Complexes Required to Recycle.**

- A.** Waste Prevention and Recycling Requirements.

- 1.** To achieve the City's waste prevention and recycling goals as set forth in Section 17.102.010, all businesses within the City shall comply with waste prevention, recycling and composting requirements as set forth in the administrative rules established by the Director. The following recycling requirements shall be in effect:
  - a.** All businesses and multifamily complexes shall recycle 75 percent of the solid waste they produce;
  - b.** All businesses shall recycle all of their paper and containers. For the purposes of this Section, containers means all recyclable metal, plastic and glass containers;
  - c.** Food scraps generating businesses shall separate their food scraps for composting.
  - d.** 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 75 percent of the solid waste produced on the job site is recycled. In addition, certain materials generated on the job site shall be recycled in compliance with administrative rules established by the Director. For an affected building project where there is no general contractor, this requirement applies to the property owner is the person responsible for ensuring compliance with the recycling requirements.
- 2.** Commercial customers that provide garbage collection service to business tenants as part of their rental/lease, shall provide recycling and, where appropriate, compostable collection systems that will enable the business tenants to recycle in compliance with administrative rules established by the Director.

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3. All multifamily complexes within the City shall establish recycling systems for their tenants' use, in compliance with administrative rules established by the Director.
- B. The Director may monitor compliance with the requirements of Subsection A by reviewing available information including, but not limited to, information reported by the customers on their recycling activities, as well as onsite inspections.
- 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.

**17.102.280 Inspections to Determine Compliance with Business Recycling Requirements.**

- A. The Director shall be responsible for the administration and enforcement of Section 17.102.270 relating to recycling goals for businesses and multifamily complexes. In furtherance of these responsibilities, the Director shall have the authority to inspect sites, buildings and other structures and equipment for compliance with Section 17.102.270. The Director shall establish a program for the periodic inspection of businesses and multifamily complexes for compliance with these requirements. The program shall identify the frequency, priority and types of inspections, subject to the availability of staff and budgeted funds.
- B. Right of Entry. The Director may enter the premises of any business or multifamily complex, except private residences, between the hours of 9:00 am and 5:00 pm on any business day to conduct inspections for the purpose of determining compliance with recycling requirements established pursuant to Section 17.102.270. The Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to gain entry by obtaining an inspection warrant. Failure to respond to repeated requests may constitute refusal for entry. For the purposes of Section 17.102.280, the premises shall include the common areas of the business or multifamily complex used to store solid waste, recycling or compostable materials.
- C. Warrants. Whenever an inspection is necessary to determine compliance with Section 17.102.270 and the Director has been refused entry, the Director may apply to any Circuit Court judge to obtain an inspection warrant for the inspection of the premises of a business or multifamily complex. The inspection warrant is a court order authorizing entry onto the premises of a business or multifamily complex for the purposes of conducting an inspection to determine compliance with the requirements of Section 17.102.270.



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**D. 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 inspection warrant, the applicable code sections or regulation requiring or authorizing the inspection, the property to be inspected and the purpose for which the inspection 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.
- 2. Cause.** Cause shall be deemed to exist if the affidavit demonstrates that:
  - a.** The inspection is authorized pursuant to reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the premises of a business or multifamily complex;
  - b.** There is a reasonable basis for believing that a condition of nonconformity with Section 17.102.270 exists with respect to the designated property; or,
  - c.** An inspection is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any of the requirements of Section 17.102.270 or any regulations promulgated pursuant thereto.

**E. 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 exists and that the other requirements for granting the application are satisfied, the judge shall issue an inspection warrant, particularly describing the person or persons authorized to execute the inspection warrant, the property to be entered and the purpose of the inspection. The inspection warrant shall contain a direction that it be executed on any business day between the hours of 9:00 a.m. and 5:00 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, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to assist the person authorized to execute the inspection warrant in any way necessary to complete the inspection.

**F. Execution of Inspection Warrants**

1. In executing an inspection warrant, the person authorized to execute the warrant shall, before entry into any occupied premises of a business or multifamily complex, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the premises of the business or the multifamily complex designated in the inspection warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. The person authorized to execute the warrant shall leave a copy of the inspection warrant at the premises.
2. Return. The inspection warrant must be executed within 10 working days of its issue. The return of warrant must be submitted 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 inspection warrant shall be void unless it has been timely executed.

**17.102.290 Storing Solid Waste, Recycling or Compostable Containers in the Right of Way Prohibited.**

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. No person may store, or cause to be stored, containers of solid waste, recycling or compostables in public right-of-way without a permit from the City Engineer, the City Traffic Engineer, or the Bureau of Planning and Sustainability. For the purposes of this Section, storage means leaving containers in the right of way for more than 2 hours either before or after collection during normal business hours. If collection occurs after normal business hours, containers may be placed in the right of way at the close of business but must be removed from the right of way by the start of the following business day or within 24 hours of set out, whichever occurs first.
- 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

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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 storage of containers of solid waste, recycling or compostables in new construction and when major alterations are made to existing buildings.
- D. Denial of a request for exemption for extreme economic hardship may be appealed to the Code Hearings Officer in accordance with procedures set for in Chapter 22.10.

#### **17.102.300 Definitions for Ban of Polystyrene Foam Food Containers (PSF).**

As used in Sections 17.102.300 through 17.102.340, 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.
- 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**” or “**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.

**17.102.310 Prohibition on Certain PSF Uses.**

- 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 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.

**17.102.320 Exemptions for PSF Use.**

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

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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 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.

**17.102.330 Enforcement and Notice of Violations for PSF Ban.**

- A.** The Director 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 food vendor or food packager which will specify the violation and appropriate penalty.
- B.** The food 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.

**17.102.340 Fines for PSF Ban.**

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.

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**NOISE CONTROL**

**Chapter 18.02**

**TITLE**

**Sections:**

- 18.02.010 Title.
- 18.02.020 Policy Statement.

**18.02.010 Title.**

(Amended by Ordinance No. 171455, effective August 29, 1997.) This Title shall be known as “Noise Control.”

**18.02.020 Policy Statement.**

(Added by Ordinance No. 175772, effective August 1, 2001.) It is the intent of the City Council to minimize the exposure of citizens to the potential negative physiological and psychological effects of excessive noise and protect, promote and preserve the public health, safety and welfare. It is the intent of the City Council to control the level of noise in a manner that promotes the use, value, and enjoyment of property, conduct of business, sleep and repose and reduces unnecessary and excessive sound in the environment.

**Chapter 18.03**

**NUISANCE ABATEMENT**

(Repealed by Ordinance No. 171455,  
effective August 29, 1997.)

**TITLE 18**  
**NOISE CONTROL**

**Chapter 18.04**

**STANDARDS AND DEFINITIONS**

**Sections:**

- 18.04.010 Terminology and Standards.  
18.04.020 Measurement of Sound.  
18.04.040 Definitions.

**18.04.010 Terminology and Standards.**

All terminology used in this Title not defined below shall be in accordance with applicable publications of the American National Standards Institute (ANSI) in effect on the effective date of this Title.

**18.04.020 Measurement of Sound.**

(Amended by Ordinance Nos. 159276 and 175772, effective August 1, 2001.)

- A.** If measurements are made with a sound level meter, the meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this Title, a sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capacity.
- B.** If measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy shall be at least that called for ANSI standard 1.4-1971 for Type II instruments.
- C.** When the location or distance prescribed in this Title for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this Title or in other rules promulgated by the Noise Control Officer.
- D.** Procedures and tests required by this Title and not specified herein, shall be placed on file with the City Auditor.
- E.** For purposes of determining compliance with the measurable sound level requirements found in the Portland City Code, approved sound level meters shall utilize a Fast meter response setting. Slow sound level meter settings shall not be used for the purpose of determining compliance with the Portland City Code, unless directed by the Noise Control Officer.

**18.04.040 Definitions.**

(Amended by Ordinance Nos. 159276, 164010, 175772 and 184101, effective October 8, 2010.) The following words shall have the meanings ascribed to them in this Section:

- A. A-scale (dBA):** The sound level in decibels measured using the A-weighting network as specified in ANSI S 1.4-1971 for sound level meters.
- B. Ambient noise:** The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- C. City:** The City of Portland, Oregon, or the area within the territorial City limits of the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.
- D. Construction:** Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
- E. Decibel (dB):** A unit of measure of sound (See sound pressure level).
- F. Dwelling unit:** A building or portion thereof intended for and regularly used for residential occupancy.
- G. Dynamic braking device:** A device, used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.
- H. Emergency work:** Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.
- I. Frequency:** The time of repetition of a periodic phenomenon, measured in Hertz (Hz) (formerly cps or cycles per second).
- J. High noise impact events:** Events or activities which are attended by at least 250 people, and which may reasonably be assumed to cause increases of 15 dBA or more in the ambient noise level of a residential or commercial use area.
- K. Impulse sound:** A single pressure peak or a single burst (multiple pressure peaks) for a duration of not more than one second as measured on a peak unweighted sound pressure measuring instrument, as specified in ANSI S1.4-1971.

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### NOISE CONTROL

- L. Legal holidays:** The days on which New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas day are fixed by State law.
- M. Lot:** Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting "platted lots" under the same ownership shall be considered a "lot." The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.
- N. Motor vehicle:** Any land vehicle which is, or is designed to be, self-propelled or is designed or used for transporting persons or property.
- O. Motor vehicle racing:** Any motor vehicular activity conducted at a recognized auto racing facility, involving motor vehicles participating in, but not limited to practice, qualifying and racing sessions, tests, training, and all other competitive and non-competitive displays, whether by individual vehicles, or by groups of vehicles.
- P. Narrow band sound:** A sound whose frequencies occupy an octave band or less.
- Q. Noise disturbance:** Any sound which: a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.
- R. Noise Sensitive Receiver:** A person receiving noise at any residential use or dwelling place, schools, churches, hospitals and libraries.
- S. Nonconforming use:** A use of structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to Title 33 of this Code, but which is not a permitted use in the zone in which it is now located.
- T. Octave band:** An interval in Hertz between two frequencies having a ratio of 2:1. For purposes of this Title, octave band sound pressure levels shall be measured at any of the following center frequencies: 31.5, 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 Hz.
- U. Offroad vehicle:** Any motor vehicle operated off a public right-of-way.
- V. Person:** Any individual, association, partnership, or corporation including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the City of Portland.



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- W. Physical characteristics of sound:** A descriptive term, encompassing the steady, impulsive or narrow band property of the sound, the level of the sound, and the extent to which it exceeds the background sound level.
- X. Plainly audible (sound):** Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.
- Y. Public right-of-way:** Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.
- Z. Sound level:** In dBA, the frequency weighted sound pressure level measured on the A-scale of a sound level meter.
- AA. Sound level meter:** A sound level measuring device, either Type I or Type II, as defined by ANSI specification S 1.4-1971. A sound level meter for the purpose of this Title shall contain at least an A-scale and both fast and slow meter response.
- BB. Sound pressure level:** In decibels (dB), is 20 times the logarithm to the base 10 of the ratio of the pressure of a given sound to the reference pressure. The reference pressure is 20 micropascals per square meter.
- CC. Steady sound:** A sound which remains essentially constant ( $\pm 2$  dB) during a two minute period of observation when measured with the fast response of the sound level meter. Steady sound shall apply only to sound sources which operate or can reasonably be expected to operate for at least 15 minutes out of any one hour period.
- DD. Use:** The purpose for which land or a building is arranged, designed, or occupied.
- EE. Watercraft:** Any vehicle operated upon or immediately above the surface of the water.
- FF. Zone:** A classification of area of the City of Portland as described in Title 33 of the City Code, relating to the use to which property may be put. For the purposes of this title, the zones are based upon the Land Use Zones, as defined in Title 33 as follows:

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<u>Category</u>	<u>Zones</u>
Open Space	Open Space
Residential	Residential Farm/Forest Residential 20,000 Residential 10,000 Residential 7,000 Residential 5,000 Residential 2,500 Residential 3,000 Residential 2,000 Residential 1,000 High Density Residential Central Residential Institutional Residential
Commercial	Neighborhood Commercial 1 Neighborhood Commercial 2 Office Commercial 1 Office Commercial 2 Mixed Commercial Residential Storefront Commercial General Commercial Central Commercial
Industrial	General Employment 1 General Employment 2 Central Employment General Industrial 1 General Industrial 2 Heavy Industrial

**Chapter 18.06**

**RESPONSIBILITIES AND AUTHORITY**

**Sections:**

- 18.06.010 Noise Control Officer.
- 18.06.020 Noise Review Board.
- 18.06.030 Responsibilities.
- 18.06.040 Authority.

**18.06.010 Noise Control Officer.**

(Amended by Ord. No. 159276 effective Jan. 24, 1987.) The Noise Control Officer shall be designated by the Commissioner In Charge. The Commissioner may also designate persons to be deputy noise control officers, and the Noise Control Officer and the deputies shall be special police officers of the City and shall have authority to issue citations for the violations of this Title and to this extent shall exercise full police power and authority.

**18.06.020 Noise Review Board.**

(Amended by Ordinance Nos. 159276 and 184101, effective October 8, 2010.) The Noise Review Board is hereby established, consisting of five members, each appointed by the Mayor, and approved by the Council. Among the members there shall be, one professional in acoustics, one representative of the construction industry, and three citizens at large. Appointments shall be for a 3-year term. Noise Review Board members may serve no more than two complete 3-year terms, unless authorized by the Director. Members shall serve without remuneration. The Board shall elect its own chairperson at its first meeting of each fiscal year, and shall determine its own schedule of meetings. The Noise Control Officer shall serve as a nonvoting member of the Board. All decisions made by the Noise Review Board shall be by simple majority vote of a quorum.

**18.06.030 Responsibilities.**

(Amended by Ord. No. 159276 effective Jan. 24, 1987.)

A. The responsibilities of the Noise Control Officer shall include:

1. Investigating citizen complaints of violations of this Title, making all necessary inspections and observations upon reasonable cause, with

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presentation of proper credentials, and enforcing the provisions of this Title.

2. Promulgating rules and procedures to be used in the measurement of sound.
3. Conducting or participating in studies, research and monitoring relating to sound and noise, including joint cooperative investigation with public or private agencies; and the application for, and acceptance of, grants and contracts, with the approval of the City Council.
4. Advising, consulting and cooperating with any public or private agency, including City bureaus, to implement the provisions of this Title.
5. The supplying of such technical assistance as the Board shall direct or require.
6. The reviewing of all applications for variances and the rendering of decisions within the time specified, according to Section 18.14.

**B.** The responsibilities of the Noise Review Board shall include:

1. Instituting a public education program regarding sound and noise, including the collection, publication and dissemination of appropriate literature and information, and the enlisting of cooperation by public, civic, scientific, and educational groups.
2. The reviewing of applications for variances, and the rendering of decision within the time specified, according to Section 18.14.
3. Evaluating the effectiveness of this Title, and the developing of recommendations for amendments, additions, or deletions to this Title.
4. Developing long-term objectives for achieving reduction of sound levels in the community, and developing a means for implementing these objectives into the long-range planning process.
5. The developing of rules relative to the conduct of its meetings and to other matters the Board considers appropriate to noise control.

#### **18.06.040 Authority.**

(Amended by Ord. No. 159276; and 165594, July 8, 1992.)

**A.** The authority of the Noise Control Officer shall include:

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1. The issuance of citations for violation of this Title and City Code Section 16.20.120 A.
  2. Acting on variances, according to procedures specified in Chapter 18.14 of this Title.
  3. Requiring the cooperation of the owner or operator of any noise source in the reasonable operation, manipulation or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.
- B.** The authority of the Noise Review Board shall include:
1. Acting on variances according to the procedures specified in Chapter 18.14 of this Title.
  2. Holding hearings to obtain information relative to its responsibilities.
  3. Recommending amendments, additions, or deletions to this Title.

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**Chapter 18.08**

**CITY BUREAUS**

**Sections:**

- 18.08.010 Bureau Actions.
- 18.08.020 Compliance with Other Laws.
- 18.08.030 Product Selection.

**18.08.010 Bureau Actions.**

All City bureaus shall, to the fullest extent consistent with their authorities under other Titles administered by them, carry out their programs in such a manner as to further the provisions of this Title, and shall cooperate to the fullest extent in enforcing the provisions of this Title.

**18.08.020 Compliance with Other Laws.**

All bureaus engaged in any activities which result, or may result in the emission of sound, shall comply with federal and state regulations and the provisions of this Title, respecting the control and abatement of sound to the same extent that any person is subject to such laws and regulations.

**18.08.030 Product Selection.**

When two or more products, including supplies, materials and equipment, are being considered for purchase by a City bureau, and excessive sound levels are a factor, the product which has the lowest sound level shall be selected for purchase, provided that:

- A. Fitness and quality are judged to be equal, and
- B. The procurement cost of such product not exceed the total cost required to purchase a competing product and to reduce the sound emission level of that competing product to the lowest level of the product being considered, and
- C. The total cost of the purchase being considered not exceed 110 percent of the cost, prior to silencing, of the most advantageous product of the types being considered.

**Chapter 18.10**

**MAXIMUM PERMISSIBLE SOUND  
LEVELS**

**Sections:**

- 18.10.010 Land Use Zones.
- 18.10.020 Motor Vehicles.
- 18.10.030 Home Equipment and Powered Tools.
- 18.10.035 Leaf Blowers.
- 18.10.040 Watercraft.
- 18.10.050 Motor Vehicle Racing Events.
- 18.10.060 Construction Activities and Equipment.
- 18.10.070 Parking Lot Sweepers.

**18.10.010 Land Use Zones.**

(Amended by Ordinance Nos. 159276, 163608, 164010, 175775 and 184101, effective October 8, 2010.) Except as specifically provided for elsewhere in this Title, no person shall cause or permit sound to intrude into the property of another person which exceeds the limits set forth below in this Section. For purposes of this Section, “day hours” shall be between 7 a.m. and 10 p.m., and “night hours” shall be between 10 p.m. and 7 a.m.

- A.** The sound levels established are as set forth in Figure 1 before any adjustments are applied:

FIGURE 1  
PERMISSIBLE SOUND LEVELS  
(7 am-10 pm, otherwise minus 5 dBA)

		Zone Categories of Receiver (measured at property line)			
		Residential	Open Space	Commercial	Industrial
Zone Categories of Source	Residential	55	55	60	65
	Open Space	55	55	60	65
	Commercial	60	60	70	70
	Industrial	65	65	70	75

- B.** Adjustments to Figure 1.

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1. During the night hours, the sound levels of Figure 1 shall be reduced 5 dBA.
  2. During all hours, the sound levels of Figure 1 shall be decreased 5 dBA for narrow band or steady sound (apply 1 only).
  3. The adjustments provided herein are cumulative.
- C.** If a dwelling unit or noise sensitive receiver is in a nonresidential zone of the City, the nonresidential standard shall normally apply, unless:
1. a complaint is received, and
  2. the dwelling unit or noise sensitive receiver type use predates that of the noise source. In that case, the permissible sound level, as measured at the lot line of the dwelling unit or other noise sensitive receiver, shall be 65 dBA in a commercial zone, and 70 dBA in an employment or industrial zone, each subject to the adjustments of Section 18.10.010 B., F., and G.
- D.** Nonconforming use: The maximum permissible sound level that may be emitted from any lot containing a nonconforming use shall be the same as that permitted for the most restrictive zone in which the use would be conforming.
- E.** When a sound source can be identified and its sound measured in more than one zone, each of the appropriate sections shall apply at the boundaries between zones.
- F.** Impulse sound: Notwithstanding the sound levels of this Section, no person shall cause or permit the operation of an impulsive noise source which has a peak sound pressure level in excess of 100 dB during day hours or 80 dB during night hours.
- G.** Octave band measurements: When the Noise Control Officer makes a finding that the frequency characteristics of the sound are such that the A-scale levels specified in Section 18.10.010 are inadequate to protect the public health, welfare, or safety, octave-band sound pressure level measurements shall be performed.
1. Octave-band measurements shall be compared to the appropriate values indicated in Figure 2 for equivalent permissible dBA land use values; octave-band sound pressure in excess of these standards shall be considered evidence of a violation of this Title.



FIGURE 2  
PERMITTED OCTAVE BAND SOUND PRESSURE LEVELS  
FOR GIVEN PERMISSIBLE dBA SOUND LEVELS

The Maximum Octave Band Sound Pressure Levels Shall Not Exceed:										
Octave Band Center Frequency, in Hz										
	31.5	63	125	250	500	1000	2000	4000	8000	
When the permissible DBA level is:	45	64	58	51	46	42	39	36	33	30
	50	65	62	56	50	46	43	40	37	34
	55	68	65	61	55	52	49	46	43	40
	60	72	68	64	60	56	54	51	48	45
	65	76	72	68	64	61	59	56	53	50
	70	79	76	72	69	66	64	61	58	55
	75	82	79	76	73	71	69	66	63	60

- H.** When property of the receiver is unoccupied, as in the case of any undeveloped lot, sound levels in excess of those specified herein, shall be considered only as a technical violation of the standard. No citation shall be issued in such instances, nor is corrective action required by the noise source.

**18.10.020 Motor Vehicles.**

(Amended by Ordinance Nos. 159276, 164010 and 184101, effective October 8, 2010.)

- A.** No person shall operate any motor vehicle registered for use on public roads at any time, or under any condition of grade, load, acceleration or deceleration in such a manner as to violate the maximum permissible sound levels or equipment standards for the category of vehicle as indicated in this Subsection.
- 1.** Vehicles of 10,000 pounds GCWR (Gross Combination Weight Rating) or more, engaged in interstate commerce as regulated by 40 C.F.R., part 202, (1986), the provisions of which are hereby incorporated by reference and three copies of which are on file in the Office of the City Auditor.
  - 2.** All other vehicles shall not exceed the vehicular noise emission levels or equipment standards permitted by OAR 340-35-030 (1) (a) and (c), three copies of which are on file in the Office of the City Auditor and which are hereby adopted by reference.

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3. No person shall drive a motor vehicle on a public highway unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.
- B.** No person shall operate, and no owner of any motor vehicle shall permit to be operated upon any public road, street, or highway, any motor vehicle so as to cause any greater noise or sound than is reasonably necessary for the proper operation of such motor vehicle.
  1. No person shall operate a motor vehicle on a street or highway with an exhaust system utilizing a cutout, bypass or similar device.
  2. No person shall operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching, or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency action to avoid imminent danger shall be exempt from this provision.
  3. No person shall operate any motor vehicle in excess of 10,000 pounds GCWR, in any residential zone of the City or within 200 feet of any dwelling unit, school, hospital or library, with a dynamic braking device engaged except to avoid imminent danger.
- C.** No person shall operate and no owner of property shall permit the operation of an off-road recreational vehicle so as to exceed the noise emission standards of:
  1. OAR 340-35-030 (1)(b) and (d) three copies of which are on file with the Office of the City Auditor, and which are hereby adopted by reference.
  2. Section 18.10.020 of this Title.
- D.** No person shall operate an off-road recreational vehicle on private or public property unless the property has been designated for off-road recreational vehicle use pursuant to Title 33, Planning and Zoning of this Code.
- E.** A police officer, or noise control officer, who finds a vehicle or operator to be in violation of Subsection A of this Section shall issue a citation to the operator. The citation shall be accompanied by a written notice to the operator specifying the particular subsections found to be in violation.
  1. The citation shall require the violator to appear at court to answer for the violation and present evidence that the violation has been corrected. The

date for court appearance on the face of the citation shall not be less than 28 days after the citation was issued.

2. The accompanying written notice shall specify that if the violator presents proof to the clerk of the district court that the vehicle complies with the standards described in OAR 340-35-030 (1), (a) and (c) (1983), for the control of motor vehicle noise emissions, three copies of which are on file with the Office of the City Auditor and which are hereby adopted by reference, the citation shall be dismissed.
3. Proof for the purpose of this Section shall be a certificate of compliance issued or approved by the Department of Environmental Quality. If said certificate is received by the clerk of the district court not less than 5 days prior to the date set for the violator's appearance before the court, the citation will be dismissed without the necessity of the violator personally appearing before the court.

**18.10.030 Home Equipment and Powered Tools.**

(Amended by Ordinance Nos. 159276, 164010, and 175772, effective August 1, 2001.)

- A. This Section shall apply to powered tools and equipment for home use or lawn and garden maintenance, except leaf blowers (see 18.10.035) or such tools and equipment used as part of a home occupation (see 18.10.030 E.).
- B. When used inside a dwelling unit, between the hours of 7:00 a.m. and 10:00 p.m., the sound levels generated by such equipment shall not exceed 60 dBA, when measured at the lot line.
- C. When used outside a dwelling unit, between the hours of 7:00 a.m. and 10:00 p.m., the sound levels generated by such equipment shall not exceed the following levels, for equipment of the appropriate class, when measured at a distance of 25 feet (7.6 meters) or at the lot line, whichever is further from the source:
  1. Five HP or less, such as, but not limited to, lawnmowers, riding tractors and small garden tools: 80 dBA;
  2. More than 5 HP, such as, but not limited to, powered hand tools and snow removal equipment: 85 dBA.
- D. When used inside or outside a dwelling between the hours of 10:00 p.m. and 7:00 a.m., the sound levels generated by all such equipment shall not exceed those specified in Section 18.10.010.

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- E.** Sound levels generated by tools and equipment as part of a home occupation shall not exceed 50 dBA, as measured at the lot line.

**18.10.035 Leaf Blowers.**

(Replaced by Ordinance No. 177767, effective September 1, 2003.)

- A.** For purposes of Section 18.10.035, “leaf blower” means any portable device designed or intended to blow, vacuum, or move leaves or any other type of debris or material by generating a concentrated stream of air. “Leaf blower” shall include any devices or machines that accept vacuum attachments.
- B.** General operating restrictions.
  - 1.** Commercial and other zones. No person shall operate a leaf blower in commercial, industrial, and open space zones, or in the adjoining public right-of-way, between the hours of 9:00 pm and 7:00 am the following morning, seven days a week, unless the leaf blower meets the requirements of Section 18.10.010 A. - F. and H.
  - 2.** Residential zones. No person shall operate a leaf blower in residential zones, or in the adjoining public right-of-way, between the hours of 7:00 pm to 7:00 am the following morning, seven days a week.
  - 3.** For purposes of Section 18.10.035 B., right-of-way adjoining residential zones and any other zone shall be considered as being within residential zones.
- C.** Noise restrictions.
  - 1.** By August 1, 2006, the Noise Control Officer shall establish a list of the leaf blowers not exceeding a 65 dBA sound level at 50 feet. The Noise Control Officer’s list shall include only leaf blowers certified by a third-party testing laboratory, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000. Thereafter, the Noise Control Officer shall update the certified list at least annually, or as it is informed of other certified leaf blowers.
  - 2.** By August 1, 2006, the Noise Control Officer shall establish a list of the leaf blowers not exceeding a 70 dBA sound level at 50 feet. The Noise Control Officer’s list shall include only leaf blowers certified by a third-party testing laboratory, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000. Thereafter, the Noise Control Officer shall update the certified list at least annually, or as it is informed of other certified leaf blowers.

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3. From March 1 through October 31<sup>st</sup> of each year, operation of any leaf blower within the City of Portland, which is not on the certified list of 65 dba , or quieter, leaf blowers as developed by the Noise Control Officer, shall constitute a violation of Title 18.
4. From November 1 through February 28<sup>th</sup> of each year, operation of any leaf blower within the City of Portland, which is not on the certified list of 70 dba , or quieter, leaf blowers as developed by the Noise Control Officer, shall constitute a violation of Title 18.

**D. Leaf Blower Use on Large Open Spaces**

1. Leaf blowers operated on Open Space land use zones at a distance of 200 feet or greater from the property line shall not exceed a 75 dBA sound level, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000.

**18.10.040 Watercraft.**

(Amended by Ord. No. 164010, Mar. 27, 1991.)

- A. No person shall operate a watercraft between the hours of 7:00 a.m. and 10:00 p.m. which exceeds 75 dBA as measured on shore. Between 10:00 p.m. and 7:00 a.m., this sound level shall be 65 dBA.
- B. Exemptions: normal docking and undocking operations of all vessels, and operations of vessels licensed by the federal government for purposes of commerce on interstate waters are exempted from the provisions of this Section.
- C. Motorboats shall not be operated on public waterways within the City limits, unless equipped with a functioning underwater exhaust or muffler, or, unless such motorboat has the discharge water continuously piped into the exhaust line.

**18.10.050 Motor Vehicle Racing Events.**

(Amended by Ordinance Nos. 159276, 164010, and 175772, effective August 1, 2001.)

- A. No person shall operate or permit to be operated any motor vehicle racing within the City except at an area approved by the City.
- B. All motor vehicle racing shall be conducted in a manner approved by the Noise Control Officer and/or the Noise Review Board, or the City Council.
- C. For purposes of determining permissible sound levels of motor vehicle racing only, the Portland International Raceway shall be deemed an industrial land use zone of source, which use was in operation before January 1, 1977. Sound levels

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generated by any other use of the Portland International Raceway shall meet the standards defined in 18.10.010 A., Figure 1.

#### **18.10.060 Construction Activities and Equipment.**

(Amended by Ord. No. 159276 effective Jan. 24, 1987.)

- A.** Maximum sound levels: No person shall operate any equipment or appurtenances thereto in commercial construction activities which exceeds 85 dBA, when measured at 50 feet (15.2 meters) from the source. This standard shall not apply to trucks (see Section 18.10.020), pile drivers, pavement breakers, scrapers, concrete saws and rock drills.
- B.** Night, weekend, and legal holidays limitation: From 6:00 p.m. to 7:00 a.m. the following morning, and 6:00 p.m. Saturday to 7:00 a.m. the following Monday, and on legal holidays, the permissible sound levels of Section 18.10.010 shall apply to all construction activities except by variance or for reasons of emergency. The exempted equipment of Section 18.10.060 A is not exempted during these hours. For purposes of this Subsection, construction activities on a public road within a zone shall be considered as taking place on private property within that zone.
- C.** The adjustments to permissible sound levels established in Section 18.10.010 B apply to Subsections A and B above.
- D.** All equipment used in commercial activities shall have sound control devices no less effective than those provided on the original equipment, and no equipment shall have an unmuffled exhaust.
- E.** All equipment used in commercial construction activities shall comply with pertinent standards of the U.S. Environmental Protection Agency.

#### **18.10.070 Parking Lot Sweepers.**

(Added by Ordinance No. 175772, effective August 1, 2001.) From 10:00 p.m. to 7:00 a.m., operation of commercial parking lot sweepers shall not exceed the sound levels for day hours set forth in 18.10.010. After July 1, 2004, operation of commercial parking lot sweepers shall not exceed the sound levels for night hours set forth in 18.10.010 A and 18.10.010 B.

**Chapter 18.12**

**NOISES PROHIBITED**

**Sections:**

- 18.12.010 Noise Disturbance Prohibited.
- 18.12.020 Specific Prohibitions.
- 18.12.030 Provisions if Measurement Is Made.

**18.12.010 Noise Disturbance Prohibited.**

It shall be unlawful for any person to willfully make, continue, cause or permit to be made or continued any noise disturbance within the City of Portland.

**18.12.020 Specific Prohibitions.**

(Amended by Ordinance Nos. 159276, 166951, 181539 and 184101, effective October 8, 2010.) The following acts are declared to be violations of this Title, but this enumeration shall not be deemed to be exclusive, namely:

**A. Noisy animals.**

- 1.** It shall be a violation for any animal to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's property or keeper's property under conditions wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. This provision is not applicable to any animals located in a Specified Animal Facility or to livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land-use and zoning laws and regulations. Enforcement of this Subsection shall be the responsibility of Multnomah County Animal Control.
- 2.** Animals located in a Authorized or Permitted Animal Facility. It shall be a violation for any animal located in a Specified Animal Facility, as defined in Portland City Code 13.05.005 G., or to any lawful livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under

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the applicable land-use and zoning laws and regulations to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's or keeper's property under conditions wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. Enforcement of this Subsection shall be the responsibility of the Bureau of Development Services or another City entity designated by Council.

- B.** Sound producing or reproducing equipment. Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or operating or permitting the operating or use of any such device between the hours of 10 p.m. and 7 a.m. so as to be plainly audible within any dwelling unit which is not the source of sound; or operating any such device on public property or on a public right of way so as to be plainly audible 100 feet or more from such device provided that a person operating any such device in a City park pursuant to a permit granted by the Commissioner In Charge of the Park Bureau shall be in violation only if the device is plainly audible at any point along the park boundary.
- C.** Parked motor vehicles. The parking of any motor vehicle of 10,000 pounds GCWR, or more, with the motor or attached auxiliary equipment in operation:

  - 1.** On a public right-of-way, except for reasons of an emergency nature, or
  - 2.** On private property in such a manner as to be plainly audible within any dwelling unit between the hours of 10:00 p.m. and 7:00 a.m.
  - 3.** This Subsection C shall not apply to: commercial construction equipment, the normal operation of vehicles designed and used for commercial transportation of passengers, and vehicles being loaded or unloaded.

#### **18.12.030 Provisions if Measurement is Made.**

If measurement is taken of a sound source, the provisions of Chapter 18.10 shall supersede this Section and shall be used to determine if a violation of this Title exists.



**Chapter 18.14**

**EXEMPTIONS AND VARIANCES**

**Sections:**

- 18.14.010      Exemptions.  
18.14.020      Variances.

**18.14.010      Exemptions.**

(Amended by Ord. No. 159276 effective Jan. 24, 1987.) The following sounds are exempted from the provisions of this Title.

- A.**      Sounds caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment.
- B.**      Sounds caused by sources regulated as to sound production by federal law.
- C.**      Sounds not electronically amplified, created by athletic and entertainment events other than motor vehicle racing events.
- D.**      Sounds caused by agricultural and forestry operations within an FF zone of the City.
- E.**      Blasting, under permit.
- F.**      Sounds made by warning devices operated continuously for 3 minutes or less.

**18.14.020      Variances.**

(Amended by Ordinance Nos. 159276, 162098, 164010, 174718, 175772 and 184101, effective October 8, 2010.) Any person who owns, controls, or operates any sound source which does not comply with provisions or standards of this Title may apply for a variance from such standard(s) or provision(s).

- A.**      Application. The application shall be in a form acceptable to the Noise Review Board or the Noise Control Officer, and shall state the date, time, and location of the event or activity and the reasons for which the variance is being sought. The applicant may be required to supply additional information. The application shall not be considered received until all information has been supplied. It is the responsibility of the applicant to submit the application in proper form, and to allow sufficient time for review, as specified in Subsection 18.14.020 F.

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- B.** The application shall not be considered until the application fee is received. All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.
- C.** All applications will be first sent to the Noise Control Officer who, with the Chair of the Noise Review Board, shall determine the appropriate reviewing body. The criterion for this determination shall be: whether the noise impact is deemed significant in level or in numbers of persons or property affected. If the potential noise impact is judged not to be significant, the application will be reviewed by the Noise Control Officer. If the potential noise impact is judged to be significant, the review will be made by the Noise Review Board. The Chair of the Noise Review Board may delegate Board review and action to the Noise Control Officer if, in the exercise of his or her discretion, such delegation is in the City's interest.
- D.** Review of the application on its merit shall include consideration of at least the following:

  - 1. The physical characteristics, times and durations of the emitted sound,
  - 2. The geography, zone, and population density of the affected area,
  - 3. Whether the public health, safety or welfare is impacted,
  - 4. Whether the sound source predates the receiver(s), and
  - 5. Whether compliance with the standard(s) or provision(s) from which the variance is sought would produce hardship without equal or greater benefit to the public.
  - 6. Applicant's previous history, if any, of compliance or noncompliance.
- E.** Public notification. Notice of receipt of all applications to be reviewed by the Noise Review Board shall promptly be published in a newspaper of general circulation within the City. Notice shall also be given to affected neighborhood association(s), or owners and residents of property likely to be affected by the application, and to any person who has in writing requested notice of such application.
- F.** Time for review and decision. Applications to be reviewed by the Noise Control Officer shall be decided within 10 business days of receipt of the completed application. Applications to be reviewed by the Noise Review Board shall be decided within 45 business days of receipt of the completed application. Should

the applicant require more accelerated review than that provided above, the process may be shortened to no more than 3 business days for review by the Noise Control Officer or 7 business days for review by the Noise Review Board, upon payment of an additional surcharge in the amount of the original application fee, and provided the Chair of the Noise Review Board and the Noise Control Officer conclude that such accelerated review is sufficient for evaluation, and in the City's interest.

1. Failure to reach decision within the times specified shall constitute automatic approval of the application, unless specifically waived by the applicant. If not waived, such approval shall expire within 180 days following such failure.
- G.** Applications reviewed by the Noise Control Officer, or the Noise Review Board may be granted, denied, or granted with conditions.
- H.** All decisions shall be in writing, and those made by the Noise Review Board shall state the facts and reasons leading to the decision and shall be made available to the applicant, and any other person who has requested such decision.
- I.** Appeals to City Council. A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows:
1. Eligibility to appeal. A variance decision may be appealed by the applicant, his legal representative, any affected neighborhood association, or any person who has submitted oral or written testimony on the application.
  2. Appeal acceptance criteria. Notice of intent to appeal shall be in writing to the City Auditor's Office within 10 days of the effective date of the decision. The notice shall identify the decision that is being appealed, and include the appellant's name, address, and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including any alleged misapplication of City Codes.
  3. Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council.
  4. At the time of the hearing, the City Council may consider such new matter as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision.

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- J.** All variances are subject to review upon complaint. Notice of review shall be provided to the variance holder, and shall state the date, time and place of the review. The permittee shall have the opportunity of hearing prior to any revocation. Decisions relative to the review of a variance shall follow the procedures specified in Sections 18.14.020 H, and I.
- K.** Violation of the terms of the variance shall be grounds for the revocation of the variance. The Noise Control Officer or any Police Officer of the City of Portland may summarily revoke or alter conditions of any variance. A request for an applicant or responsible parties to cease activities shall be considered an immediate request and does not allow the permittee or his/her agent to complete any additional work or activity. Activities in violation of the Portland City Code or an approved Noise Variance must cease immediately upon notification of the Noise Variance revocation.

**Chapter 18.16**

**ORDINANCE ADDITIONAL  
TO OTHER LAW**

**18.16.010 Ordinance Additional to Other Law.**

The provisions of this Title shall be cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

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**Chapter 18.17**

**RULEMAKING**

(New Chapter Added by Ordinance  
No. 175772, effective August 1, 2001.)

**18.17.010 Rulemaking.**

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

- A.** The Director has the authority to adopt administrative rules and supplemental regulations related to the provisions of this Title. The rules and regulations must be in conformance with the intent and purpose of this Title. The Director has the authority to administer such rules and regulations. Rules will be adopted according to the procedures in this section.
- B.** Permanent rules.
  - 1.** Prior to the adoption of a permanent rule, the Director will:
    - a.** Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before the hearing.
    - b.** At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
    - c.** The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.

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- d. If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
    2. Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.
  - C. Interim rules.
    1. An interim rule may be adopted by the Director without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
    2. Interim rules will be effective for a period of not longer than 180 days.
    3. Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement. Such notice must also identify the location at which copies of the full set of the interim rules may be obtained.
  - D. All final and interim rules must be filed in the office of the Director. All final and interim rules will be available to the public at the Development Services Center.
  - E. For the purposes of this Section, “Director” shall mean the Director of the Bureau of Development Services, or any duly authorized representative of the Director.

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**Chapter 18.18**

**ENFORCEMENT AND PENALTIES**

**Sections:**

- 18.18.010 Authority for Enforcement.
- 18.18.020 Violations.
- 18.18.030 Civil Penalties and Fees.
- 18.18.040 Citations.
- 18.18.050 Review by the Director.
- 18.18.060 Institution of Legal Proceedings.

**18.18.010 Authority for Enforcement.**

(Amended by Ordinance Nos. 159276, 175772 and 176955, effective October 9, 2002.)  
This Title shall be enforced by the Bureau of Development Services and by the Bureau of Police. Duly authorized agents of either of these bureaus shall have citation authority for purposes of enforcing this Title.

**18.18.020 Violations.**

(Replaced by Ordinance No. 175772, effective August 1, 2001.)

- A.** The following constitute violations of this Title:
  - 1.** Any failure, refusal or neglect to comply with any provision of this Title;
  - 2.** Allowing or causing a condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
  - 3.** Any failure, refusal or neglect to correct or cease any noise that does not comply with the provisions of this Title, after being required to do so by the Director or any Police Officer.
- B.** Each specific incident and each day of non-compliance will be considered a separate violation of this Title.

**18.18.030 Civil Penalties and Fees.**

(Replaced by Ordinance No. 175772, effective August 1, 2001.) A violation of this Title may result in assessment of civil penalties or enforcement fees, as provided below:

- A.** Civil penalties.



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**NOISE CONTROL**

1. For each separate violation, a civil penalty of up to \$5,000 may be assessed.
2. In determining the amount of any civil penalty to be assessed, the Director 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 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.

**B. Administrative enforcement fees.**

1. The Director may charge a penalty in the form of a monthly enforcement fee for any violation that meets the following conditions:
  - a. A citation, as described in Section 18.18.040, has been issued;
  - b. A response period of at least 30 days has passed since the citation or stop work order became final; and
  - c. The violation, as described in the initial citation of violation or any subsequent citation, has not been corrected, inspected and approved.
2. If the responsible party does not have all violations corrected, inspected and approved within six months from the date of the initial citation, then monthly enforcement fees will double.
3. Once the monthly enforcement fees begin, they will continue until all violations identified in the initial citation, or any subsequent citations, have been corrected, inspected and approved.

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### **NOISE CONTROL**

4. The responsible party must notify the Director when the responsible party believes that all violations listed in the initial citation or any subsequent citations, have been corrected. Upon confirmed receipt of such notice, the Director will promptly schedule an inspection of the violation and will notify the responsible party if any violations remain uncorrected.
5. When a violation meets the conditions for charging an enforcement fee as described in this Section, the Director will 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 will then:
  - a. Notify the responsible party of enforcement fees;
  - b. Record a property lien in the Docket of City Liens;
  - c. Bill the responsible party monthly for the full amount of the enforcement fee owing, plus additional charges to cover the administrative costs of the City Auditor; and
  - d. Maintain lien records until:
    - (1) The lien and all associated interest, penalties and costs are paid in full; and
    - (2) The Director certifies that all violations listed in the initial and any subsequent citations or stop work orders have been corrected, inspected and approved.

#### **18.18.040 Citations.**

(Added by Ordinance Nos. 175772 and 184101, effective October 8, 2010.)

- A. If the Director has reasonable belief that a violation has occurred, the Director may issue a citation. The citation may be personally delivered to the responsible party, or may be served by Registered or Certified Mail to the responsible party. For purposes of this Subsection, service by registered or certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service. The citation will include:
  1. A reference to the particular section or sections of this Title that have been or are being violated;
  2. A short and plain statement of the matters asserted or charged;

- 3. A statement of the amount of the applicable penalties; and
  - 4. A reference to the process by which the responsible party may request review by the Director.
- B.** The responsible party cited as violating this Title must, within 15 days of receiving the citation, pay to the City the stated penalty or request review by the Director. If, after review by the Director, the Director upholds the civil penalty, payment of the penalty must be received by the City or postmarked no later than 15 days after the review determination becomes final.

**18.18.050 Review by the Director.**

(Added by Ordinance No. 175772, effective August 1, 2001.)

- A.** If a responsible party has received a written citation as described in this Chapter and the responsible party believes the citation has been issued in error, the responsible party may request that the citation be reviewed by the Director. The responsible party must submit a written request to the Director within 15 days of the date of the citation. The written request shall be submitted together with all evidence that supports the responsible party's request. The Director's determination will be served on the responsible party by regular mail.
- B.** A responsible party may appeal the Director's written determination to the Code Hearings Officer in accordance with Chapter 22.10 of Portland City Code.
- C.** Nothing in this Chapter limits the authority of the Director to initiate a code enforcement proceeding under Title 22, Hearings Officer for any violations of this Title.

**18.18.060 Institution of Legal Proceedings.**

(Added by Ordinance No. 175772, effective August 1, 2001.) The City Attorney, acting in the name of the City, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Title as additional remedy.

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**NOISE CONTROL**

**Chapter 18.20**

**SEVERABILITY PROVISION**

**18.20.010 Severability Provision.**

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

- D.** The flood protection elevations and the floodway and floodway fringe areas specified by this Chapter, based on the 100-year flood elevations, are considered reasonable. Greater flood heights and more extensive floodway fringe areas associated with longer flood frequency occurrences may occur or the flood height and extent of flooding may be increased by human or natural causes, such as log jams, bridge openings restricted by debris, or changes in basin conditions. Areas within designated drainage districts and those areas not covered by adequate topographic maps may contain unmapped watercourses subject to flooding. The identification of designated flood hazard areas does not imply that lands outside of such areas will be free from flooding or flood damage.
- The City of Portland or any officer or employee thereof, or the Federal Insurance Administration shall not be liable for any flood damages that result from reliance on the provisions or designations of this Chapter or any administrative decision lawfully made thereunder.

**24.50.030 Flood Related Definitions.**

(Amended by Ordinance Nos. 178741, 182370 and 184235, effective November 26, 2010.) The definitions contained in this Section relate to flood hazard areas and considerations outlined in this Chapter.

- A.** "Appeal" means a request for a review of the City of Portland's interpretation of any provision of this ordinance or a request for a variance.
- B.** "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C.** "Areas of Special Flood Hazard" mean the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
- D.** "Base Flood (100-year flood)" means the flood having 1 percent chance of being equaled or exceeded in any given year. Designation on maps always includes the letters A or V.
- E.** "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- F.** "City Datum" means the reference datum for the City of Portland maps. The FIRM maps described in Section 24.50.050 are referenced to the North American

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Vertical Datum (NAVD) of 1988. To convert NAVD 1988 level to City datum, subtract 2.125 feet from the elevation referenced to NAVD 1988 level.

- G.** "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, bridges, other structures, and mining, dredging, filling, grading, paving, excavation, fencing, landscaping, drainage facilities, drilling operations, or storage of equipment or material.
- H.** "Existing manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the original date of this Chapter.
- I.** "Expansion to an existing manufactured home park or manufactured home Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets).
- J.** "FIA" means Federal Insurance Administration.
- K.** "Flood Hazard Area" means any area which has been identified as subject to flooding.
- L.** "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that contains information regarding flooding, discusses the engineering methods used to develop the Flood Insurance Rate Maps (FIRMs), includes flood profiles, and the water surface elevation of the base flood.
- M.** "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards.
- N.** "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.
- O.** "Flood protection elevation" means the water surface elevation of the base flood plus a freeboard allowance.

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- P.** "Floodplain" means the channel of watercourse and adjacent land areas which are subject to inundation by the base flood.
- Q.** "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, sanitary, and water facilities, structures, and their contents.
- R.** "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The actual floodway boundaries are computer activated and approximate. These boundaries are depicted on the FIRM. Boundaries for other watercourses may be subject to identification by the Sewage System Administrator. The width of the floodway for unidentified watercourses should not be less than 15 feet.
- S.** "Flood fringe area" means any area lying outside the floodway which is subject to flooding by a base flood and for which water surface elevations and floodway and flood fringe boundaries have been determined by a Flood Insurance Study and are shown on the FIRMs. Boundaries for unidentified watercourses may be subject to identification by the Sewage System Administrator.
- T.** "Freeboard" means an additional height above the base flood level to account for factors that may contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as filling in the floodway fringe, wave action, effect of urbanization of the watershed, map inaccuracies, irregular stream cross sections, irregular constructions at bridges, and the uncertainties of flood discharge computations.
- U.** "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 24.50.060 F.2.
- V.** "Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

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- W.** "New construction" means structures for which the start of construction commenced on or after the effective date of this Chapter.
- X.** "New manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lots on which the manufactured home is to be affixed (including as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed on or after the original date of this Chapter.
- Y.** "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets, walkways, sanitary sewers, storm sewers, and/or drainage facilities; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- Z.** "Structure or accessory structure" means, for the purposes of this Chapter, a walled and roofed building including a gas or liquid storage tank that is principally above ground.
- AA.** "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- BB.** "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:
- 1.** Before the improvement or repair is started, or
  - 2.** If the structure has been damaged, and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the



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building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a.** Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
  - b.** Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.
- CC.** “Variance” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
- DD.** “Water surface elevation” means the height of the water surface of the base flood for any point along the longitudinal course of a stream.
- EE.** “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter, with some degree of regularity. Watercourses may be either natural or artificial.

**24.50.040 FIA Study and Flood Hazard Maps.**

(Amended by Ordinance Nos. 173979, 176955, 178741, 182671 and 184235, effective November 26, 2010.) The following study and maps in this Section are hereby adopted and declared to be a part of this Chapter.

- A.** Flood Insurance Study is the official scientific and engineering report entitled “Flood Insurance Study for City of Portland, Oregon: Multnomah, Clackamas and Washington Counties”, dated November 26, 2010 prepared by the Federal Insurance Administration (FIA) under agency agreement with the Portland District Corps of Engineers. The latest edition of the report, along with accompanying FIRMs, are on file with the Bureau of Development Services.
- B.** Flood Insurance Rate Maps (FIRMs) are the official maps entitled “The Flood Insurance Rate Maps (FIRMs) for City of Portland, Oregon: Multnomah, Clackamas and Washington Counties”, dated either October 19, 2004 or November 26, 2010, whichever is more current, on which the Federal Insurance Administration has delineated the areas of flood hazards along with the 100-year (base flood) and 500-year flood boundaries, the floodway zone boundaries and the 100-year flood elevations.

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- C.** Water Features Map is the official map, dated May, 1981, or latest edition, compiled by the Bureau of Planning and Sustainability delineating certain watercourses which are subject to special flood hazard and drain 30 acres or more.
- D.** When base flood elevation data has not been provided by the FIA study, the Sewage System Administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source. This data shall be utilized only after technical review and approval of the Sewage System Administrator.
- E.** The "Title 3 Water Quality and Flood Management Area Map," as adopted by Metro Council on June 18, 1998, is the official map which identifies areas as "February 1996 Flood Inundation." The identified areas are subject to the regulations of this Title.

#### **24.50.050 Flood Hazard Areas and Flood Protection Elevations.**

(Amended by Ordinance Nos. 173979, 178741 and 182370, effective November 26, 2008.) Flood hazard areas shall contain all lands located within the Floodway boundary, Flood Zones within the Flood fringe areas, and other identified Flood Zones. Identified Flood Zones are depicted on the National Flood Insurance Rate Map (FIRM). Both identified and unidentified Flood Hazard areas along with flood protection elevations are described in the following. Figure 1 illustrates the basic flood hazard areas and elevations.

(See Figure 1 at the end of Title 24)

- A.** Columbia River FIRM Flood Zone AE. These flood zones represent areas for which base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus one foot of freeboard. The nominal one-foot increase for freeboard reflects the relatively wide flood plain of the Columbia River. In the vicinity of the confluence of the Columbia and Willamette Rivers, the Columbia River floodplain shall be considered to be east of the westerly floodway fringe boundary of the Columbia Slough.
- B.** Multnomah Drainage District No. 1 and Peninsula Drainage District No. 2 FIRM Zone AH. This flood zone represents isolated areas of shallow flooding (1 to 3 feet in depth, resulting from upslope runoff) for which base flood elevations are determined. In the case of unidentified watercourses occurring within the boundaries of the Drainage Districts, the base flood elevation shall be estimated by procedures described in paragraph G. below. The flood protection elevation shall be the base flood elevations plus one foot of freeboard.
- C.** Columbia River FIRM Flood Zone A. These flood zones represent areas for which base flood elevations are not determined. The flood protection elevation

shall be either the grade at the adjacent flood fringe boundary or the crown of the nearest street, whichever is higher, plus one foot of freeboard.

- D.** Willamette River FIRM Flood Zone AE. These flood zones represent areas for which the base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.
- E.** Johnson Creek, Fanno Creek and Crystal Springs Creek FIRM Flood Zone AE. This flood zone represents area for which the base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.
- F.** Johnson Creek FIRM Flood Zone AH. This flood zone represents areas of shallow flooding depth (1 to 3 feet) for which base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.
- G.** Johnson Creek FIRM Flood Zone AO. This flood zone represents areas of shallow flooding depth (1 to 3 feet) for which the depths of flooding are determined. The flood protection elevation shall be the depth of flooding shown on the FIRM map plus two feet of freeboard above the highest adjacent grade.
- H.** Johnson Creek, Fanno Creek, Tryon Creek, and Crystal Springs Creek FIRM Flood Zone A. These flood zones represent areas for which base flood elevations are not determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. Base flood elevations shall be calculated in accordance with paragraph I. below.
- I.** Unidentified Watercourse Flood Zones. These watercourses, generally draining one acre or more, are not identified in a Federal Insurance Study and may not be identified on the Water Features map. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. The width of the floodway shall not be less than 15 feet. The floodway boundary, flood fringe boundary, and flood protection elevation data shall be based upon watercourse geometry, slope, channel roughness, effect of obstructions, backwater and other factors which affect flood flow. The requisite flood hazard data, maps, and sections shall be obtained and developed by procedures approved by the Sewage System Administrator. When appropriate and necessary data are available, the flood protection elevation and floodway and flooding fringe boundary data may be provided by the Sewage System Administrator. If pertinent hydrologic data and topographic data are not available, inaccurate, or outdated, and where substantial alterations or relocations of a watercourse are involved, the Sewage System Administrator may require the permit applicant to secure a registered engineer

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and surveyor to develop and supply the requisite flood hazard data, maps, and sections.

- J.** Metro Flood Management Areas. Flood 1996 inundation areas shown on Metro Title 3 Water Quality and Flood Management Area Maps shall have a flood protection elevation which provides two feet of freeboard above the Flood 1996 level. Flood 1996 inundation areas adjacent to Columbia River FIRM Flood Zone AE, Multnomah Drainage District No. 1, Peninsula Drainage District No. 2 Firm Zone AH and Columbia River FIRM Flood Zone A shall have freeboard of one foot.

#### **24.50.060 Provisions for Flood Hazard Reduction.**

(Amended by Ordinance Nos. 165678, 169905, 172209, 173979, 176955, 178741, 182370 and 184235, effective November 26, 2010.) In all flood hazard areas defined in Section 24.50.050, the following provisions are required:

- A.** Permits. All permit applications shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding. A development or building permit shall be obtained before construction or development begins within any area of flood hazard. Such applications for permits shall include the following specific information:
  - 1.** Elevation of lowest floor, including basement, for all structures and floodproofed elevations for nonresidential structures.
  - 2.** Elevation of lowest point of bridge structures.
  - 3.** Existing and proposed topography of the site taken at a contour interval (normally 1 foot) sufficiently detailed to define the topography over the entire site and adjacent watercourses subject to flooding. Ninety percent of the contours shall be plotted within 1 contour interval of the true location.
  - 4.** All necessary permits obtained from the federal and state governmental agencies from which prior approval is required.
  - 5.** Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 24.50.050 G.), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of any available hydrological data, drainage basin hydrology, historical data, high water marks, photographs of past flooding, etc., where available. Failure to

elevate at least two feet above grade in these zones may result in higher insurance rates.

- B.** Elevation reference. The survey reference datum for finished lowest floor including basement, floodproofed elevations, and finished site grades shall be either the North American Vertical Datum of 1988 or City of Portland datum, whichever is appropriate. When approved by the City Engineer, a local onsite survey reference datum may be adopted for FIRM Zones A and Unidentified Watercourse Flood Zones. The survey reference datum shall be indicated on all relevant plan and Section drawings, and the certified Flood-Elevation Certificate.
- C.** Certification of elevations and floodproofing. All finished elevations as specified hereunder shall be certified on a FEMA (FIA) Elevation Certificate by a licensed surveyor secured by the permittee, and made part of the permit records.

  - 1.** As-built elevation of lowest floor including basement, of all new or substantially improved structures;
  - 2.** As-built floodproofed elevation of all new or substantially improved nonresidential structures;
  - 3.** As-graded elevation of lowest grade within 25 feet of structures;
  - 4.** As-graded elevation of lowest crawl space grade, as applicable.  
All floodproofing materials and methods for nonresidential structures shall be certified by a licensed professional engineer or architect as meeting the criteria in Section 24.50.060 F7.
- D.** Floodway. Encroachments into the floodway by development and structures defined in Section 24.50.020 are prohibited unless it is demonstrated by technical analysis from a registered engineer that the development will result in no increase in the base flood elevation. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement or other development (including fill) shall be permitted within Zone AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community. Technical analysis shall be reviewed and approved by the Sewage System Administrator. However, the minimum width of the floodway shall not be less than 15 feet.
- E.** Alteration of watercourses. The Bureau of Development Services shall:

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1. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse as identified in the Flood Insurance Study and Flood Insurance Rate Map, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### **F. Special flood hazard areas.**

1. General. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. Residential construction.
  - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above flood protection elevation. Floodproofing of “lowest floor” space is not permitted.
  - b. Fully closed areas below the lowest floor that are subject to flooding are prohibited or shall be used solely for parking of vehicles, building access or limited storage and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
    - (2) The bottom of all openings shall be no higher than one foot above grade;
    - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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- (a)** Fills required to elevate the lowest floor to the flood protection level shall comply with Chapter 24.70. Fill selection and placement shall recognize the effects of inundation from floodwaters on slope stability, fill settlement, and scour. The minimum elevation at the top of the fill slope shall be at the base flood level. Minimum distance from any point of the building perimeter to the top of the fill slope shall be either 25 feet or twice the depth of fill at that point, whichever is the greater distance.
  - (b)** Piling foundations required to elevate the lowest habitable floor to the flood protection level shall comply with Section 1809 and 1808 of the Structural Specialty Code. Pilings shall be spaced no more than 10 feet apart, and reinforcement shall be provided for piling more than 6 feet above the ground level.
- 3.** Subdivision proposals.

  - a.** All subdivision proposals shall be consistent with the need to minimize flood damage;
  - b.** All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
  - c.** All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
  - d.** Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).
- 4.** Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the flood protection elevation, or, together with attendant utility and sanitary facilities, shall:



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- a.** Be floodproofed so that below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b.** Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
  - c.** Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Bureau of Development Services.
  - d.** Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described for residential structures.
  - e.** Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
- 5.** **Manufactured homes.** All manufactured homes to be placed or substantially improved within Zones AO, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the flood protection elevation and be securely anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- 6.** **Utilities.** All new and replacement water supply and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the sanitary sewage systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 7.** **Construction materials and methods.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, using methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing and



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air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- 8.**     Balanced Cut and Fill Required. In all Flood Management Areas of the City not addressed by Section 24.50.060 G, balanced cut and fill shall be required. All fill placed at or below the base flood elevation shall be balanced with at least an equal amount of soil material removal. Soil material removal shall be within the same flood hazard area identified in Section 24.50.050 A. through I.

    - a.**     Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.
    - b.**     Temporary fills permitted during construction shall be removed.
  - 9.**     Tank anchoring. Tanks containing hazardous materials must be anchored to prevent flotation if they are located in areas of special flood hazard or flood management areas.
  - 10.**    Uncontained hazardous materials as referred to in Section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Section 9601 et seq.) (CERCLA), section 502 (13) of the Clean Water Act and any other substances so designated by the Director of the Bureau of Development Services are prohibited in flood management areas.
  - 11.**    AH/AO Zone Drainage. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.
- G.**     Johnson Creek Flood Zones - Special Provisions. In addition to other requirements of this chapter the following requirements shall apply within designated portions of the Johnson Creek Flood Zones:
- 1.**     All Johnson Creek Flood Zones

    - a.**     Balanced cut and fill. Within all areas of the Johnson Creek Flood Zones, all new fills below the base flood elevation shall be accompanied by an equal amount of excavation on the same site so that the storage capacity of the floodway and floodway fringe is retained.

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- b.** Mitigation payment allowed in lieu of balanced cut and fill. After September 1, 1998 residential properties within the area of the 100 year floodplain, but outside of the floodway and Flood Risk Area, and bounded by I-205 on the west, SE 142nd Avenue on the east, and the Springwater Corridor Trail on the south, may elect to pay into the Johnson Creek Fill Mitigation Bank in lieu of creating a balanced cut and fill. The amount of the payment shall be determined by the Bureau of Environmental Services.
- 2.** Johnson Creek Flood Risk Area. The following provisions shall apply within the Johnson Creek Flood Risk Area, as established in Chapter 33.535 of the City Code:
  - a.** Balanced cut and fill. The requirements of subsection G.1. above, shall apply within the Johnson Creek Flood Risk Area.
  - b.** Reduction in flooding capacity prohibited. Structures, fill or other development shall only be allowed in the Johnson Creek Flood Risk Area when they are designed so that there is no significant reduction in the storage capacity of the floodway and floodway fringe and there is no significant impediment to the passage of flood waters.
  - c.** Exceptions to Section 24.50.060 G.2.:
    - (1)** One story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
    - (2)** Parking garages accessory to one and two family structures, provided the floor area does not exceed 300 square feet.
    - (3)** Fences which do not prevent the flow of water.
  - d.** Buildings designed to meet all of the following criteria shall be presumed to comply with Section 24.50.060.G.2.:
    - (1)** At least 50% of perimeter walls located at, or below, the base flood elevation shall remain open and unenclosed;
    - (2)** At least 25% of each perimeter wall located at, or below, the base flood elevation shall remain open and unenclosed; and

- (3) The footprint of all portions of the building located at, or below, the base flood elevation shall not exceed 15% of the footprint of the building located above the base flood elevation.

**24.50.065 Recreational Vehicles located in Areas of Special Flood Hazard or Base Flood Zones.**

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

- A. Any recreational vehicle placed on a site located in either an Area of Special Flood Hazard or in the base flood zone shall:
  - 1. Meet the elevation and anchoring requirements for manufactured homes;
  - 2. Be on the site for fewer than 180 consecutive days; or
  - 3. Be fully licensed and ready for highway use. As used in this section, “ready for highway use” means that the vehicle is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.
- B. For the purpose of this section, “recreational vehicle” means any vehicle which is:
  - 1. Built on a single chassis;
  - 2. 400 square feet or less when measured at the largest horizontal projection;
  - 3. Designed to be self propelled or permanently towable by a light duty truck; and
  - 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**24.50.070 Appeals and Variances.**

(Amended by Ordinance No. 178741, effective October 19, 2004.)

- A. Appeals. Any person aggrieved by a requirement, decision, or determination made pursuant to the administration of this Chapter may appeal such action to the Building Board of Appeal in accord with Chapter 24.10.
- B. Variances. If variances from requirements of this Chapter are requested, all relevant factors and standards specified in other sections of this Chapter shall be considered, as well as the following:

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1. The danger that materials may be swept into other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; Upon consideration of the factors listed above and the purposes of this Chapter, such conditions may be attached to the granting of variances as deemed necessary.

#### **C. Conditions for variances.**

1. Generally the only condition under which variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) have been fully considered. As

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the lot size increases, the technical justification required for issuing the variance increases.

2. Variances shall not be issued within designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this Section.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause,
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - c. A determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
7. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
8. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have

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low damage potential, complies with all other variance criteria except 24.50.070 C.1. and otherwise complies with Section 24.50.060 F.1. and 24.50.060 F.7.

**Chapter 24.51**  
**WILDFIRE HAZARD ZONES**

(New Chapter added by Ordinance  
No. 177433, effective May 30, 2003.)

**Sections:**

- 24.51.010 Purpose.
- 24.51.020 Definitions.
- 24.51.030 Wildfire Hazard Zone Map Adoption.
- 24.51.040 Map Revision Process.
- 24.51.050 Appeals of Decisions Made by the Chief.
- 24.51.060 General.

**24.51.010 Purpose.**

The purpose of this Chapter is to adopt the criteria that will be used to specify areas of the City to be classified as Wildfire Hazard Zones, so that roof materials may be limited.

**24.51.020 Definitions**

(Amended by Ordinance No. 180917, effective May 26, 2007.) The definitions contained in this Section relate to Wildfire Hazard zones and considerations outlined in this Chapter.

- A. Chief** means the Chief of Portland Fire & Rescue or the Chief's duly authorized representative.
- B. Department of Forestry (DOF)** means the State of Oregon Department of Forestry.
- C. Wildfire Hazard Zone** means those areas of the City as determined by the Chief that rate a minimum score of 5 or higher using the following criteria developed by DOF:
  - 1. Topography hazard factor value
  - 2. Natural vegetative fuel hazard factor value
  - 3. Natural vegetative fuel distribution hazard factor value

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- D. Wildfire Hazard Zone Map** means the WHZM attached to Ordinance No. 177433 and as it may be amended from time to time based on the criteria herein.
- E. Hazard Factor.** Hazard Factors are topography, certain natural vegetative fuels and natural, vegetative fuel distribution. Any of these factors, or a combination thereof, may cause an area of the City to be included within a Wildfire Hazard Zone.
- F. Topography Hazard Factor Value** means the hazard value as determined by DOF associated with site slope which effects the fire spread velocity.
- G. Natural Vegetative Hazard Factor Value** means the numerical value assigned by DOF, extrapolated from the “Aids to Determining Fuel Models for Estimating Fire Behavior” published by the Forest Service, USDA Intermountain Forest and Range Experiment Station in 1982 as General Technical Report INT-122, for various common vegetation.
- H. Natural Vegetative Fuel Distribution Hazard Factor Value** means the numerical value assigned by DOF for the percentage of site that is covered by vegetation described in 24.51.020 G.

**24.51.030 Wildfire Hazard Zone Map Adoption.**

- A. Wildfire Hazard Zone Map Adoption.**
  - 1.** A Wildfire Hazard Zone Map (WHZM) has been developed for the City of Portland through a review of topography, weather, type vegetation and fuel density. This map is dated October 11, 2002.
  - 2.** The WHZM dated October 11, 2002, is hereby adopted by reference and incorporated into this ordinance.
  - 3.** The Chief shall provide the Director with a copy of the official map adopted in Subsection one of this Section. Copies of the map shall be available for review in the Development Services Center, First Floor 1900 SW 4th Avenue, Portland Oregon.
- B. Revisions to the Wildfire Hazard Zone Map.**
  - 1.** The WHZM may be amended from time to time to either include or exclude properties as the facts may warrant.
  - 2.** The Chief shall have the authority to revise the Wildfire Hazard Zone Map.



3. All Wildfire Hazard Zone map revisions shall be determined using the criteria set forth below. Any site having a cumulative hazard value of five (5) or more shall be included in a wildfire hazard zone.
- a. Topography Hazard Factor Value. The topography hazard value shall be calculated as follows:
- (1) Determine site slope using the appropriate 7.5 minute quadrangle map published by the U.S. Geological Survey, USDI.
  - (2) Select appropriate hazard value using Table 1.

**TABLE 1**  
**APPROPRIATE TOPOGRAPHY**  
**HAZARD FACTOR VALUE**

<b>Site Slope as determined by the 7.5 minute quadrangle map</b>	<b>Hazard Value</b>
Slopes 00 to < 03%	0
Slopes 03 to < 12%	1
Slopes 12 to < 20%	2
Slopes 20% or greater	3

- b. Natural Vegetative Fuel Hazard Factor Value. The natural vegetative fuel hazard value shall be calculated as follows:
- (1) Divide the jurisdiction into geographic areas which best describe the natural vegetation expected to occupy sites for the next 10 to 15 years.
  - (2) Select the appropriate hazard value from Table 2.

**TABLE 2**  
**NATURAL VEGETATIVE FUEL**  
**HAZARD FACTOR VALUE**

<b>Natural Vegetative Fuel Description <sup>1</sup></b>		<b>Hazard Value <sup>2</sup></b>
<b>Limited</b>	Little or no natural vegetative fuels are present.	0

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<b>Natural Vegetative Fuel Description <sup>1</sup></b>		<b>Hazard Value <sup>2</sup></b>
<b>Grass</b>	Very little shrub or timber is present, generally less than one-third of the area. Main fuel is generally less than two feet in height. Fires are surface fires that move rapidly through cured grass and associated material. (Fuel model 1)	3
<b>Grass</b>	Open shrub lands and pine stands or scrub oak stands that cover one-third to two-thirds of the area. Main fuel is generally less than two feet in height. Fires are surface fires that spread primarily through the fine herbaceous fuels, either curing or dead. (Fuel model 2)	3
<b>Grass</b>	Beach grasses, prairie grasses, marshland grasses and wild or cultivated grains that have not been harvested. Main fuel is generally less than four feet in height, but considerable variation may occur. Fires are the most intense of the grass group and display high rates of spread under the influence of wind.(Fuel model 3)	3
<b>Shrubs</b>	Stands of mature shrubs have foliage known for its flammability, such as gorse, manzanita and snowberry. Main fuel is generally six feet or more tall. Fires burn with high intensity and spread very rapidly. (Fuel model 4)	3

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<b>Natural Vegetative Fuel Description <sup>1</sup></b>		<b>Hazard Value <sup>2</sup></b>
<b>Shrubs</b>	Young shrubs with little dead material and having foliage not known for its flammability, such as laurel, vine maple and alders. Main fuel is generally three feet tall or less. Fires are generally carried in the surface fuels and are generally not very intense. (Fuel model 5)	1
<b>Shrubs</b>	Older shrubs with foliage having a flammability less than fuel model 4, but more than fuel model 5. Widely spaced juniper and sagebrush are represented by this group. Main fuel is generally less than six feet in height. Fires will drop to the ground at low wind speeds and in stand openings. (Fuel model 6)	2
<b>Timber</b>	Areas of timber with little undergrowth and small amounts of litter buildup. Healthy stands of lodgepole pine, spruce, fir and larch are represented by this group. Fires will burn only under severe weather conditions involving high temperatures, low humidity and high winds. (Fuel model 8)	1
<b>Timber</b>	Areas of timber with more surface litter than fuel model 8. Closed stands of healthy ponderosa pine and white oak are in this fuel model. Spread of fires will be aided by rolling or blowing leaves. (Fuel model 9)	2

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<b>Natural Vegetative Fuel Description <sup>1</sup></b>		<b>Hazard Value <sup>2</sup></b>
<b>Timber</b>	Areas of timber with heavy buildups of ground litter caused by over-maturity or natural events of wind throw or insect infestations. Fires are difficult to control due to large extent of ground fuel. (Fuel model 10)	3
<p><b>1.</b> Some areas may contain vegetative fuels other than those listed in Table 2. Additional natural fuel hazard factors may be found in "Aids to Determining Fuel Models for Estimating Fire Behavior" published by the Forest Service, USDA Intermountain Forest and Ranger Experiment Station in 1982 as General Technical Report INT-122. Vegetative fuel hazard factors determined using General Technical Report INT-122 shall be used as alternative factors, for review under this chapter, as the facts warrant.</p> <p><b>2.</b> Due to various factors, such as variations in local vegetation species or vegetation conditions, the fuel models used in Table 2 may not accurately portray wildfire behavior. The Chief may make modifications to the hazard values as necessary to accurately reflect the following characteristics:</p> <p>(a) A hazard value of 1 shall describe vegetation that typically produces a flame length of up to 5 feet, a wildfire which exhibits very little spotting, torching, or crowning, and which results in a burned area that can normally be entered within 15 minutes.</p> <p>(b) A hazard value of 2 shall describe vegetation that typically produces a flame length of 5 to 8 feet, a wildfire which exhibits sporadic spotting, torching, or crowning, and which results in a burned area that can normally be entered within one hour.</p> <p>(c) A hazard value of 3 shall describe vegetation that typically produces a flame length of over 8 feet, a wildfire that exhibits frequent spotting, torching, or crowning, and which results in a burned area that normally cannot be entered for over one hour.</p>		

- c.** Natural Vegetative Fuel Distribution Hazard Factor Value . To determine the natural vegetative fuel distribution hazard factor value:
- (1)** Determine the percentage of each individual area that is covered by vegetation.

- (2) Using the calculated percentage, assign a value using Table 3.

**TABLE 3**  
**NATURAL VEGETATIVE FUEL**  
**DISTRIBUTION HAZARD FACTOR**

<b>Natural Vegetative Fuel Distribution</b>	<b>Hazard Value</b>
0 to 10% of the area	0
10 to 25% of the area	1
25 to 40% of the area	2

**24.51.040 Map Revision Process**

- A.** Wildfire Hazard Zones may be applied to or removed from areas of the City as follows:
1. During periodic review by the Chief, based upon the criteria listed in section 24.51.030. Periodic review shall occur every 5 years.
  2. Upon request to the Chief by any property owner, prior to periodic review, on the grounds that conditions have changed.
- B.** Prior to applying the Wildfire Hazard Zone to any property the Chief shall provide notice of such proposed zoning and provide a date for a public hearing. The notice shall be sent to all properties to which the zone would be applied. The notice shall be sent fourteen days prior to the date of the hearing. Extensions of time for the hearing may be requested and may be provided by the Chief. The notice shall provide information regarding the City's intention to apply the Wildfire Zone, the reasons therefore and the time and place for the hearing. Within 7 days of the hearing the Chief shall issue a written decision, based upon the criteria listed above, and which shall include findings supporting that decision and shall contain information regarding the right to appeal the Chief's decision to the Bureau of Development Service's Appeals Board (Board). A copy of the decision shall be sent to all properties that received notice of the City's intention to include these properties within a Wildfire Hazard Zone.
- C.** When a property owner provides the Chief with a written request that the Wildfire Hazard Zone be removed from specific property the Chief shall consider the request and, based upon the criteria listed above, shall either approve or deny the request. Such action by the Chief shall occur within 14 days of the date of the request and shall be in writing, shall include findings based upon the facts and criteria and shall contain information regarding the right to appeal the Chief's decision to the

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Board. This decision shall be mailed to the property owner requesting the change in status.

#### **24.51.050 Appeals of Decisions Made by the Chief**

Notwithstanding any contradictory portion of Code Section 24.10.080:

- A.** Any decision made by the Chief, regarding the application of a Wildfire Hazard Zone to any area in the City, may be appealed to the Bureau of Development Services Board of Appeals (Board) solely in accordance with this subsection. In considering such appeals the Board shall act solely in accord with this section.
- B.** Such appeal shall be in writing and shall be filed with the Board within fourteen days of the date of the Chief's decision. The appeal shall include a statement regarding the elements of the Chief's decision with which the appellant takes issue. Reference to facts and the criteria listed above, is required.
- C.** A copy of the appeal shall be provided to the Chief at the same time that it is filed with the Board. The Chief shall have fourteen days from the date of the appeal to respond, in writing, to the Board and all appellants.
- D.** The Board shall issue a notice of a hearing date and the place and time of the hearing. Notice shall be provided to the appellants and the Chief.
- E.** The Board shall then hold a hearing upon any such appeal. After considering the issues raised on appeal, and the reasonableness of the Chief's interpretation of applicable criteria, the Board shall, by majority vote, affirm or modify the Chief's decision. The Board's decision shall be based solely upon the criteria set out in this Chapter and shall include findings addressing the facts and the criteria. The decision of the Board shall have full force and effect. A certified copy of the decision shall be delivered to the appellant.

Any appeal of the Board's decision shall by writ of review.

#### **24.51.060 General**

(Amended by Ordinance Nos. 178745 and 179125, effective April 1, 2005.)

- A.** In addition to the other City codes, all structures located in wildfire hazard zones as identified in the Wildfire Hazard Zone map shall meet the applicable requirements in the State of Oregon Structural Specialty Code or the Residential Specialty Code as applicable.
- B.** The requirements in Chapter 24.75, Uniform Building Address System, supercede the requirements found in OSSC Appendix L, Section L101.7, for premises identification.

**Chapter 24.55**

**BUILDING DEMOLITION**

(New Section substituted by  
Ordinance No. 167088; amended by  
171455, effective August 29, 1997.)

**Sections:**

- 24.55.100      Demolition - Debris - Barricades - Nuisances.
- 24.55.200      Demolition Delay - Housing Preservation.

**24.55.100      Demolition - Debris - Barricades - Nuisances.**

(Amended by Ordinance No. 171455, effective August 29, 1997.) It is unlawful for any owner or persons in control of any such structure which is being demolished, or which has been damaged by fire, to leave any portion of the structure unsupported for more than 1 hour, if such Section is liable to collapse or is in any way a danger to the public. In no event shall a portion of the structure be left unsupported for more than 24 hours. Suitable barricades shall be provided to prevent access to the vicinity of any unsupported Section of the structure. Any permanent structural supports provided as a result of application to this Section shall be designed by a structural engineer registered to practice in the State of Oregon and hired by the applicant. All such designs, calculations, drawings, and inspection reports shall be approved by the Director.

All combustible debris or material shall be removed from the premises on which the demolition is carried out within 30 days from the completion of the demolition, or from the stoppage of the work thereon if the work remains uncompleted. All non-combustible debris or material resulting from demolition shall be removed within 30 days after the completion of the demolition or stoppage thereof, unless the Director extends the time therefore because of weather, terrain, or other special circumstances, but such extension shall not exceed 3 months. It is unlawful for any owner or person in possession of real property to permit the debris to remain on the property without disposal in excess of the periods mentioned above or of any specific extension thereof as set forth above.

Any of the above-mentioned things existing while there is a duty to remove or correct the same, shall constitute a public nuisance. Any unsupported portions of a building or structure existing beyond the periods set forth above shall be subject to summary abatement by the City. The abatement shall be in accordance with the procedure set forth in Title 18, Chapter 18.03, Nuisance Abatement.

All structures to be demolished shall be taken down in a safe manner. The streets or sidewalks shall not be littered with rubbish and shall be wet down, if necessary. During

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any demolition work, all receptacles, drop boxes, shafts, or piping used in such demolition work shall be covered in an appropriate manner. After removal of any structure all foundations that are not to be used for new construction shall be removed and all excavations filled in compliance with Chapter 24.70 of this Title, to a level of the adjoining grade. Plans shall be submitted for any new construction proposed, utilizing the remaining foundations. Any remaining foundations approved for further use shall be barricaded by a fence no less than 8 feet high maintained until the new construction has progressed sufficiently to remove any hazards to the public. Such period of time is not to exceed 30 days. For regulations on the use of public streets and protection of pedestrians during demolition see Chapter 24.40 of this Title.

#### **24.55.150 Definitions.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

#### **24.55.200 Demolition Delay - Housing Preservation.**

(Amended by Ordinance Nos. 171455 and 176955, effective October 9, 2002.)

- A.** Purpose. The demolition delay provisions are intended to allow an adequate amount of time to help save viable housing in the City while recognizing a property owner's right to develop or redevelop property. The regulations provide an opportunity for public notice of impending demolitions and coordination of the efforts of various City bureaus. The regulations also encourage moving as an alternative to demolition. The provisions accomplished this through a two part process:
  - 1.** a 35 day notice period during which demolition is delayed, and
  - 2.** a possible 120 day extension of the demolition delay period.
- B.** Where the delay applies. The demolition delay regulations of this Section (24.55.200) apply to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for demolition of residential structures. They do not apply to demolitions of accessory structures such as garages or other outbuildings.
- C.** Application for building permit for demolition.
  - 1.** Signed statement. The application for a building permit for demolition must include a statement signed by the owner(s) of the property. The statement must acknowledge that the owner(s) are aware of the primary uses permitted under the current zoning on the site without a conditional use, zone change, Comprehensive Plan Map amendment, or other land use approval and that such an approval will be required before other uses will



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be permitted on the site. The statement may be on forms that the Director may make available.

2. Delay in issuing. The building permit for demolition will not be issued except as provided for in this Section (24.55.200).

**D.** Notice of application.

1. Posted notice. Within five days of receipt of the application for demolition, the Director will post a notice of the requested demolition at the site. The notice must be posted at the site for no less than 30 day. The notice must be at least 1-1/2 by 2 feet in size and must be visible to passers-by. The notice must contain at least the following information.
  - a. Notice that the site has been proposed for demolition,
  - b. The date the application for demolition was received,
  - c. Notice that there is a demolition delay period of 35 days which may be extended upon request from the Recognized Organization(s) whose boundaries include the site,
  - d. The last day that requests for extended delay may be submitted, and
  - e. The location where more information is available.
2. Notice to the recognized organization(s). Within 7 days of the receipt of the application for demolition, the Director will send a written notice of the demolition request to the recognized organization(s), recognized by the Office of Neighborhood Associations, whose boundaries include the site.
3. Notice to Portland Development Commission. Within 7 days of the receipt of the application for demolition, the Director will send a written notice of the demolition request to the Portland Development Commission. Within 14 days of the receipt of the application for demolition, the Portland Development Commission will forward to the owner of the property such materials explaining City housing programs that the Commission deems appropriate.

- E.** 35-day notice period. The building permit for demolition will not be issued during the 35-day notice period. The notice period begins on the day the application is received. If no written request to extend the demolition delay is received during the 35 day notice period as provided in subsection 24.55.200 F.

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below, then the Bureau of Development Services will issue the building permit for demolition.

- F.** Requests for extension of demolition delay period. Requests to extend the demolition delay period may be made as follows:
  - 1.** Who may request. Requests to extend the demolition delay period an additional 120 days may be made by a recognized organization whose boundaries include the site.
  - 2.** How to request. The request to extend the demolition delay period must be made in writing, on forms provided by the Director. They must be submitted to the Bureau of Development Services by 4:30 PM on the last day of the 35-day notice period.
- G.** 120-day extension of demolition delay period. If a request for extension of the demolition delay is received, the building permit for demolition will not be issued during the 120-day extension period except as provided in Subsection 24.55.200 H. below. During the 120-day extension period, private citizens or the City may pursue alternatives to demolition such as rehabilitating the structure or moving the structure in accordance with agreements reached with the applicant. These efforts may use private resources or public programs that may be available. Mitigation efforts such as a salvage agreement may also be pursued during this period.
- H.** Appeal of the 120 day extension. The applicant for demolition may appeal the 120-day extension to the Code Enforcement Hearings Officer as provided in Chapter 22.10, Appeals to the Code Hearings Officer. The appeal may be filed anytime within the 120-day extension period. The approval criteria for termination of the extension period are as follows: The demolition delay extension will be terminated if the Hearings Officer finds that the recognized organization that requested the extension has not made a good faith effort to work with the applicant for demolition to do any of the following:
  - 1.** Move the structure;
  - 2.** Find a purchaser for the site; or
  - 3.** Agree on an alternative proposal that would not involve the demolition of the structure.
- I.** Moving as an alternative. If the applicant decides to move the structure instead of demolishing it, then the demolition notice period and/or extended delay period becomes moot. The demolition delay period is automatically terminated when a

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building permit to move the structure from the site and a building permit to relocate the structure to another site are issued.

- J.** End of the extension period. If the 120 day extension has not been terminated as provided in Subsection 24.55.200 H above, the building permit for demolition may be issued any time after 120 days have elapsed since the end of the 35 day notice period.
- K.** Exceptions to demolition delay.
  - 1.** The provisions of this Section (24.55.200) do not apply to applications for demolition of single family residences if the application is accompanied by an application for a building permit for a replacement single family residence.
  - 2.** The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition that are required by the City to remove structures because of a public hazard, nuisance, or liability. The structure must be subject to a demolition order from the City, or be the subject of enforcement proceedings for demolition and be stipulated by the owner as a dangerous building, in order to be exempt from the demolition delay provisions.
  - 3.** The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition, for structures that are designated historical landmarks, on the Portland Historic Resources Inventory, or in historic districts. In these situations, the provisions of Chapter 33.222 in Title 33, Planning and Zoning apply.

**24.55.250 Enforcement.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.300 Referral to the Hearings Officer.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.350 Appeals.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.400 Rehabilitation and Repair under Direction of Council.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.450 Contracts to Repair or Demolish.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

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**24.55.500      Warehousing of Structures.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.550      Interference with Demolition or Repair Prohibited.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.600      Demolition - Debris - Barricades - Nuisances.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.650      Demolition Permits - Investigations.**

(Repealed by Ordinance No. 163608, effective Nov. 7, 1990.)

**24.55.700      Demolition Delay - Housing Preservation.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.750      Administrative Review**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.800      Appeals to the Code Hearings Officer.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**24.55.850      Dangerous Building Enforcement Fees.**

(Repealed by Ordinance No. 171455, effective August 29, 1997.)

**Chapter 24.60**

**FENCES**

(Amended by Ordinance No.  
176585, effective July 5, 2002.)

**Sections:**

24.60.020      Barbed Wire Fencing.

**24.60.010      Fences Around Swimming Pools.**

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

**24.60.020      Barbed Wire Fencing.**

(Added by Ordinance No. 176585, effective July 5, 2002.) It is unlawful for any person to construct or maintain a fence containing barbed wire, unless the barbed wire is placed not less than 6 inches above the top of the fence and the fence is not less than 4 feet high.

**Chapter 24.65**

**SIDEWALK VAULT OPENINGS**

**Sections:**

24.65.010      Location of Sidewalk Vault Openings.

24.65.020      Number of Sidewalk Vault Openings.

24.65.030      Sidewalk Elevators.

24.65.040      Operation of Sidewalk Elevators.

24.65.050      Plans Required.

**24.65.010      Location of Sidewalk Vault Openings.**

The outer edge of all openings constructed in sidewalks for fuel, elevators, stairs, or other purposes shall be located not less than 2 feet from the curb line and the inner edge of any sidewalk opening will not be any closer than 3 feet to the property line.

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#### **24.65.020 Number of Sidewalk Vault Openings.**

There shall not be more than one opening for each individual building frontage and in no case openings closer than 25 feet to an existing sidewalk opening.

#### **24.65.030 Sidewalk Elevators.**

Openings in sidewalks provided for in Section 24.65.010 shall be supplied with doors attached to a frame built into the sidewalk and shall be capable of supporting a load of 100 pounds per square foot. The door shall be constructed of sheet steel or other approved metal which has an approved non-slip surface. The dimensions of the door in any direction shall not exceed the dimension of the opening by more than 6 inches. The doors and frames shall be so constructed and maintained that there is no projection above or below the sidewalk exceeding 1/4 inch and existing doors which do not conform to the requirements shall be changed to conform within a period of 10 days after notice is given to change the same. Sidewalk doors shall be provided with a metal guard which, when the doors are open, will hold the doors open. This guard shall be located on the side of the sidewalk opening nearest the property line. The guard shall be made in the form of a grating with openings not exceeding 6 inches in dimension and so arranged that a child cannot get under or through the guard. This guard shall not be required for doors having metal gratings which are level with the sidewalk when the doors are open and the elevator platform is below the sidewalk level. Such gratings shall be capable of supporting a load of 100 pounds per square foot. Elevators having these sidewalk gratings shall be provided with a 3/4-inch steel bar to hold the doors open.

#### **24.65.040 Operation of Sidewalk Elevator.**

- A.** When not in operation the elevator shall be kept in its down position and the sidewalk doors shall be closed.
- B.** When the elevator is being raised, pedestrians shall be warned of the fact by an automatic warning device approved by the Director.
- C.** The sidewalk elevator shall not be raised sooner than 15 minutes prior to a delivery and shall be placed in a down position and the sidewalk doors closed within 15 minutes of the completion of a delivery.

#### **24.65.050 Plans Required.**

The construction of sidewalk vaults shall be considered as part of a building and plans shall be submitted showing the construction of the same.

**Chapter 24.70**

**CLEARING, GRADING AND EROSION  
CONTROL**

**Sections:**

24.70.010	General.
24.70.020	Permits.
24.70.030	Hazards.
24.70.040	Special Definitions.
24.70.050	Information on Plans and in Specifications.
24.70.060	Bonds.
24.70.070	Cuts.
24.70.080	Fills.
24.70.090	Setbacks.
24.70.100	Drainage and Terracing.
24.70.120	Grading Inspection.
24.70.130	Completion of Work.

**24.70.010      General.**

(Amended by Ordinance Nos. 165678, and 168340, effective Dec. 7, 1994.) The provisions of this Chapter shall regulate clearing, grading, earthwork construction, erosion control on private property and shall include tree cutting on natural and finished slopes with gradients in whole or in part which exceed 25%.

**24.70.020      Permits.**

(Amended by Ordinance Nos. 165678, 168340 172209, 173532 and 173979, effective March 1, 2000.) Permits for clearing, grading and tree cutting are required as specified in this section. Applicants for permits made in conjunction with land divisions shall be responsible for all clearing, grading, tree cutting and erosion control within the land division, even where a specific activity is exempt from an individual permit.

**A.**      Clearing Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for clearing activities in the following areas:

- 1.**      The Tualatin River sub-basins, Johnson Creek Basin Plan District, environmental zones, greenway zones, or natural resource management plans; or

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2. Property larger than five acres. Except that no permit shall be required for clearing an area less than 5,000 square feet.
- B.** Grading Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for all grading operations with the exception of the following:
1. Grading in an area, where in the opinion of the Director, there is no apparent danger, adverse drainage, or erosion effect on private/public property, or inspection is not necessary;
  2. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.
  3. Cemetery graves.
  4. Refuse disposal sites controlled by other regulations.
  5. Excavations for wells or tunnels.
  6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
  7. Exploratory excavations under the direction of soil (geotechnical) engineers or engineering geologists.
  8. An excavation which
    - a. Is less than 2 feet in depth, or
    - b. Which does not create a cut slope greater than 5 feet in height and steeper than 1-1/2 horizontal to 1 vertical.
  9. A fill less than 1 foot in depth, and placed on natural terrain with a slope flatter than 5 horizontal to 1 vertical, or less than 3 feet in depth, not intended to support structures, which does not obstruct a drainage course and which does not exceed 10 cubic yards on any one lot.
- C.** Tree cutting permit. A tree cutting permit is required for tree cutting (except Christmas trees) and root grubbing operations on slopes with gradients which, in



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whole or in part, exceed 25%. This regulation applies when more than five trees of six-inch diameter are to be cut or if the area to be cleared is greater than 2,500 square feet. This applies in all areas except those designated environmental zones under the provisions of Title 33. Tree cutting permits shall be issued in accordance with Section 24.10.070.

1. Plans and specifications showing the scope of proposed tree cutting operations, together with a geotechnical engineering report assessing the stability of the slope(s) after both tree felling and root grubbing operations shall be submitted to the Director along with the permit application.
  2. Stripping of vegetation or other soil disturbance on the slopes shall be done in a manner which will minimize soil erosion and expose the smallest practical area at any one time. An erosion control and mitigation plan outlining how this is to be achieved and what erosion control measures are proposed to be implemented shall be submitted to the Director for approval.
  3. The permit applicant shall also identify the owner's agent who will be responsible for ensuring compliance with these requirements.
- D. Permits required under this Chapter shall be obtained before the commencement of any tree cutting, root grubbing or soil disturbance takes place.

### **24.70.030 Hazards.**

(Amended by Ordinance No. 165678, effective July 15, 1992.) The Director may determine that any clearing, grading, or geologic condition on private property has or may become a hazard to life and limb, or endanger property, or cause erosion, or adversely affect drainage or the safety, use or stability of a public way or drainage channel. Upon receipt of notice in writing from the Director, the owner shall mitigate the hazard and be in conformity with the requirements of this Title. The Director may require that plans and specifications and engineering reports be prepared in compliance with this Chapter.

### **24.70.040 Special Definitions.**

The definitions contained in this Section relate to excavation and grading work only as outlined in this Chapter.

- A. “**Approval**” shall mean a written engineering or geological opinion concerning the progress and completion of the work.
- B. “**As graded**” is the surface conditions exposed on completion of grading.
- C. “**Bedrock**” is in-place solid rock.

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- D.** “**Bench**” is a relatively level step excavated into earth material on which fill is to be placed.
- E.** “**Borrow**” is earth material acquired from an off-site location for use in grading on a site.
- F.** “**Civil engineer**” shall mean a professional engineer registered in the State to practice in the field of civil works.
- G.** “**Civil engineering**” shall mean the application of the knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.
- H.** “**Clearing**” is the cutting or removal of vegetation which results in exposing any bare soil.
- I.** “**Compaction**” is the densification of a fill by mechanical means.
- J.** “**Earth material**” is any rock, natural soil, or fill and/or any combination thereof.
- K.** “**Engineering geologist**” shall mean a geologist experienced and knowledgeable in engineering geology and registered as an engineering geologist in the State of Oregon.
- L.** “**Engineering geology**” shall mean the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.
- M.** “**Erosion**” is the wearing away of the ground surface as a result of the movement of wind, water, and/or ice.
- N.** “**Excavation**” is the mechanical removal of earth material.
- O.** “**Fill**” is a deposit of earth material placed by artificial means.
- P.** “**Geological hazard**” shall mean a potential or apparent risk to persons or property because of geological or soil instability either existing at the time of construction or which would result from construction.
- Q.** “**Grade**” shall mean the vertical location of the ground surface.
- R.** “**Existing grade**” is the grade prior to grading.

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- S.** “**Rough grade**” is the stage at which the grade approximately conforms to the approved plan.
- T.** “**Finish grade**” is the final grade of the site which conforms to the approved plan.
- U.** “**Grading**” is any excavating or filling or combination thereof.
- V.** “**Key**” is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.
- W.** “**Site**” is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.
- X.** “**Slope**” is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
- Y.** “**Soil**” is naturally occurring surficial deposits overlying bedrock.
- Z.** “**Soil (Geotechnical) engineer**” shall mean a civil engineer competent by education, training, and experience in the practice of soil engineering.
- AA.** “**Soil (Geotechnical) engineering**” shall mean the application of the principles of soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
- BB.** “**Terrace**” is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

**24.70.050 Information on Plans and in Specifications.**

(Amended by Ordinance No. 173532, effective June 30, 1999.) Plans and specifications shall be submitted in accordance with Section 24.10.070 and in addition shall comply with the following:

- A.** Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Title and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.  
The plans shall include the following information.
  - 1.** General vicinity of the proposed site.

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2. Property limits and accurate contours of existing ground and details of terrain and area drainage for the site and surrounding area.
3. Limiting dimensions, elevations, or finish contours to be achieved by the grading and the proposed drainage channels and related construction.
4. Detailed schedule of when each portion of the site is to be graded; how long the soil is to be exposed; and when the area is to be covered with buildings, paving, new vegetation or temporary erosion control measures.
5. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.
6. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.
7. Specifications shall contain information covering construction and material requirements.
8. Civil engineering report. The civil engineering report, when required by the Director, shall include hydrological calculations of runoff and the existing or required safe storm drainage capacity outlet of channels both on site and off site, and 1 in 100 year flood elevations for any adjacent watercourse. The report shall include recommendations for stormwater control and disposal.
9. Soil (Geotechnical) engineering report. The soil engineering report, when required by the Director, shall include data regarding the nature, distribution, and strength of existing soils, design criteria, and conclusions and recommendations applicable to the proposed development. The report shall include recommendation for subdrainage, and for groundwater control and disposal. Recommendations included in the report and approved by the Director shall be incorporated in the plans and specifications. For single family residences, a surface reconnaissance and stability questionnaire may be substituted for a formal soils report at the discretion of the Director.
10. Engineering geology report. The engineering geology report, when required by the Director, shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the

effect of geologic conditions on the proposed development and site(s) to be developed.

Recommendations included in the report and approved by the Director shall be incorporated in the grading plans and specifications.

**B.** Issuance. Section 24.10.070 is applicable to grading permits. The Director may require that:

- 1.** The amount of the site exposed during any one period of time be limited; and
- 2.** Grading work be scheduled to avoid weather periods or avoid critical habitat use periods for areas existing on, or adjacent to, the development site.

Subsequent to the issuance of the grading permit, the Director may require that grading operations and project designs be modified if delays occur which can result in weather generated problems not considered at the time the permit was issued.

**24.70.060 Bonds.**

The Director may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

In lieu of a surety bond the applicant may file a cash bond or instrument of credit with the Director in an amount equal to that which would be required in the surety bond.

**24.70.070 Cuts.**

- A.** General. Unless otherwise recommended in the approved soil engineering and/or engineering geology reports, cuts shall conform to the provisions of this Section.
- B.** Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use. Cut slopes shall be no steeper than 2 horizontal to 1 vertical.
- C.** Drainage and terracing. Drainage and terracing shall be provided as required by Section 24.70.100.

**24.70.080 Fills.**

- A.** General. Unless otherwise recommended in the approved soil engineering report fills shall conform to the provisions of this Section.

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In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures. Such fills shall be subject to review at the discretion of the Director.

- B.** Ground preparation. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top-soil, and other unsuitable materials scarifying to provide a bond with the new fill, and where slopes are steeper than 5 to 1, and the height greater than 5 feet, by benching into competent material or sound bedrock as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 5 to 1 shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut the bench under the toe of a fill shall be at least 10 feet wide but the cut must be made before placing fill and approved by the soils engineer and engineering geologist as a suitable foundation for fill. Unsuitable soil is soil which in the opinion of the Director or the civil engineer or the soils engineer or the engineering geologist, is not competent to support either soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.
- C.** Fill material. Only permitted material free from tree stumps, detrimental amounts of organic matter, trash, garbage, sod, peat, and similar materials shall be used. Rocks larger than 6 inches in greatest dimension shall not be used unless the method of placement is properly devised, continuously inspected, and approved by the Director.  
The following shall also apply:
- 1.** Rock sizes greater than 6 inches in maximum dimension shall be 10 feet or more below grade, measured vertically.
  - 2.** Rocks shall be placed so as to assure filling all voids with fines. Topsoil may be used in the top 12-inch surface layer to aid in planting and landscaping.
- D.** Compaction of fill. All fills shall be compacted to a minimum relative dry density of 90 percent as determined in accordance with ASTM Standard D-1557-78. Field density verification shall be determined in accordance with ASTM Standard D-1556-82 or equivalent and must be submitted for any fill 12 inches or more in depth where such fill may support the foundation for a structure. A higher relative dry density, or additional compaction tests, or both, may be required at any time by the Director.
- E.** Fill slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 2 horizontal to 1 vertical.

- F.** Drainage and terracing. Drainage and terracing shall be provided and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section 24.70.100.

**24.70.090 Setbacks.**

- A.** General. The setbacks and other restrictions specified by this Section are minimal and may be increased by the Director, or by the recommendation of the civil engineer, soils engineer, or engineering geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Director.
- B.** Setbacks from property lines. The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope right areas and easements, in accordance with Figure No. 2 and Table No. 24.70-C at the end of this Chapter.
- C.** Design standards for setbacks. Setbacks between graded slopes (cut or fill) and structures shall be provided in accordance with Figure No. 3 and Table No. 24.70-C at the end of this Chapter.

**24.70.100 Drainage and Terracing.**

(Amended by Ordinance No. 173270, effective May 21, 1999.)

- A.** General. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this Section.
- B.** Terrace. Terraces at least 6 feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the civil engineer and approved by the Director. Suitable access shall be provided to permit proper cleaning and maintenance.  
A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.
- C.** Subsurface drainage. Cut and fill slopes shall be provided with subdrainage as necessary for stability. Adequate culverts shall be laid under all fills placed in natural watercourses and along the flow line of any tributary branches in such a manner that the hydraulic characteristics of the stream are not adversely altered. In addition, subdrainage shall be installed if active or potential springs or seeps



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are covered by the fill. All culverts/subdrainage shall be installed after the suitable subgrade preparation. Design details of culverts/subdrainage shall be shown on each plan and be subject to the approval of the Director and of other government/private agencies as may be required.

A subdrain system shall be provided for embedded foundation/ retaining walls and floor slabs where ground water or seepage has a potential to affect the performance of the structure. The plans shall indicate

1. subdrainage details with appropriate specifications,
2. location of footing subdrain/discharge lines and,
3. method of disposal.

In lieu of above, walls/floors may be waterproofed and designed to resist hydrostatic pressure.

- D.** Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainageway or approved stormwater management facility, as approved by the Director and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices. Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, unless waived by the Director. Exception: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

1. No proposed fills are greater than 10 feet in maximum depth.
2. No proposed finish cut or fill slope faces have a vertical line in excess of 10 feet.
3. No existing slope faces, which have a slope face steeper than 10 horizontal to 1 vertical, have a vertical height in excess of 10 feet.

- E.** Interceptor drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete or gunite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of the drain shall be approved by the Director.



**24.70.110 Erosion Control.**

(Repealed by Ordinance No. 173979, effective March 1, 2000.)

**24.70.120 Grading Inspection.**

- A.** General. All grading operations for which a permit is required shall be subject to inspection by the Director. When required by the Director, special inspection of grading operations and special testing shall be performed in accordance with the provisions of Section 24.70.120 C.
- B.** Grading designation. All grading in excess of 5,000 cubic yards shall be performed in accordance with the approved grading plan prepared by a civil engineer and shall be designated as “engineered grading.” Grading involving less than 5,000 cubic yards may also be designated as “engineered grading” by the Director if the grading will
1. support a building or structure of a permanent nature;
  2. support other engineering works such as, but not limited to, tanks, towers, machinery, retaining wall, and paving;
  3. be deemed a potential hazard under Section 24.70.030. The permittee with the approval of the Director may also choose to have the grading performed as “engineered grading.” Otherwise, the grading shall be designated as “regular grading.”
- C.** Engineered grading requirements. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event that need arises for liaison between the other professionals, the contractor, and the Director. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Director a statement of compliance to said as-graded plan.

Soil engineering and engineering geology reports shall be required as specified in Section 24.70.050. During grading all necessary reports, compaction data, and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Director by the soil engineer and the engineering

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geologist. The soil engineer's area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes, and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.

The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. He shall report his findings to the soil engineer and the civil engineer for engineering analysis.

The Director shall inspect the project at the various stages of work requiring approval and at more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

- D.** Regular grading requirements. The Director may require inspection and testing by an approved testing agency. The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills. When the Director has cause to believe that geological factors may be involved the grading operation will be required to conform to "engineered grading" requirements.
- E.** Notification of noncompliance. If, in the course of fulfilling their responsibility under this Chapter, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformity with this Chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Director. Recommendations for corrective measures, if necessary, shall be submitted.
- F.** Transfer of responsibility for approval. If the civil engineer, the soil engineer, the engineering geologist, or the testing agency of record are changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

#### **24.70.130 Completion of Work.**

- A.** Final reports. Upon completion of the rough grading work and that final completion of the work the Director may require the following reports and drawings and supplements thereto:

  - 1.** An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations,

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lot drainage patterns, and locations and elevations of all surface and sub-surface drainage facilities. He shall provide approval that the work was done in accordance with the final approved grading plan.

2. A Soil Grading Report prepared by the soil engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. He shall provide approval as to the adequacy of the site for the intended use.
3. A Geological Grading Report prepared by the engineering geologist including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. He shall provide approval as to the adequacy of the site for the intended use as affected by geological factors.

- B.** Notification of completion. The permittee or his agent shall notify the Director when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted.

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**Chapter 24.75**

**UNIFORM BUILDING ADDRESS  
SYSTEM**

(Added by Ordinance No. 161984,  
effective July 1, 1989.)

**Sections:**

24.75.010	Uniform System.
24.75.020	Size and Location of Building Numbers.
24.75.030	Administration.
24.75.040	Owner Responsibility.
24.75.050	Alteration of Building Number - Improper Number.
24.75.060	Building Defined.
24.75.070	Enforcement.

**24.75.010 Uniform System.**

- A.** There is established a uniform system of numbering all buildings in separate ownership or occupancy in the City dividing the City into five general districts. In establishing the system Williams Avenue and the center line of the Willamette River southerly from Glisan Street shall constitute the north and south base line from which the numbers on all buildings running easterly and westerly from said streets shall be extended each way, upon the basis of one number for each ten feet of property frontage, wherever possible, starting at the base line with the number 1 continuing with consecutive hundreds at each intersection, wherever possible; provided, however, that streets running easterly and westerly in that district south of Jefferson Street and lying between Front Avenue and the Willamette River shall have the prefix "0" placed before the assigned number, said numbers starting at Front Avenue with the number 1 and continuing with consecutive hundreds at each intersection, where possible. All even numbers shall be placed upon buildings on the southerly side of streets, avenues, alleys and highways, and all odd numbers shall be placed upon buildings on the northerly side of streets, avenues, alleys and highways. Burnside Street shall constitute the east and west base line from which the numbers on all streets running north and south from said streets shall be extended each way, upon the basis of one number for each 10 feet of property frontage, wherever possible, starting at the base line with number 1 and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon buildings on the easterly side of streets, avenues, alleys, and highways, and all odd numbers upon buildings on the westerly side of said streets, avenues, alleys, and highways. Freestanding

buildings on private streets which are separately owned or occupied shall be separately numbered so as to most closely conform to this system. Each portion of a building which is separately owned or occupied and has a separate entrance from the outside shall have a separate number assigned to it.

- B.** Suffixes to Building Numbers. Where building address requirements exceed numbers available within the numbering system, the Director may use the suffix “A”, “B”, “C”, etc. as may be required to provide the numbering required by this Chapter.

**24.75.020      Size and Location of Building Numbers.**

All numbers placed in accordance with this Chapter shall be permanently affixed to a permanent structure and of sufficient size and so placed as to be distinctly legible from the public way providing primary access to the building. All numbers shall be posted as nearly as possible in a uniform place and positioned on the front of each building near the front entrance. Where outside illumination is provided, the numbers shall be placed so as to be illuminated by the outside light. In instances where building mounted numbers are not distinctly visible from a public way, a duplicate set of numbers shall be permanently affixed to a permanent structure at the primary entranceway to such property. If, in the judgment of the Director, the numbering, sequence, legibility, size or location does not meet the requirements as set forth above, the property owner or agent therefor shall be notified and within 30 days shall make such changes as required in the notification.

**24.75.030      Administration.**

The Director shall assign address numbers, keep records of address assignments, and exercise such other powers as are necessary to carry out the provisions of this Chapter.

**24.75.040      Owner Responsibility.**

Whenever any new building is erected, modified, or occupied in a manner requiring an address assignment, the owner or owner’s agent shall procure the correct address number or numbers designated by the Director and pay required fees.

The owner or agent shall prior to occupancy or within 30 days of assignment, whichever occurs later, place the assigned address number(s) upon the building or in a manner and location as provided in this Chapter.

**24.75.050      Alteration of Building Number - Improper Number.**

It is unlawful for any person to cause or knowingly permit a building number to be displayed which is different than that assigned pursuant to this Chapter. It is unlawful for any person to own or have possession of a building which does not display the number assigned pursuant to this Chapter in the manner provided by this Chapter.

**24.75.060      Building Defined.**

As used in this Chapter, “building” is any structure used or intended for supporting or sheltering any use or occupancy.

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#### **24.75.070 Enforcement.**

The Director shall provide written notices to the owner of any building in violation of the provisions of this Title. The notice shall state the violations existing and specify the owner has 30 days to obtain compliance.

In the event the owner fails or neglects to comply with the violation notice in the prescribed time the Director may gain compliance by:

- A.** Instituting an action before the Code Enforcement Hearings Officer as provided 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 Director deems appropriate.

#### **Chapter 24.80**

### **DERELICT COMMERCIAL BUILDINGS**

(Repealed by Ordinance No. 171455,  
effective August 29, 1997.)

**Chapter 24.85**

**SEISMIC DESIGN  
REQUIREMENTS FOR EXISTING  
BUILDINGS**

(Added by Ordinance No. 168627,  
effective Mar. 22, 1995.)

**Sections:**

24.85.010	Scope.
24.85.015	Structural Design Meeting.
24.85.020	Seismic Related Definitions.
24.85.030	Seismic Improvement Standards.
24.85.040	Change of Occupancy or Use.
24.85.050	Building Additions or Structural Alterations.
24.85.051	Mezzanine Additions.
24.85.055	Structural Systems Damaged by Catastrophic Events.
24.85.056	Structural Systems Damaged by an Earthquake.
24.85.060	Required Seismic Evaluation
24.85.065	Seismic Strengthening of Unreinforced Masonry Bearing Wall Buildings.
24.85.067	Voluntary Seismic Strengthening.
24.85.070	Phasing of Improvements.
24.85.075	Egress Through Existing Buildings.
24.85.080	Application of Other Requirements.
24.85.090	Fee Reductions.
24.85.095	Appeals.

**24.85.010      Scope.**

(Amended by Ordinance No. 178831, effective November 20, 2004.)

- A.**      The provisions of this chapter prescribe the seismic design requirements for existing buildings undergoing changes of occupancy, additions, alterations, catastrophic damage, fire, or earthquake repair, or mandatory or voluntary seismic strengthening. The requirements of this chapter only apply to buildings for which a building permit has been applied for to change the occupancy classification, add square footage to the building, alter or repair the building.

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- B.** Under the authority provided by State law, the provisions of this chapter prescribing seismic rehabilitation standards for existing buildings can be used in lieu of meeting the requirements of the current edition of the State of Oregon Structural Specialty Code.

#### **24.85.015 Structural Design Meeting.**

(Added by Ordinance No. 178831, effective November 20, 2004.) Upon request, BDS engineering staff is available to meet with an owners design engineer to review proposed seismic strengthening plans in a pre-design meeting. A written record of the meeting discussion and determinations will be placed in the permit record.

#### **24.85.020 Seismic Related Definitions.**

(Amended by Ordinance Nos. 169427, 170997, 178831 and 180917, effective May 26, 2007.) The definitions contained in this Section relate to seismic design requirements for existing buildings outlined in this Chapter.

- A.** **ASCE 31** means the Seismic Evaluation of Existing Buildings ASCE/SEI 31-03 published by the American Society of Civil Engineers and the Structural Engineering Institute.
- B.** **ASCE 31 Evaluation** means the process of evaluating an existing building for the potential earthquake-related risk to human life posed by that building, or building component, and the documentation of that evaluation, performed and written according to the provisions of ASCE 31. ASCE 31 Evaluation is divided into two categories:
  - 1.** Non-essential facilities evaluation means a Tier 1 and a Deficiency-Only Tier 2 analysis to the Life Safety (LS) performance level as defined by ASCE 31 unless a complete Tier 2 analysis is required by ASCE 31.
  - 2.** Essential facilities evaluation means a Tier 2 analysis to the Immediate Occupancy (IO) performance level as defined by ASCE 31.
- C.** **ASCE 31 Improvement Standard** means the Tier 1 and Tier 2 Life Safety Performance Level Criteria of ASCE 31.
- D.** **ATC 20** means the 1989 Edition of the manual on “Procedures for Post Earthquake Safety Evaluation of Buildings” published by Applied Technology Council.
- E.** **BDS** means the City of Portland’s Bureau of Development Services.
- F.** **Building Addition** means an extension or increase in floor area or height of a building or structure.



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- G. Building Alteration** means any change, addition or modification in construction.
- H. Catastrophic Damage** means damage to a building that causes an unsafe structural condition from fire, vehicle collision, explosion, or other events of similar nature.
- I. Essential Facility** has the same meaning as defined in the OSSC.
- J. Fire and Life-safety for Existing Buildings (FLEx) Guide** means a code guide published by the Bureau of Development Services, outlining alternative materials and methods of construction that are allowed for existing buildings in Portland.
- K. FM 41 Agreement** means a joint agreement between Portland Fire & Rescue, the Bureau of Development Services and a building owner to schedule improvements to the building following a determination of the fire and life safety hazards posed by the existing condition of the building as provided under Oregon law.
- L. Live/Work Space** means a combination working space and dwelling unit. A live/work space includes a room or suite of rooms on one or more floors designed for and occupied by not more than one family and including adequate working space reserved for the resident's occupancy. A live/work space is individually equipped with an enclosed bathroom containing a lavatory, water closet, shower/and or bathtub and appropriate venting.
- M. Net Floor Area** means the entire area of a structurally independent building, including an occupied basement, measured from the inside of the permanent outer building walls, excluding any major vertical penetrations of the floor, such as elevator and mechanical shafts.
- N. Oregon Structural Specialty Code (OSSC)** means the provisions of the State of Oregon Structural Specialty Code as adopted by Section 24.10.040 A.
- O. Reinforced Masonry** means masonry having both vertical and horizontal reinforcement as follows:
- 1.** Vertical reinforcement of at least 0.20 in<sup>2</sup> in cross-section at each corner or end, at each side of each opening, and at a maximum spacing of 4 feet throughout. One or two story buildings may have vertical reinforcing spaced at greater than 4 feet throughout provided that a rational engineering analysis is submitted which shows that existing reinforcing and spacing provides adequate resistance to all required design forces without net tension occurring in the wall.

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2. Horizontal reinforcement of at least 0.20 in<sup>2</sup> in cross-section at the top of the wall, at the top and bottom of wall openings, at structurally connected roof and floor openings, and at a maximum spacing of 10 feet throughout.
  3. The sum of the areas of horizontal and vertical reinforcement shall be at least 0.0005 times the gross cross-sectional area of the element.
  4. The minimum area of reinforcement in either direction shall not be less than 0.000175 times the gross cross-sectional area of the element.
- P. Roof Covering Repair or Replacement** means the installation of a new roof covering following the removal of an area of the building's roof covering exceeding 50% or more of the total roof area within the previous five year period.
- Q. Unreinforced Masonry (URM)** means adobe, burned clay, concrete or sand-lime brick, hollow clay or concrete block, hollow clay tile, rubble and cut stone and unburned clay masonry that does not satisfy the definition of reinforced masonry as defined herein. Plain unreinforced concrete shall not be considered unreinforced masonry for the purpose of this Chapter.
- R. Unreinforced Masonry Bearing Wall** means a URM wall that provides vertical support for a floor or roof for which the total superimposed vertical load exceeds 200 pounds per lineal foot of wall.
- S. Unreinforced Masonry Bearing Wall Building** means a building that contains at least one URM bearing wall.

#### **24.85.030 Seismic Improvement Standards.**

(Amended by Ordinance Nos. 170997 and 178831, effective November 20, 2004.) For changes of occupancy structural additions, building alterations and catastrophic or earthquake damage repair, the design standard shall be the current edition of the OSSC unless otherwise noted by this Chapter.

#### **24.85.040 Change of Occupancy or Use.**

(Amended by Ordinance Nos. 169905, 170997 and 178831, effective November 20, 2004.) The following table shall be used to classify the relative hazard of all building occupancies:

<b>TABLE 24.85-A</b>		
<b>Relative Hazard Classification</b>	<b>OSSC Occupancy Classification</b>	<b>Seismic Improvement Standard</b>
5 (Highest)	A, E, I-2, I-3, H-1, H-2, H-3, H-4, H-5	OSSC
4	R-1, R-2, SR, I-1, I-4	
3	B, M	ASCE 31
2	F-1, F-2, S-1, S-2	
1 (Lowest)	R-3, U	

- A. Occupancy Change to a Higher Relative Hazard Classification.** An occupancy change to a higher relative hazard classification will require seismic improvements based upon the factors of changes in the net floor area and the occupant load increases as indicated in Table 24.85-B below. All improvements to either the OSSC or ASCE 31 improvement standard shall be made such that the entire building conforms to the appropriate standard indicated in Table 24.85-B.

<b>TABLE 24.85-B</b>				
<b>Percentage of Building Net Floor Area Changed</b>		<b>Occupant Load Increase</b>	<b>Required Improvement Standard</b>	<b>Relative Hazard Classification</b>
1/3 of area or less	and	Less than 150	None	1 through 5
More than 1/3 of area	or	150 and above	ASCE 31	1, 2, and 3
More than 1/3 of area	or	150 and above	OSSC	4 and 5

Multiple occupancy changes to a single building may be made under this section without triggering a seismic upgrade provided the cumulative changes do not exceed 1/3 of the building net floor area or add more than 149 occupants with respect to the legal building occupancy as of October 1, 2004.

- B. Occupancy Change to Same or Lower Relative Hazard Classification.** An occupancy change to the same or a lower relative hazard classification or a change in use within any occupancy classification will require seismic improvements using either the OSSC or ASCE 31 improvement standard, as identified in Table 24.85-A above, where the change results in an increase in occupant load of more than 149 people as defined by the OSSC. Where seismic improvement is required, the entire building shall be improved to conform to the appropriate improvement standard identified in Table 24.85-A.
- Multiple occupancy changes to a single building may be made under this section without triggering a seismic upgrade provided the cumulative changes do not

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result in the addition of more than 149 occupants with respect to the legal building occupancy as of October 1, 2004.

- C.** Occupancy Change to Live Work Space. Any building occupancy classified as relative hazard category 1, 2, or 3 may undergo a change of occupancy to live/work space provided that:
  - 1.** The building shall be improved such that the entire building conforms to the ASCE 31 improvement standard; and
  - 2.** The building meets the fire and life safety standards of either the FLEx Guide or the current OSSC.
  - 3.** Any Unreinforced Masonry bearing wall building converted to live/work space, regardless of construction costs, shall be improved such that the entire building conforms to the ASCE 31 improvement standard.
- D.** Occupancy Change to Essential Facilities. All structures which are being converted to essential facilities, as defined in the OSSC, shall comply with current state code seismic requirements, regardless of other requirements in this section.

#### **24.85.050 Building Additions or Structural Alterations.**

(Amended by Ordinance No. 178831, effective November 20, 2004.) An addition that is not structurally independent from an existing building shall be designed and constructed such that the entire building conforms to the seismic force resistance requirements for new buildings unless the three conditions listed below are met. Furthermore, structural alterations to an existing building or its structural elements shall also meet the following three conditions:

- A.** The addition or structural alteration shall comply with the requirements for new buildings;
- B.** The addition or structural alteration shall not increase the seismic forces in any structural element of the building by more than 5 percent unless the capacity of the element subject to the increased forces is equal to or greater than that required for new buildings. Multiple force increases on an element are allowed provided the cumulative force increase does not exceed 5 percent of the force on the element from its original, unaltered state; and
- C.** The addition or structural alteration shall not decrease the seismic resistance of any structural element of the existing building unless the reduced seismic resistance of the element is equal to or greater than that required for new buildings.

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**24.85.051 Mezzanine Additions.**

(Added by Ordinance No. 178831, effective November 20, 2004.) A mezzanine addition shall not require seismic strengthening of the entire building when all of the following conditions are met:

- A.** Entire building strengthening is not required by any other provision contained in this Title;
- B.** The net floor area of the of the proposed mezzanine addition is less than 1/3 of the net floor area of the building;
- C.** The mezzanine addition does not result in an occupant load increase, as defined by the OSSC, of more than 149 people; and
- D.** Subsections 24.85.050 A. - C. shall also apply to mezzanine additions.

**24.85.055 Structural Systems Damaged by Catastrophic Events.**

(Added by Ordinance No. 170997; amended by 178831, effective November 20, 2004.)

- A.** Building structural systems damaged less than or equal to 50%.
  - 1.** If a building is damaged by a catastrophic event such that the area of the resulting structural damage is less than or equal to 50 percent of the building's net area, all damaged lateral load resisting components of the building's structural system must be designed and constructed to current provisions of the OSSC. These components must also be connected to the balance of the undamaged lateral load resisting system in conformance with current code provisions. Undamaged components need not be upgraded to current lateral load provisions of the current code, unless required by other provisions of this title.
  - 2.** New lateral system vertical elements must be compatible with any existing lateral system elements, including foundations. In multistory buildings, the engineer shall confirm that the new lateral system vertical elements do not introduce soft or weak story seismic deficiencies, as defined by ASCE 31, where they did not previously exist, or make existing conditions more hazardous.
- B.** Building structural systems damaged more than 50%. Where a building is damaged by a catastrophic event such that the area of the resulting structural damage is greater than 50 percent of the building's net floor area, all lateral load resisting components of the entire building's structural system must be designed and constructed to the current provisions of the OSSC.

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#### **24.85.056 Structural Systems Damaged by an Earthquake.**

(Added by Ordinance No. 178831, effective November 20, 2004.) As a result of an earthquake, the Director may determine through either an ATC 20 procedure or through subsequent discovery any structure or portion thereof to be in an unsafe condition as defined by State law. As a result of making this determination, the Director may declare the structure or portion thereof to be a public nuisance and to be repaired or rehabilitation as provided in Subsections 24.85.056 A.-C., or abated by demolition or removal in accordance with Title 29. For the purposes of this Section, an “unsafe condition” includes, but is not limited to any portion, member or appurtenance of a building that has become detached or dislodged or appears likely to fail or collapse and thereby injure persons or damage property; or any portion of a building or structure that has been damaged to the extent that the structural strength or stability of the building is substantially less than it was prior to the damaging event.

- A.** Buildings built prior to January 1, 1974 with lateral support systems that have unsafe conditions shall be repaired or improved to resist seismic forces such that the repaired lateral system conforms to the ASCE 31 improvement standard.
  - 1.** Where less than 50% of the lateral support system has been damaged, only the damaged elements must be repaired.
  - 2.** Where 50% or more of the lateral support system has been damaged, then the entire lateral support system must be repaired to resist seismic forces such that the repaired system conforms to the ASCE 31 improvement standard.
- B.** Buildings built on or after January 1, 1974 with lateral support systems that have unsafe conditions shall be repaired or improved to resist seismic forces such that the repaired lateral system conforms to the code to which the building was originally designed, but not less than that required to conform to the ASCE 31 improvement standard.
  - 1.** Where less than 50% of the lateral support system has been damaged, only the damaged elements must be repaired.
  - 2.** Where 50% or more of the lateral support system has been damaged, then the entire lateral support system must be repaired to resist seismic forces such that the repaired system conforms to the code to which the building was originally designed, but not less than that required to conform to the ASCE 31 improvement standard.
- C.** New lateral system vertical elements must be compatible with any existing lateral system elements, including foundations. In multistory buildings, the engineer shall confirm that the new lateral system vertical elements do not introduce soft or

weak story seismic deficiencies, as defined by ASCE 31, where they did not previously exist, or make existing conditions more hazardous.

**24.85.060 Required Seismic Evaluation.**

(Added by Ordinance No. 169427; amended by 178831, effective November 20, 2004). When an alteration for which a building permit is required has a value (not including costs of mechanical, electrical, plumbing, permanent equipment, painting, fire extinguishing systems, site improvements, eco-roofs and finish works) of more than \$175,000, an ASCE 31 evaluation is required. This value of \$175,000 shall be modified each year after 2004 by the percent change in the R.S Means Construction Index for Portland on file with the Director. A letter of intent to have an ASCE 31 evaluation performed may be submitted along with the permit application. The evaluation must be completed before any future permits will be issued. The following shall be exempted from this requirement:

- A. Buildings constructed or renovated to seismic zone 2, 2b or 3 under a permit issued after January 1, 1974.
- B. Detached One- and two-family dwellings, and their accessory structures.
- C. Single story, light frame metal and light wood frame buildings, not more than 20 feet in height from the top surface of the lowest floor to the highest interior overhead finish and ground area of 4,000 square feet or less.

A previously prepared seismic study may be submitted for consideration by the Director as equivalent to an ASCE 31 evaluation.



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#### **24.85.065 Seismic Strengthening of Unreinforced Masonry Bearing Wall Buildings.**

(Added by Ordinance No. 169427; amended by 170997 and 178831, effective November 20, 2004). When any building alterations or repairs occur at an Unreinforced Masonry Bearing Wall Building, all seismic hazards shall be mitigated as set forth in Subsections 24.85.065 A. and B. A previously permitted seismic strengthening scheme designed in accordance with FEMA 178/310 may be submitted for consideration by the Bureau Director as equivalent to the ASCE 31 improvement standard:

**A. Roof Repair or Replacement.** When a roof covering is repaired or replaced, as defined in 24.85.020, the building structural roof system, anchorage, and parapets shall be repaired or rehabilitated such that, at a minimum, the wall anchorage for both in-plane and out-of-plane forces at the roof and parapet bracing conform to the ASCE 31 improvement standard. In-plane brick shear tests are not required as part of the ASCE evaluation under this subsection.

**B. Additional Triggers.**

- 1. Building alterations or repair.** When the cost of alteration or repair work which requires a building permit in a 2 year period exceeds the following criteria, then the building shall be improved to resist seismic forces such that the entire building conforms to the ASCE 31 improvement standard.

<b>Table 24.85-C</b>	
<b>Building Description</b>	<b>Cost of Alteration or Repair</b>
Single Story Building	\$40 per square foot
Buildings Two Stories or Greater	\$30 per square foot

- 2. Special building hazards.** Where an Unreinforced Masonry Building of any size contains any of the following hazards, the building shall be seismically improved if the cost of alteration or repair exceeds \$30 per square foot:
  - a.** The Building possesses an Occupancy Classification listed within the Relative Hazard Category 5 as determined in Section 24.85.040 of this Chapter; or
  - b.** The building is classified as possessing either vertical or plan irregularities as defined in the OSSC.
- 3. Exclusions from cost calculations.** Costs for site improvements, eco-roofs, mandated FM41 agreements, mandated ADA improvements, mandated non-conforming upgrades under Title 33, mandated elevator improvements and mandated or voluntary seismic improvements or work



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exempted from permit as described in Chapter 1 of the OSSC will not be included in the dollar amounts listed in Subsections 24.85.065 B.1. and 2.

4. **Live/Work spaces in Unreinforced Masonry buildings.** See Section 24.85.040 B for requirements when a Unreinforced Masonry building is converted to contain live/work spaces.
5. **Automatic cost increase.** The dollar amounts listed in Subsections 24.85.065 B.1. and 2. shall be modified each year after 2004 by the percent change in the R.S. Means of Construction Cost Index for Portland, Oregon. The revised dollar amounts will be made available at the Development Services Center.

**24.85.067 Voluntary Seismic Strengthening.**

(Added by Ordinance No. 178831, effective November 20, 2004.) Subject to permit approval, a building may be strengthened to resist seismic forces on a voluntary basis provided all of the following conditions are met:

- A. Mandatory seismic strengthening is not required by other provisions of this Title;
- B. The overall seismic resistance of the building or elements shall not be decreased such that the building is more hazardous;
- C. Testing and special inspection are in accordance with the OSSC and the City of Portland Administrative Rules;
- D. The standard used for the seismic strengthening is clearly noted on the drawings along with the pertinent design parameters; and
- E. A written narrative shall be clearly noted on the drawings summarizing the building lateral system, seismic strengthening and known remaining deficiencies. The summary information shall reflect the level of analysis that was performed on the building.

**24.85.070 Phasing of Improvements.**

(Amended by Ordinance No. 178831, effective November 20, 2004.)

- A. The Director may approve a multi-year phased program of seismic improvements when the improvements are pre-designed and an improvement/implementation plan is approved by the Director. The maximum total time allowed for completion of phased improvements shall be ten years. A legal agreement between the building owner and the City of Portland shall be formulated outlining the phased seismic improvements and shall be recorded with the property deed at the County.

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- B.** Upon review, the Director may extend the maximum time for the phased improvements. The Director shall adopt rules under Section 3.30.035 describing the process for granting an extension.

#### **24.85.075 Egress Through Existing Buildings.**

(Added by Ordinance No. 178831, effective November 20, 2004.) The building structure and seismic resistance of an egress path through, under or over an existing building must meet the required seismic improvement standard specified in Section 24.85.040, Table 24.85-A, under any of the following conditions:

- A.** The egress path is from an adjacent new building or addition and the new building or addition area equals 1/3 or more of the existing building area; or,
- B.** The egress path is from an adjacent existing building that undergoes alterations or a change of occupancy requiring its egress path(s) meet the seismic improvement standards as required by this Chapter; or
- C.** The additional occupant load, as determined by the OSSC, using the egress path through the existing building is 150 people or more.

#### **24.85.080 Application of Other Requirements.**

(Amended by Ordinance No. 178831, effective November 20, 2004.) Building permit applications to improve the seismic capability of a building shall not trigger: accessibility improvements so long as the seismic improvement does not lessen accessibility; fire life safety improvements so long as the seismic improvement does not lessen the buildings fire resistance or exiting capability; landscape improvements required by Chapter 33; street tree improvements required by Section 20.40.070.

Conformance with these regulations may not exempt buildings from future seismic regulations.

#### **24.85.090 Fee Reductions.**

(Amended by Ordinance No. 178831, effective November 20, 2004.) Building permit, plan review and fire life safety review fees for structural work related to seismic strengthening covered by this Chapter will be waived when such fees total less than \$2,500, and will be and reduced by 50% when such fees would total \$2,500 or more.

#### **24.85.095 Appeals.**

(Amended by Ordinance No. 178831, effective November 20, 2004.) Because unanticipated circumstances may arise in the enforcement of these requirements for existing buildings, consideration as to the reasonable application of this Chapter may be addressed through the Board of Appeals as provided in Section 24.10.080.

**Chapter 24.90**

**MANUFACTURED DWELLING  
INSTALLATION AND ACCESSORY  
STRUCTURES, MANUFACTURED  
DWELLING PARKS,  
RECREATIONAL PARKS, PARK  
TRAILER INSTALLATION AND  
ACCESSORY STRUCTURES**

(Added by Ordinance No. 169312,  
effective Sept. 20, 1995).

**Sections:**

24.90.010	Purpose.
24.90.020	Scope.
24.90.030	Regulatory Adoption.
24.90.040	Definitions.
24.90.050	Administration and Enforcement.
24.90.060	Special Regulation.
24.90.070	Permit Application.
24.90.080	Violations.
24.90.090	Appeals.

**24.90.010 Purpose.**

The purpose of this Chapter is to provide minimum standards for the following:

- A.** Installation and maintenance of manufactured dwellings and accessory structures.
- B.** Development and maintenance of manufactured dwelling parks.
- C.** Installation and maintenance of park trailers and recreational vehicle accessory structures.
- D.** Development and maintenance of recreational vehicle parks.

**24.90.020 Scope.**

Regulation under this Chapter covers all installations or alteration of manufactured dwellings, park trailers, and accessory structures. Regulation under this Chapter covers the development and maintenance of manufactured dwelling parks and recreational

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vehicle parks. This Chapter does not include tourist facility regulation and licensing defined in ORS 446.310 to 446.350 and performed by Multnomah County.

#### **24.90.030 Regulatory Adoption.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) The City of Portland through the Bureau of Development Services adopts regulatory authority for the installation maintenance and alteration of manufactured dwellings and accessory structures as authorized in ORS 446.250 and 446.253; for the development and maintenance of manufactured dwelling park as authorized in ORS 446.430 and OAR 918-600-100; for the development and maintenance of a recreational vehicle park, picnic park or camp as authorized in ORS 455.170, for the installation, maintenance and alteration of park trailers, other recreational vehicles and accessory structures as authorized in ORS 455.170 and OAR 918-525-005. Nothing contained herein provides regulatory authority when delegation of authority is expressly withheld by the State.

#### **24.90.040 Definitions.**

For the purposes of this Chapter definitions contained in Chapter 24.15 shall apply in conjunction with definitions found in ORS 446.003, ORS 455.010, OAR 918-500-005, OAR 918-525-005, OAR 918-600-005 and OAR 918-650-005. Definitions in ORS or OAR shall take precedence over other conflicting definitions.

#### **24.90.050 Administration and Enforcement.**

(Amended by Ordinance No. 176955, effective October 9 , 2002.) This Chapter shall be administered and enforced in conformance with applicable Oregon Administrative Rules contained in Chapter 918 Division 500, 505, 510, 520, 600 and 650.

Applicable regulatory provisions contained in the Oregon Administrative Rules are indexed in the Policy and Procedure Manual. The index and applicable Oregon Administrative Rules are on file at the Bureau of Development Services. Reproductions will be provided upon request for the fee described in 24.10.115.

#### **24.90.060 Special Regulation.**

Manufactured Dwellings and Cabanas installed on a residential lot shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single family dwellings constructed under the state building code. Skirting and permanent enclosures shall be required for all park trailer and cabana installations.

#### **24.90.070 Permit Application.**

Permits are required for the development, enlargement, alteration or removal of manufactured dwelling parks, or recreational parks. Permit applications, plans and specifications and permit issuance shall conform to Section 24.10.070, and applicable Oregon Administrative Rules. Permits are required for the installation or alteration of manufactured dwellings, park trailers and accessory structures. Plans and specifications

are required in conformance with Section 24.10.070 and applicable Oregon Administrative Rules except when;

- A. All installation is within an existing manufactured dwelling park and all the installation is performed in accordance with the manufactures approved installation instructions.
- B. All installation is within an existing recreational or combination park, and all installation is performed under OAR 918-530-005 through 918-530-120.  
When the Director determines special installation or construction requires design by a registered engineer or architect, such design shall be submitted in triplicate and approved by the Bureau prior to commencement or continuance of installation or construction.

**24.90.080      Violations.**

When any construction or installation under this Chapter is found not to comply with the regulations or standards set forth in this Chapter, the Director may issue a correction notice. When reinspection is called for and noncompliance continues the Director may assess a reinspection fee. When construction or installation under this Chapter is commenced without a permit the Director shall require a special investigation and assess an investigation fee. Reinspection or special investigation fees must be paid prior to resuming work or occupying the dwelling.

The Director may issue to the violator and post on the premises, a stop work order when work under this chapter is being performed contrary to regulations of this Chapter. When a stop work is issued and posted, work shall not resume until authorized by Director.

The Director may determine the construction or installation unsafe and proceed with actions contained in 24.10.060 (e)(f).

**24.90.090      Appeals.**

Any person, firm or corporation may request a ruling from the Administrator of the State Building Codes Division prior to submitting a permit application under this Chapter or after withdrawing a previously submitted application. Any ruling or order initiated by the Director shall remain in full force until or unless a ruling by the Division reverses the Director's ruling.

Any person, firm or corporation aggrieved by a decision of the Bureau under this Chapter may request an administrative appeal and pay the appeal fee. An administrative appeal committee consisting of persons appointed by the Director who are especially qualified to provide expert opinions in matters of this Chapter under appeal, shall act in advisory capacity to the Director. Committee review shall culminate in a finding by the Director. Further appeal may be made without fee to the appropriate Board of Appeals described in Sections 24.10.080, 25.07, 26.12 and 27.02.030. Within 30 days of the final appeal finding by the Board of Appeals an appellant who continues to be aggrieved may submit a continuance of the appeal to the State Manufactured Structures and Parks Advisory Board.

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**Chapter 24.95**

**SPECIAL DESIGN STANDARDS  
FOR FIVE STORY APARTMENT  
BUILDINGS**

(Chapter added by Ordinance No. 169730,  
effective January 24, 1996.)

**Sections:**

24.95.010	General.
24.95.020	Construction.
24.95.030	Occupancy.
24.95.035	Commercial Kitchens Grease Ducts and Exhaust Equipment.
24.95.040	Sprinkler Protection.
24.95.050	Height.
24.95.055	Opening Protection.
24.95.060	Fire Fighting Access.
24.95.070	Permit Application.
24.95.080	Construction and Inspection.

**24.95.010 General.**

(Amended by Ordinance 181136, effective August 17, 2007.) The provisions of this chapter may be used to design and construct five story, wood frame apartment buildings in addition to complying with the Oregon Structural Specialty Code as adopted and effective October 1, 2003. Buildings designed and constructed under this chapter shall comply with all provisions of this chapter. Where a provision in this chapter is in conflict with the Oregon Structural Specialty Code, the provision of this chapter shall take precedence, as authorized by the Director of the Department of Consumer and Business Services pursuant to Oregon Revised Statute 455.040.

**24.95.020 Construction.**

(Amended by Ordinance 181136, effective August 17, 2007.)

- A.** Single Construction. Single construction buildings complying with this chapter may be a maximum of five stories of Type V-1 Hour construction.

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- B.** Mixed Construction. Six story buildings complying with this chapter may be designed and constructed where any basement or first story is constructed of Type I construction and a maximum of the top five stories are of Type V-1 Hour construction. The Type I construction shall be separated from the Type V-1 Hour construction above with a three-hour occupancy separation.
- C.** Construction Types. Type I and Type V-1 Hour construction shall be as specified in the Oregon Structural Specialty Code.

**24.95.030      Occupancy.**

(Amended by Ordinance 181136, effective August 17, 2007.)

- A.** Single Construction. In five story wood frame buildings of single construction as specified in Section 24.95.020 A, the occupancy of the top four stories of buildings shall be limited to Group R, Division 1 apartment occupancies. Occupancies located in the first story and basement shall be limited to those listed in Subsection C.
- B.** Mixed Construction. In six story buildings of mixed construction, as specified in Section 24.95.020 B, the occupancy of the wood frame stories of the building shall be limited to Group R, Division 1 apartment occupancy. Occupancies located in the Type I portion of the building shall be limited to those listed in Subsection C.
- C.** Other Occupancies.
  - 1.** General. Occupancies located in the basement or first story of single construction buildings and in the Type I portion of a mixed construction building shall be limited to:
    - a.** Group A, Division 3;
    - b.** Group B offices;
    - c.** Group B dining and drinking establishments;
    - d.** Group E, Division 3 day care occupancies;
    - e.** Group M retail stories;
    - f.** Group S, Division 3 parking occupancies; and
    - g.** Group R, Division 1, apartment houses.

Occupancies shall be as defined in the Oregon Structural Specialty Code.



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2. Limitations. The following limitations apply to the occupancy categories listed in Subsection 1.
  - a. Group E, Division 3 day care occupancies. For either single or mixed construction buildings, Group E, Division 3 day care occupancies are restricted to the first story.
  - b. Group S, Division 3 parking occupancies. In mixed construction buildings, Group S, Division 3 parking occupancies shall be limited to the portion of the building constructed to Type I standards.

#### **24.95.035 Commercial Kitchen Grease Ducts and Exhaust Equipment.**

(Amended by Ordinance 181136, effective August 17, 2007.) Commercial kitchen grease ducts and exhaust equipment shall comply with the requirements of the Oregon Mechanical Specialty Code and the provisions of NFPA 96, 2001 edition.

Ducts that serve Type I hoods and penetrate a floor shall be in a shaft enclosure of not less than 2 hour fire resistive construction.

#### **24.95.040 Sprinkler Protection.**

(Amended by Ordinance 181136, effective August 17, 2007.) All portions of the building shall be protected throughout by an automatic sprinkler system complying with U.B.C. Standard No. 9-1 (NFPA 13) as contained in the Oregon Structural Specialty Code. The automatic sprinkler system shall not substitute for one-hour fire-resistive construction and cannot be used for building area increases.

#### **24.95.050 Height.**

(Amended by Ordinance 181136, effective August 17, 2007.) Regardless of construction, the maximum height the building shall be 65 feet. The height shall be measured from the lowest level of fire department vehicle access to the highest point of any of the following:

- A. top of parapet;
- B. the highest point of coping of a flat roof;
- C. the deck of a mansard roof; or
- D. the average height of the highest gable of a pitched or hipped roof associated with the building façade.

Each portion of the building created by an area separation wall shall comply with this section. Where a portion of the building created by an area separation wall is not directly



adjacent to approved fire department vehicle access locations, the roof of that portion of the building shall be no higher than the roof of the adjoining portion of the building which is adjacent to fire department vehicle access.

**Exception:** Mechanical, elevator and stairway penthouses may project up to 15 feet above the height limits determined in this section.

**24.95.055      Opening Protection**

(Amended by Ordinance 181136, effective August 17, 2007.) Exterior walls and opening protection in exterior walls shall comply with the provisions of Section 503.2 and Table 5-A of the Oregon Structural Specialty Code based on the occupancy and the type of construction of that portion of the building under consideration.

**24.95.060      Fire Fighting Access.**

(Amended by Ordinance Nos. 176955, 180917 and 181136, effective August 17, 2007.) Access to the building for fire fighting, rescue and related purposes shall be provided as follows:

- A.** Fire fighting access required. Subject to the approval of Portland Fire & Rescue, fire department vehicle access shall be provided that meets the following standards:
  - 1.** Location. Fire department vehicle access locations shall be on an access road.
  - 2.** Access to apartment units. At least fifty percent (50%) of all apartments with windows on the exterior façade shall be reachable by a ladder truck provided with a 100 foot aerial ladder and located on an access road.
  - 3.** Design standards for access road. An access road shall be provided as follows:
    - a.** Classification. Access roads shall be either:
      - (1)** A public street; or
      - (2)** An area of the property set aside for access road purposes.
    - b.** Location.
      - (1)** Access roads shall be located along at least 2 sides of the building.

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- (2) The edge of access roads at the access location shall be no closer than 10 feet and no farther than 21 feet from the building.
  - c. Width. Minimum width for access roads shall be not less than one of the following:
    - (1) 20 feet wide where no parking is allowed; or
    - (2) 28 feet wide where parking is allowed on one side of the road; or
    - (3) 32 feet wide where parking is allowed on 2 sides of the road.
  - d. Paving. All access roads shall be paved
  - e. Design load. The minimum design load of an access road shall support the weight of an ASHTO HS25 design vehicle.
  - f. Policy compliance. The access road shall also comply with Portland Fire & Rescue Code Enforcement policy B-1.
4. Location of planted trees. Any trees planted between the edge of an access road and building facades with apartments having reachable windows as described in Subsection 24.95.050 A.2. above, shall be subject to the approval of Portland Fire & Rescue and Director; and
  5. Location of overhead wires. The location of overhead wires along building facades adjacent to fire department vehicle access shall be subject to the approval of the Portland Fire & Rescue;
- B.** Interior Courtyards. Interior courtyards shall be not less than 30 feet in any interior dimension.
- C.** Stairways to the roof. Unless the roof has a slope greater than 4 vertical in 12 horizontal, at least fifty percent (50%), but not less than two stairways, in the building shall provide access to the roof.
1. Priority. The following stairways shall be included in those providing access to the roof. Access to the roof shall be provided by the stairways in the locations described below, in the following order of priority:
    - a. Stairways that are the most remote from fire department access.

- b.** Where corridors within the building are not continuous or looped, stairways located at each end of a corridor.

**2. Design.**

- a.** Ladder access to most units. Where all the apartments above eighty percent (80%) of the building perimeter have windows within reach of a 100 foot aerial ladder positioned at an approved fire department vehicle access location, stairway roof access may be provided by ships ladders and roof hatch devices as follows:

- (1) Ladder design.**

- (a)** The ladder shall be constructed of steel.
    - (b)** The minimum width of the ladder shall be 30 inches between handrails.
    - (c)** The rise and run of the ladder shall be 12 inches maximum and 5 inches minimum respectively.
    - (d)** Handrails shall be provided on both sides of the ladder and shall extend to the underside of the roof. Handrails shall not reduce the clear width of the ladder to less than 30 inches.

- (2) Roof hatch design.**

- (a)** The scuttle opening shall be at least 30 inches wide.
    - (b)** The scuttle opening shall be at least 8 feet long.
    - (c)** The maximum scuttle threshold shall be 12 inches.
    - (d)** Covers shall open to a minimum of 90 degrees measured from the scuttle opening.
    - (e)** The cover shall have an automatic raising mechanism and an automatic hold open arm and cover release.
    - (f)** The cover shall have lever handles on both the interior and the exterior.

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- (g) The cover latch shall be spring activated.
  - (h) Scuttles may be locked on the inside only with a brass-shackle (marine) padlock.
  - (i) Scuttles shall be designed to support and open under all required roof loads including any applicable snow drift conditions.
- ected ladder access. Where less than one hundred percent  
) of apartments on eighty percent (80%) of the building  
eter have windows as specified in Subsection 24.95.060  
above, all of the following requirements shall apply:
- Roof loads. The roof shall be designed to support loads as  
if it were an occupied roof.
- Stairway construction. All stairways shall comply with  
Section 1003.3.3 of the Oregon Structural Specialty Code.
- Roof access. Access onto the roof for fifty percent (50%)  
of the stairways providing roof access, but not less than  
one, shall be provided by way of a door complying with  
Section 1003.3.1 of the Oregon Structural Specialty Code.  
Roof access for all remaining stairways may be provided  
by way of a roof hatch meeting the design requirements of  
24.95.060 C.2.a.(2) and the requirements in (a) through (c)  
below:
- (a) Hardware for the hatch or door shall meet the  
requirements of Chapter 10 and Chapter 11 of the  
Oregon Structural Specialty Code.
  - (b) Door or hatch thresholds at roof opening.
    - (i) Door thresholds shall be not more than six  
inches (152 mm) in height.
    - (ii) Hatch thresholds shall be not more than 12  
inches (304 mm) in height or another height  
approved by the Director.

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- (c) A sign shall be posted at a clearly visible location either on the door or on the wall adjacent to the door or hatch stating, "Watch Step - High Threshold."
- (4) Rescue area. At least one rescue area shall be provided on the building roof. Where the building has been divided using area separation walls, a rescue area shall be provided for each separate building area. The Portland Fire & Rescue shall approve the location of all rescue areas. In addition:
  - (a) The rescue area shall be located so that the area is available from all egress stairways serving the roof.
  - (b) Where more than one rescue area is provided for a roof or portion thereof, a pedestrian path shall be provided between the areas.
  - (c) Where only one area is provided, the area shall be large enough to contain the occupant load of the upper two floors located between the area separation walls. Where more than one area is provided, the required rescue area size may be divided equally amongst the number of areas provided.
  - (d) The size of the rescue area shall be calculated using an occupant load factor of three square feet (.028 m<sup>2</sup>) per person.
  - (e) Where the roof is not surrounded by a parapet at least 30 inches in height, all rescue areas shall be provided with guardrails complying with Section 509 of the Oregon Structural Specialty Code.
  - (f) The slope of the rescue area, including the pedestrian path to or between areas, shall not be more than 1 to 48.
  - (g) The rescue area shall be designed to support concentrated loads of 100 psf.

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- D.** Each stairway shall include a Class I or III standpipe complying with the Oregon Structural Specialty Code.

#### **24.95.070 Permit Application**

(Amended by Ordinance Nos. 176955, 180917 and 181136, effective August 17, 2007.)

- A.** Plans and Specifications. Permit applications submitted pursuant to this chapter shall include the plans and specifications as required by the Bureau of Development Services and Portland Fire & Rescue.
- B.** Pre-application Conference. As early as practicable in the design process, the applicant shall have a per-application design conference with the Director and Portland Fire & Rescue.
- C.** Design considerations. As part of the permit application, the engineer of record shall document consideration of issues critical to the design of tall wood structures. Considerations shall include, but are not limited, to the following:
  - 1.** Splitting of wood members from shear wall nailing;
  - 2.** Differential shrinkage of wood, steel and concrete members;
  - 3.** Differential shrinkage of load bearing walls with and without wood panels;
  - 4.** Axial and flexural capacity of lower floor studs; and
  - 5.** Compression of lower floor wood plates.

#### **24.95.080 Construction and Inspection.**

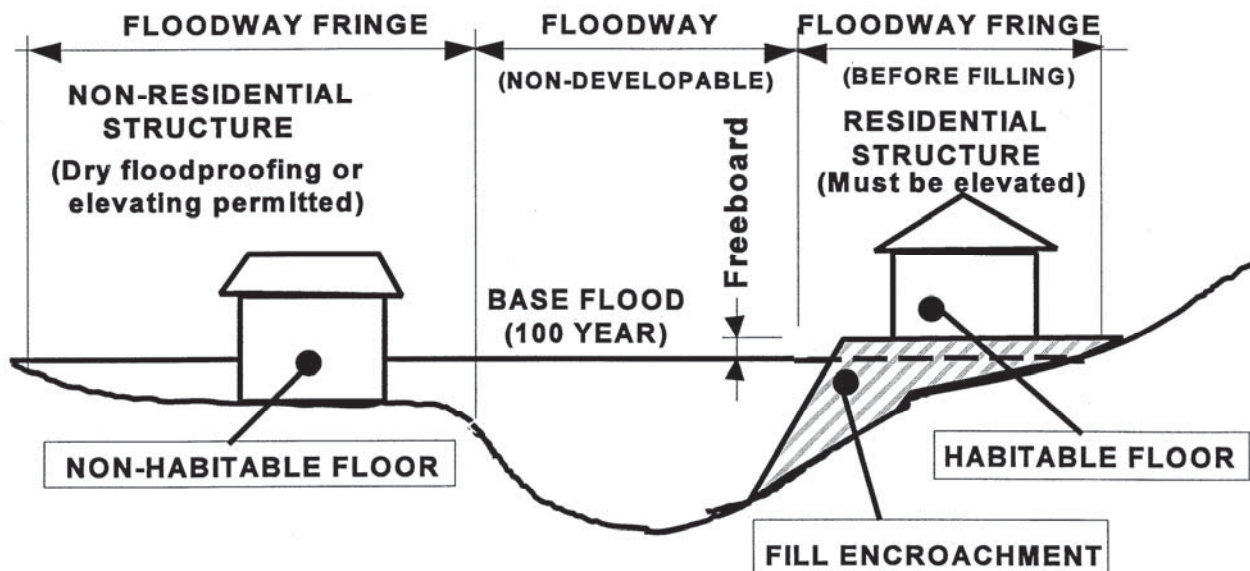
(Amended by Ordinance Nos. 176955 and 181136, effective August 17, 2007.) In addition to inspections and special inspections specified in the Oregon Structural Specialty Code and Chapter 24.20 of this Title, the Director shall require the following for buildings constructed pursuant to this chapter:

- A.** Structural Observation: Structural observation shall be provided by the engineer of record. Reports of the structural observation shall be provided to the Director periodically during framing.
- B.** Special Inspection. Special inspection shall be provided to enhance attention on the key elements of the lateral force resisting systems of the building, including, but not limited to, the following:

1. The grade of structural wood panels used in the shear walls and horizontal diaphragms;
2. The nail size and pattern of the shear walls and horizontal diaphragms;
3. The framing, location and length of all shear walls;
4. The hold down installations at all shear wall locations;
5. The diaphragm chord, drag strut and related details;
6. The base plate bolting; and
7. The blocking to top plate nailing.

The special inspector shall be employed by the owner or shall be employed by the engineer of record acting as the owner's agent, and shall comply with the standards of Chapter 24.20 of the City Code.

### **BASIC FLOODPLAIN RELATIONSHIPS**



**FIGURE 1 (Section 24.50.070)**

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**FIGURE 2 (24.70)**

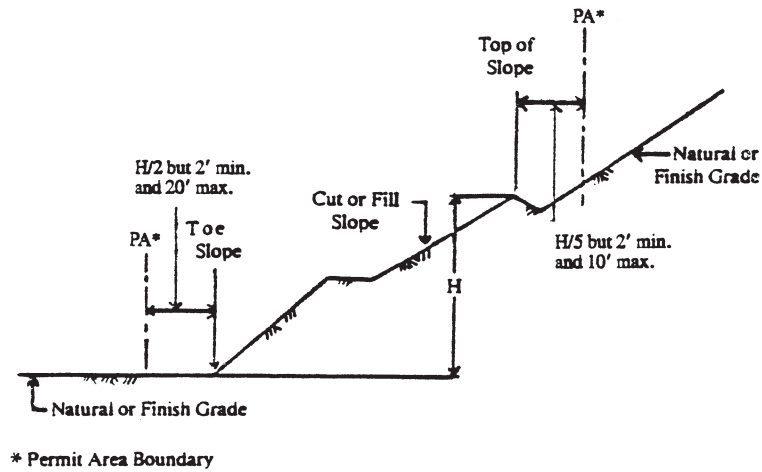


Table No. 24.70-C  
Required Setbacks from permit area boundary (in feet)

**TABLE 24-70C**

H	SETBACKS	
	a	b'
Under 5	0	1
5 - 30	$H/2$	$H/5$
Over 30	15	6

Additional width may be required for interceptor drain.

**FIGURE 3 (24.70)**

