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BUSINESS LICENSES**

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(Chapter replaced by Ordinance No. 182137,
effective September 19, 2008.)

Sections:

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7.02.005 Short Title.

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

7.02.010 Fees for Revenue.

The term “license” as used in the Business License Law does not mean a permit, nor is it regulatory in any manner. It is strictly for revenue purposes.

7.02.020 Conformity to State Income Tax Laws.

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

7.02.100 Definitions.

The terms used in this Chapter are defined as provided in this section or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

- A. “Bureau” means the Revenue Bureau of the City of Portland, Oregon, along with its employees and agents.
- B. “Business tax” means the tax owed by a taxfiler for any particular license tax year.

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- C.** “Business” means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain, or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.
- D.** “Certificate of Compliance” means the document (or license) issued to a taxfiler upon full compliance with the Business License Law for the license tax year in question.
- E.** “Controlling Shareholder” means any person, alone or together with that person’s spouse, parents, and/or children, who, directly or indirectly, owns more than five (5) percent of any class of outstanding stock or securities of the taxfiler. The term “controlling shareholder” may mean the controlling shareholder individually or in the aggregate.
- F.** “Day” means a calendar day unless otherwise noted.
- G.** “Director” means the Director of the Revenue Bureau or his or her designee.
- H.** “Doing Business” means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.
- I.** “Employee” means any individual who performs services for another individual or organization and whose compensation is reported by an IRS Form W-2.
- J.** “In Compliance” means that:
1. a non-exempt business has filed and paid the current year’s required business tax; or
 2. a non-exempt business has filed and paid the previous year’s required business tax and has met the current year filing requirements; or
 3. an exempt business has filed the required income verification; or
 4. a new business has filed a completed registration form and is otherwise in compliance with all provisions of the Business License Law.

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- K.** “Income” means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.
- L.** “Individual” means a natural person.
- M.** “License Tax Year” means the taxable year of a person for federal or state income tax purposes.
- N.** “Net Operating Loss” means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.
- O.** “Non-business Income” means income not created in the course of the taxfiler’s business activities.
- P.** “Notice” means a written document mailed first class by the Bureau to the last known address of a taxfiler as provided to the Bureau in the latest registration form or tax return on file with the Bureau.
- Q.** “Ownership of Outstanding Stock or Securities” means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.
- R.** “Person” includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
- S.** “Received” means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.
- T.** “Registration Form” means the initial form that establishes a taxfiler’s account with the Bureau.
- U.** “Tax return” means any tax return filed by or due from the taxfiler, including an annual exemption request form.
- V.** “Tax Year” means the taxable year of a person for Federal and/or State income tax purposes.

- W. “Taxfiler” means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

7.02.110 Income Defined.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A. Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business license tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.
- B. If one or more persons are required or elect to report their income to the State of Oregon for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single license certificate will be issued to the person filing such return. In such cases, “income” means the net income of the consolidated, combined or joint group of tax filers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.
- C. The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Bureau to determine the correct income of the taxfiler through examination under Section 7.02.260.

7.02.200 Administration.

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

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7.02.210 Administrative Authority.

- A. The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.
- B. The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.
- C. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- D. At the public hearing, the Director or designee will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.
- E. Notwithstanding Subsections C. and D. of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

7.02.220 Presumption of Doing Business.

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

- A. Advertising or otherwise professing to be doing business within the City; or
- B. Delivering goods or providing services to customers within the City; or
- C. Owning, leasing, or renting personal or real property within the City which is used in a trade or business; or

- D.** Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this Chapter. Property may be personal, including intangible or real in nature; or
- E.** Engaging in any activity in pursuit of gain which is not otherwise exempted in this Chapter.

7.02.230 Confidentiality.

It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Section 7.02.240 A. and C., to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Business License Law, unless otherwise required by law. This section does not prohibit:

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

7.02.240 Persons to Whom Information May be Furnished.

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

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4. To obtain information of any financial audit of any tax returns of any taxfiler.

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

- B.** Upon request of a taxfiler, or authorized representative, the Bureau will provide copies of the taxfiler's registration and/or tax returns filed with the Bureau for any license tax year.
- C.** The Bureau may also disclose and give access to information described in Section 7.02.230 to:
 1. The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Bureau deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau, including but not limited to instituting legal actions on unpaid accounts.
 2. Other employees, agents and officials of the City, to the extent the Bureau deems disclosure or access necessary for such employees, agents or officials to
 - a. aid in any legal collection effort on unpaid accounts,
 - b. perform their duties under contracts or agreements between the Bureau and any other department, bureau, agency or subdivision of the City relating to the administration of the Business License Law, or
 - c. aid in determining whether a Bureau account is in compliance with all City, State and Federal laws or policies.
- D.** Officials, employees and agents of the Bureau or City, prior to the performance of duties involving access to financial information submitted to the Bureau under the terms of the Business License Law, must be advised in writing of the provision of Section 7.02.730 relating to penalties for the violation of Sections 7.02.230 and 7.02.255. Such employees, agents and officials must execute a certificate in a form prescribed by the Bureau, stating that the person has reviewed these provisions of law and is aware of the penalties for the violation of Sections 7.02.230 and 7.02.255.

- E.** Prior to any disclosures permitted by this Section, all persons described in Subsection A. above, to whom disclosure or access to financial information is given, must:
- 1.** Be advised in writing of the provisions of Section 7.02.730 relating to penalties for the violation of Section 7.02.230; and
 - 2.** Execute a certificate, in a form prescribed by the Bureau, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of Section 7.02.230.

7.02.250 Taxfiler Representation.

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

7.02.255 Representation Restrictions.

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

7.02.260 Information Request; Examination of Books, Records or Persons.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A.** The Bureau may request information or examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license registration or tax return, or to make an estimate of any business tax. The Bureau has the authority, after notice, to:
- 1.** Require the attendance of any person subject to the requirements of the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Bureau may designate;
 - 2.** Take testimony, with or without the power to administer oaths to any person required to be in attendance; and

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3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.
 4. Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.
- B.** The Director will designate the employees that have the power to administer oaths hereunder. Such employees must be notaries public of the State of Oregon.
- C.** The Bureau may require contact information, including but not limited to, business phone numbers and business email addresses for all officers and/or owners of businesses doing business in the City of Portland. This information may be used by the City for any lawful purpose.

7.02.270 Records.

Every person subject to the requirements of this Chapter must keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the taxfiler's registration form and/or tax returns, and the calculation of tax for such license tax year.

7.02.280 Deficiencies and Refunds.

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

4. The Bureau gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Bureau (or its designee) filed a lawsuit for those particular tax years.

7.02.290 Protests and Appeals.

- A. Any determination by the Bureau may be protested by the taxfiler. Written notice of the protest must be received by the Bureau within 30 days after the Bureau mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Bureau must respond within 30 days after the protest is filed with either a revised determination or a final determination. The Bureau's determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Bureau's response may be extended by the Bureau for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the Bureau's deadline is extended.
- B. Any final determination by the Bureau may be appealed by the taxfiler to the Business License Appeals Board (the "Appeals Board"). Written notice of the appeal must be received by the Bureau within 30 days after the Bureau mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler ("appellant") and include a copy of the final determination.
- C. Within 90 days after the Bureau mails or delivers the final determination to the appellant, the appellant must file with the Appeals Board a written statement containing:
 1. The reasons the Bureau's determination is incorrect, and
 2. What the correct determination should be.

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

- D. Within 150 days after the Bureau mails or delivers the final determination to the appellant, the Bureau must file with the Appeals Board a written response to the appellant's statement. A copy of the Bureau's response must be mailed to the address provided by the appellant within 10 days.

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- E.** The Bureau must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Bureau may present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.
- F.** Decisions of the Appeals Board must be in writing, state the basis for the decision and be signed by the Appeals Board Chair.
- G.** The decision of the Appeals Board is final as of the issue date and no further administrative appeal will be provided.
- H.** The filing of an appeal with the Appeals Board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the Appeals Board.
- I.** Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 7.02.290 A. through 7.02.290 H.. The taxfiler must file a written request with the Bureau detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Bureau must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 7.02.700 G., the Bureau may waive or reduce penalties in certain situations. If the taxpayer has requested that penalties be waived and the Bureau denies the taxpayer's request for this discretionary waiver of penalties, the taxpayer may request a conference with the Director (or designee) within 30 days of the date of the Bureau's notice of denial. If the conference with the Director results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Business License Appeals Board.

7.02.295 Business License Appeals Board.

The Business License Appeals Board (the "Appeals Board") hears appeals and consists of the following members:

- A.** A member of the public appointed by the City Auditor for a two year term that expires every even year.
- B.** A member of the public appointed by the elected official in Charge of the Bureau, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.
- C.** Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.

- D.** Appointments to the Business License Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.
- E.** No employee or agent of the City may be appointed to or serve on the Business License Appeals Board.

7.02.300 Certificates of Compliance.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A.** Within 60 days of beginning business, the taxfiler must complete a registration form. The Bureau may issue or otherwise provide access to either an electronic or printed “Certificate of Compliance” upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year’s tax filing the Bureau may issue or otherwise provide access to either an electronic or printed Certificate of Compliance indicating that the taxfiler is in compliance with the City’s Business License Tax Law as of a particular date.
- B.** The City’s issuance of a “Certificate of Compliance” does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.
- C.** A taxfiler is deemed to be doing business within the City within any fiscal year he or she receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

7.02.310 Duplicate Certificates of Compliance.

Upon request by the taxfiler a duplicate Certificate of Compliance may be issued to replace any Certificate previously issued that has been lost or destroyed. Duplicate Certificates will be issued in accordance with the Bureau’s written policy.

7.02.330 Account Merger or Division.

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

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7.02.350 License Tax Year Term.

Each license tax year begins on the first day of the month in which a taxfiler became subject to the requirements of this Chapter. Each license tax year expires at the end of the applicable tax period on the basis of which the taxfiler computes net income under the applicable laws of the State of Oregon imposing taxes on or measured by net income, not to exceed one year.

7.02.400 Exemptions.

(Amended by Ordinance No. 183727, effective May 28, 2010.) The Bureau may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007).
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** Any individual whose only business transactions are exclusively limited to the renting or leasing of residential real property dwelling units provided that the beneficial owner rents or leases less than ten total units, regardless of whether they are located inside or outside of the Portland City limits. For purposes of this subsection, payments to foster care and other service providers are considered payments for “services” and not for “rent.” If a building contains more than one residential living quarter, the term “dwelling unit” refers to each separate living

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quarter. This exemption does not apply if any income is recognized from the sale of residential rental property.

- G.** The following incomes of an individual:
1. Income from sales, exchanges or involuntary conversions of a primary residence;
 2. Income from the sale of personal property acquired for household or other personal use by the seller;
 3. Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;
 4. Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- H.** Any person whose only business transactions are exclusively limited to the following activities:
1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- I.** Gross incomes subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, income which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

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7.02.500 Tax Rate.

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, except as provided in Subsections B. and C. of this section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.

 - 1.** For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
 - 2.** For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.
 - 3.** For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.
- C.** Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.

 - 1.** For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
 - 2.** No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
 - 3.** For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
 - 4.** If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and

2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.

7.02.510 Registration Form and Tax Return Due Dates.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A. All persons subject to the requirements of this Chapter must register with the Bureau on a form provided or approved by the Bureau. Thereafter, taxfilers must file tax returns with the Bureau. The following timing requirements apply:
 - 1. Registration forms must be filed within 60 days of the person beginning business in the City.
 - 2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Bureau must conform to the due date under Oregon tax law.
- B. The Bureau may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.
- C. Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- D. The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7.02.520 Quarterly Estimates.

Every taxfiler expecting to have a tax liability under Section 7.02.500 of \$1,000 or greater must make an estimate of the tax based upon the taxfiler's current tax year and pay the amount of tax determined as provided in Section 7.02.530.

7.02.530 Schedule for Payment of Estimated Tax.

A taxfiler required under Section 7.02.520 to make payments of estimated business taxes must make the payments in installments as follows:

- A. One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and

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- B.** One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and
- C.** One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and
- D.** The balance of the estimated tax must be paid on or before the 15th day of the twelfth (12th) month of the tax year.
- E.** Any payment of the estimated tax received by the Bureau for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated taxes due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

7.02.545 Tax Returns.

Except as provided in Section 7.02.540, each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

7.02.550 Presumptive Tax.

- A.** If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B.** Nothing in this Section prevents the Bureau from assessing a tax due which is less than or greater than \$500 per license tax year.
- C.** Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.
- D.** Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Bureau will send notice of the determination and assessment to the taxfiler.

7.02.560 Payment Plan Fee.

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

7.02.600 Income Determinations.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Bureau determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Bureau’s discretion. For tax years beginning on or after January 1, 2007, the owners compensation deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the owners compensation deduction will be indexed as previously described.
- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.
- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
 2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.

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- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.
1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
 2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.
 3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.

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- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.
 2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
 3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
 4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
 5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

(Amended by Ordinance No. 182427, effective January 16, 2009.)

- A.** "Business activity" means any of the elements of doing business. However, a person is not considered to have engaged in business activities solely by reason of

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sales of tangible personal property in any state or political subdivision, or solely the solicitation of orders for sales of tangible personal property in any state or political subdivision. Business activities conducted on behalf of a person by independent contractors are not considered business activities by the person in any state or political subdivision.

- B.** In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- C.** In determining the apportionment of gross income within the City under Subsection 7.02.610 B.:

 - 1.** Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
 - 2.** Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.
- D.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Bureau regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales shall be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection shall be a single factor gross income apportionment as directed under Subsections 7.02.610 B. and 7.02.610 C. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- E.** If the apportionment provisions of Subsection B. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the

taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Bureau to permit the taxfiler to:

1. Utilize the method of allocation and apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or
2. Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

7.02.620 Changes to Federal and/or State Tax Returns.

- A. If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Bureau within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B. The Bureau may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C. The Bureau may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of business taxes as a result of the amended tax return if the amended tax return is not filed with the Bureau within the time limits set forth in Subsection A.

7.02.630 Income Long Term Construction Contract Methods.

- A. A taxfiler reporting income using a long term construction contract method must file an additional tax return for the taxfiler's income earned during the last license tax year, not later than the 15th day of the fourth (4th) month following the end of the prior license tax year during which either:
 1. The taxfiler ceases to do business in the City; or
 2. The taxfiler ceases to receive income from such long term construction contracts.

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- B.** Net income for such taxfiler must include apportioned income arising from all contracts completed during such license tax year.

7.02.700 Penalties.

- A.** A penalty will be assessed if a person:
- 1.** Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
 - 2.** Fails to pay the tax when due.
 - 3.** The penalty under Subsection A. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
 - c.** An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.** A penalty will be assessed if a person who has filed an extension request:
- 1.** Fails to file a tax return by the extended due date; or
 - 2.** Fails to pay the tax liability by the extended due date.
 - 3.** The penalty under Subsection B. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
- 1.** Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or

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2. Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
 3. The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.
- D.** A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.
- E.** The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
1. Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
 2. Failure to pay any tax within 60 days of the Bureau's original written notice for payment; or
 3. Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Bureau's original written notice to provide the documents or information; or
 4. Failure to fully complete any form required under this Chapter.
- F.** The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Bureau gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G.** The Bureau may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

7.02.710 Interest.

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.

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- C. Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:
 - 1. The total tax liability of the prior license tax year was less than \$1,000; or
 - 2. An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or
 - 3. An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.
- D. For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Bureau by the due date of the fourth quarterly payment, the Bureau may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E. For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.
- F. Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G. Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Bureau, unless specifically provided for by written policy.

7.02.715 Payments Applied.

Business taxes received will be applied first to any penalty accrued, then to interest accrued, then to business taxes due, unless the Bureau determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

7.02.720 Interest on Refunds.

When, under a provision of the Business License Law, taxfilers are entitled to a refund of a portion of the business tax paid to the Bureau, they will receive simple interest on such amount at the rate specified in Subsection 7.02.710 A., subject to the following:

- A. Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:

1. the original due date of the tax return, or
 2. the date the tax return was filed or the refund was otherwise requested, or
 3. the date the business tax was paid to the date of the refund; and
- B.** Any overpayments of taxes that are the result of an amended tax return being filed will be refunded with interest for each month or fraction thereof for the period beginning four (4) months after the date the taxfiler filed the amended tax return. This Subsection applies to tax returns that are amended due to a change to the federal, state, city or county tax return.

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

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

7.02.800 Refundable Credit.

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

- A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.

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- B. “Disconnected Youth”** means a youth that is
1. a resident of the City of Portland,
 2. is 16-24 years old on the date on which the youth begins working with the local business,
 3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
 4. one or more of the following apply:
 - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
 - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
 - c. is a custodial parent; or
 - d. is a high school drop-out; or
 - e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D. “Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E. “Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Bureau to act as the Youth Certifying Agency for the purpose of this program.
- F. “2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.

- G.** “**2006 Tax Year**” means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H.** “**Non-exempt**” means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

- A.** For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.
- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.
- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business’ fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

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

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

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

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

- A. Taxfilers may donate to “Work for Art” by either
 - 1. paying a sum above what is owed for their City business taxes, or
 - 2. by designating that all or some of any refund due to them be instead donated to “Work for Art.”
- B. To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.
- C. Once the tax return is filed with the Bureau, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Bureau.

7.02.840 Frivolous Filing.

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

7.02.850 Hacking.

- A.** Any individual who intentionally accesses the Bureau’s computer database without authorization will be fined:
- 1.** \$500 if the individual acquires any information regarding any business account found in the database;
 - 2.** \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
 - 3.** \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Bureau’s computer database, and, as a result of such conduct, causes damage to the database.
- B.** Definitions. As used in this section:
- 1.** the term “Bureau’s computer database” means computer application(s) used by the Bureau to calculate and store business and financial data collected under the authority granted by the Business License Law;
 - 2.** the term “loss” means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;
 - 3.** the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

7.02.860 First Year Adjustment Credit.

(Amended by Ordinance No. 182427, effective January 16, 2009.)

- A.** Any taxfiler that was assessed a “First Year Adjustment” fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.
- B.** If the amount of the credit cannot be determined from Bureau records, a rebuttable presumption exists that the credit amount is equal to the amount of the

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minimum fee payment due for the tax year in which the City assessed the “First Year Adjustment” fee. A taxfiler may present evidence to the Bureau showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.

- C.** Once the credit amount is determined, the Bureau will apply 100 percent of that amount towards tax payments due and owing for the 2008 license tax year. If that credit amount exceeds the tax amount due for the 2008 license tax year, the City will issue a refund for the difference or credit the overpayment forward to the next tax year if requested by the taxpayer.

7.02.870 Business Retention Credit for Qualifying Investment Management Firms.

(Added by Ordinance No. 183330, effective December 12, 2009.)

- A.** An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of
- 1.** \$6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or
 - 2.** 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not be carried forward to a succeeding tax year, except as provided in Subsection B.
- B.** For purposes of this credit, the “first tax year” would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either
- 1.** The Investment Management Firm was not doing business in the City of Portland in the prior tax year or
 - 2.** The prior tax year began prior to January 1, 2009.
 - a.** In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - b.** In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the

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credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.

- c.** In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
- d.** In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.

C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:

- 1.** At least 90 percent of the firm’s gross income for the tax year must consist of fees that are

 - a.** Received from Diversified Investing Fund or from persons unrelated to the firm, and
 - b.** Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
- 2.** At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.
- 3.** A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner’s Compensation Deduction in Section 7.02.600.
- 4.** The firm was physically located within the City of Portland boundaries at the end of the tax year.

D. The terms “Diversified Investing Fund” and “Qualified Investment Securities” have the meanings as defined by Administrative Rule.

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- E.** This credit is available for tax years beginning on or after January 1, 2009.

Chapter 7.03

TEMPORARY BUSINESSES

(Chapter added by Ordinance No. 182137,
effective September 19, 2008.)

- 7.03.010 Temporary Businesses Exempt from Business License Law.
7.03.020 Fees for Revenue.
7.03.030 Temporary Businesses Defined.
7.03.040 License Required; Fees.

7.03.010 Temporary Businesses Exempt from Business License Law.

- A.** Persons doing business as defined in Section 7.03.030 are considered “temporary businesses” and are not subject to the provisions of the Business License Law, Chapter 7.02, but are subject to the provisions of this Chapter. This Chapter does not apply to a business that is currently licensed under the provisions of Chapter 7.02.
- B.** The term “person” includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

7.03.020 Fees for Revenue.

The term “license” as used in this Chapter does not mean a permit, nor is it regulatory in any manner. The fees prescribed under this Chapter are for revenue purposes only.

7.03.030 Temporary Businesses Defined.

The following persons, as defined, are considered “temporary businesses” subject to the requirements of this Chapter:

- A.** “Amusement Ride Operator” means an operator of amusement rides not in the same location for more than 14 days.

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- B.** “Temporary Structure Vendor” means a vendor not located in a permanent structure for more than 14 days.
- C.** “Promoter” means a promoter of commercial entertainment doing business in the City of Portland for no more than three (3) days in any calendar year.
- D.** “Production Company” means a production company filming in the City of Portland for no more than three (3) days in any calendar year.
- E.** “Seasonal Vendor” means a vendor operating in a temporary location and conducting limited, seasonal sales (including, but not limited to, Christmas trees and fireworks).
- F.** “Special Events Vendor” means a vendor operating in a temporary location and selling special event-related merchandise (including, but not limited to, sporting events).

7.03.040 License Required; Fees.

Temporary businesses must apply for and obtain temporary business license certificates from the Revenue Bureau of the City of Portland. Temporary business license fees must be paid as provided below:

- A.** Temporary Structure Vendors and Special Events Vendors must pay \$10 per day per vendor, not to exceed \$100 per location.
- B.** Amusement Ride Operators must pay \$10 per day per vendor and \$10 per day for each ride operated.
- C.** Promoters and Production Companies must pay \$25 per day.
- D.** Seasonal Sales Vendors must pay \$10 per day for each location, not to exceed \$100 per location.

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Chapter 7.04

ADMINISTRATION

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

Chapter 7.06

LICENSE REQUIREMENTS & APPLICATIONS

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

Chapter 7.08

LICENSE FEES

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

Chapter 7.10

VIOLATIONS

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

Chapter 7.12

PUBLIC SERVICE PERMITS,
FRANCHISES AND REGULATIONS

Sections:

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

7.12.010 Auditor to Keep Record of Franchises.

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

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

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

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

7.12.020 Holder of Franchise to Keep Accounts and Make Reports.

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

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

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

7.12.040 Interest Payable on Deposits.

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

7.12.050 Contents of Franchise.

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

7.12.060 Payment of Privilege Tax Required.

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

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

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

7.12.070 Privilege Tax Applicable to Other Cases.

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

7.12.080 Report of Earnings.

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

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

7.12.090 Time Payment of the Privilege Tax.

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

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

7.12.100 No Waiver or Estoppel.

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

7.12.110 Credits Allowable.

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

7.12.120 Restricted to City Business.

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

7.12.130 Permits for Intracity Passenger Business.

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

7.12.140 Application for Permit or Franchise.

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

7.12.150 Conditions of Permit or Franchise.

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

7.12.160 Regulations to be in Permit or Franchise.

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

7.12.170 Fees.

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

7.12.180 Statement of Finances to be Filed.

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

7.12.190 No Effect on Certain Vehicles.

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

7.12.200 Penalty Applicable.

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

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

7.12.210 Additional Annual Report.

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

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

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

7.12.220 Depreciation Accounts of Public Utilities.

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

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Chapter 7.14

UTILITY LICENSE LAW

(Replaced by Ordinance No. 182432,
Effective January 15, 2009.)

Sections:

- 7.14.005 Short Title.
- 7.14.010 Fees for Revenue.
- 7.14.020 License Required.
- 7.14.030 Administration.
- 7.14.040 Definitions.
- 7.14.050 Application and Issuance.
- 7.14.060 Fees and Payment.
- 7.14.065 Limitations.
- 7.14.070 Deductions.
- 7.14.080 Reports and Review of Records.
- 7.14.085 Refunds by City to Licensee.
- 7.14.090 Appeals.
- 7.14.100 Interest.
- 7.14.110 Civil Penalties.
- 7.14.120 Collection of Delinquencies.
- 7.14.130 Confidential Financial Information.

7.14.005 Short Title.

Chapter 7.14 of the Portland City Code shall be known as the Utility License Law.

7.14.010 Fees for Revenue.

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

7.14.020 License Required.

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

7.14.030 Administration.

- A.** The Utility License Law shall be administered by the Director. The Director may adopt procedures, forms, and written policies for administering the Utility License Law.
- B.** Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.
- C.** The Director may, upon request, issue written interpretations of how the Utility License Law applies in general or to specific circumstances.
- D.** Nothing in the Utility License Law precludes the informal disposition of controversy by the Director in writing, whether by stipulation or agreed settlement.
- E.** The Director may implement procedures, forms, and written policies for administering the provisions of the Utility License Law.
- F.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Utility License Law.
 - 1.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify Licensees. Such notice, which may be provided by mail or electronic means, must be distributed to Licensees not less than ten nor more than thirty days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
 - 2.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify, it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be posted on the Bureau's website and made available to the public upon request.
 - 3.** Notwithstanding Subsections 1 and 2, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly

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will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

7.14.040 Definitions.

(Amended by Ordinance No. 182527, effective March 13, 2009.)

- A. “Bureau”** means the Office of Cable Communications and Franchise Management of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B. “Cable Communications Utility”** means a business that provides cable service or telephone service to subscribers, including voice services delivered through the use of Internet protocol, through its own cable system or a cable system owned by another person.
- C. “Director”** means the Bureau Director.
- D. “Exchange access services”** means:
 - 1. Telephone exchange access lines or channels which provide local access from the premises of a subscriber in the City to the local telecommunications network to effect the transfer of information; and
 - 2. Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in Subsection 1.
- E. “Gross revenue”** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, and for use, rental, or lease of operating facilities of the utility engaged in such business, from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business.
 - 1. Gross revenue of a telecommunications utility means revenues derived from exchange access services.
 - 2. Gross revenues do not include proceeds from:
 - a.** The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or

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- b.** Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, “public purpose charges” means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility’s facilities within the City. “Public purpose” includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.
- F.** “**Licensee**” means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.
- G.** “**Telecommunications utility**” has the meaning provided in ORS 759.005(9) (2007).
- H.** “**Utility**” means the business of supplying electrical energy, gas, district heating or cooling, water, cable, communications, or other services through or associated with telecommunications utility, telephone or coaxial cable, sewage disposal and treatment, and other operations for public service but does not include transportation service, railroad operations, or services otherwise licensed under this Title.

7.14.050 Application and Issuance.

- A.** Any person, including any bureaus of the City, operating a utility coming within the provisions of the Utility License Law shall file an application for a utility license on forms supplied by the Bureau.
- B.** A person is not required to apply for or obtain a utility license if all its revenues earned from operations as a utility otherwise meet the criteria for deduction under Section 7.14.070. The Director may exercise the authority under Section 7.14.080 to require reports and review records to determine whether revenues are qualified for deduction under Section 7.14.070.
- C.** Applications for utility licenses shall be filed with the Bureau on or before December 31 for each subsequent calendar year. In the case of any person operating a utility coming within the provisions of the Utility License Law which commences operations within the City after January 15, 2009, the person

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operating such utility shall apply for a utility license on or before the date of commencing such operations. The application shall include such information as the Director may require in order to determine whether the utility has paid the license fee owed.

- D.** Upon receiving a completed application, together with any payment due, the Director shall issue a utility license to the applicant. A utility license shall be valid for no longer than one year. Each utility license shall expire on December 31 of the year of issuance.
- E.** The Director shall prepare application forms and make them publicly available. Failure to receive or secure a form shall not relieve any person from the obligation to obtain a license and pay a license fee under the Utility License Law.

7.14.060 Fees and Payment.

- A.** Except as provided in Sections 7.14.065 and 7.14.070, the fee for a utility license shall be measured by a percentage of the gross revenues earned by the utility for each quarter year period of licensed operation. The percentage for each type of utility shall be as follows:

Electrical Utility	5.0 percent
Gas Utility	5.0 percent
Sewer Utility	7.5 percent
District Heating or Cooling Utility	5.0 percent
Water Utility	7.5 percent
Telecommunications Utility	7.0 percent
Cable Communications Utility	5.0 percent

The licensee shall compute the license fee by multiplying the percentage applicable to the type of operation in which such utility engages, by the gross revenues received during the quarter.

- B.** The licensee shall pay the utility license fee to the Bureau on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1 through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year. All such payments shall be subject to the deductions set forth in Section 7.14.070.

- C. A licensee commencing operations as provided in Subsection 7.14.050 C. shall make the initial payment to the Bureau on or before the payment date following the first quarter year period after commencing operations. In the event a licensee terminates operations which come within the provisions of the Utility License Law, the final payment shall be made on or before the 45th day following the date of such termination.

7.14.065 Limitations.

In any single year, the license fees paid by City of Portland water and sewer utilities shall not exceed \$12,809,321 from the City's sewer utilities, and \$4,184,153 from the City water utility until those fee payments equal 5 percent of gross revenues at which point they will increase to equal 5 percent of gross revenues those fees. The directors of the Bureau of Environmental Services and Portland Water Bureau are authorized to adopt administrative rules establishing mechanisms to implement this limitation.

7.14.070 Deductions.

- A. A licensee may deduct from the utility license fee required in the Utility License Law the amount of any payments made or accrued to the City for the period upon which the utility license fee is computed, under any provision of franchise, permit, or ordinance in lieu of franchise granted by the City Council. A licensee may not deduct amounts paid to the City for interest charges or penalties. This Subsection shall not relieve any licensee from paying in accordance with the provisions of a franchise, temporary revocable permit, Charter provision or ordinance when the amount to be paid thereunder exceeds the amount of the utility license fee required under the Utility License Law.
- B. A licensee may not deduct from the utility license fee the value of any right given to City to use poles, conduits, or ducts to other facilities in common with the licensee. A licensee may not deduct from the utility license fee any permit or inspection fee imposed under any Code provision or ordinance of the City.

7.14.080 Reports and Review of Records.

- A. Each person paying a utility license fee shall simultaneously file a report to the Bureau in a form satisfactory to the Director. The report shall show the licensee's calculations of the license fee, the licensee's gross revenues earned within the corporate limits of the City, and any deductions against the licensee's gross revenues or the amount of the utility license fee. Such reports shall be verified by the licensee or an authorized agent to the effect that all statements made therein are true.
- B. If a person asserts that any provision of federal, state or local law imposes a limit upon the amount of utility license fees which the City may impose or require from

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a licensee, the licensee claiming to be within such limitation shall identify in its utility license fee report the specific federal, state or local law, and the service it provides that it claims is subject to the exception.

- C.** Every person required to be licensed under the Utility License Law shall keep and preserve for not less than three (3) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information required to be reported on the licensee's application and calculation of utility license fee for each license year.
- D.** The Director shall have authority to arrange for and conduct reviews of all financial records relevant to the calculation of a licensee's payments to the City under the Utility License Law. The Director shall make all requests for review in writing. The Director may determine the scope of review in each instance.

 - 1.** The Director may examine any books, papers, records, invoices, and other data needed to determine the accuracy of any license fee due. Such records and documentation shall be open for inspection or examination by the Director or a duly authorized agent. The Director shall have the authority, after notice, to:

 - a.** Require the attendance of any person required to be licensed under the Utility License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Director may designate;
 - b.** Take testimony, with or without the power to administer oaths to any person required to be in attendance. The Director may designate employees who shall have the power to administer oaths. Such employees shall be notaries public of the State of Oregon; and,
 - c.** Require proof for the information sought, necessary to carry out the provisions of the Utility License Law.
 - 2.** If a licensee has not provided copies of all information reasonably within the scope of the review to the Director within 30 days from the date of the written request, the licensee shall provide the Director with access to the requested records within the Portland metropolitan region, during normal business hours, upon 48 hours prior written notice.
 - 3.** If the Director requests in writing that the licensee provide, or cause to be provided, copies of any information reasonably within the scope of the review, and the licensee fails, refuses or neglects to provide copies within

30 days of receipt of the Director's written request, then the three (3) year periods under Subsections 7.14.080 C. and 7.14.120 A. shall be extended by one day for each day or part thereof beyond 30 days that the licensee fails to provide, or fails to cause to be provided, such requested information.

4. If any licensee fails, refuses or neglects to provide or make records available to the Director for determining the amount of utility license fees due or payable, the Director may determine the amount of the utility license fees due or payable based upon readily-available facts and information. The Director shall notify the licensee in writing of the amount of such fee so determined, together with any penalty or interest due. The total of such amounts shall thereupon become immediately due and payable. The licensee may seek to establish the correct amount by appeal to the Code Hearings Officer under Section 7.14.090. In such an appeal, the licensee shall have the burden of establishing that the Director's determination is incorrect, either in whole or in part.

7.14.085 Refunds by City to Licensee.

Whenever the amount of any utility license fee, penalty, or interest has been erroneously collected or paid to the Bureau under the Utility License Law, it may be refunded, provided the licensee files with the Bureau a verified claim in writing therefor, stating the specific reason upon which the claim is founded, within 3 years from the date of payment. The claim shall be made on forms provided by the Bureau. If the claim is approved by the Bureau, the excess amount collected or paid may be credited against any amounts due and payable under the Utility License Law from the licensee from whom the overpayment was collected or by whom it was paid, until the licensee is repaid.

7.14.090 Appeals.

- A. Any person who has received a written determination from the Director applying the provisions of the Utility License Law may appeal such determination of the Director to the Code Hearings Officer of the City as provided in Chapter 22.10 of this Code.
- B. The filing of any notice of appeal shall not stay the effectiveness of the Director's determination unless the Code Hearings Officer so directs.

7.14.100 Interest.

- A. If a person fails to pay to the City all or any part of the utility license fee on or before the date on which the fee is due, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to

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the 15th day of the month following the date of payment. Payment of interest charges shall be due at the same time as the unpaid utility license fee is due.

- B.** For purposes of calculating interest under Subsection 7.14.100 A., the amount of the utility license fee due shall be reduced by the amount of any fee payments received by the Bureau on or before the due dates for fee payment established in the Utility License Law.
- C.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.

7.14.110 Civil Penalties.

- A.** The Director may assess civil penalties for any of the following violations of the Utility License Law:
 - 1.** Any failure to file a license application at the time required under the Utility License Law;
 - 2.** Any failure to pay the utility license fee when due;
 - 3.** Any failure to file a utility license fee report when due;
 - 4.** Any failure to provide or make available all books, financial records, papers, invoices, documents, data and related information when required by the Director; or,
 - 5.** For any person to make any false statement on any license application or utility license fee report or to provide false information in any investigation or audit conducted pursuant to the Utility License Law.
- B.** The Director may assess civil penalties for any violation under Subsection 7.14.110 A. of up to two percent (2%) of the utility's gross revenues subject to the Utility License Law for the period during which the violation occurred.
- C.** In assessing civil penalties under this Section, the Director shall produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making such determination, the Director shall consider the following criteria:
 - 1.** The extent and nature of the violation;
 - 2.** Any benefits to the licensee and any impacts to the City or the general public, financial or otherwise, resulting from the violation;

3. Whether the violation was repeated and continuous, or isolated and temporary;
 4. Whether the violation appeared willful (characterized primarily by substantial acts of commission) or negligent (characterized primarily by substantial acts of omission);
 5. The magnitude and seriousness of the violation;
 6. The City's costs of investigating the violation and correcting or attempting to correct the violation; and,
 7. Any other factors the Director deems relevant in the particular case.
- D.** The Director may waive or reduce any civil penalty for good cause, according to and consistent with written policies.

7.14.120 Collection of Delinquencies.

- A.** Upon written approval of the Commissioner in Charge, the Director may have the City Attorney institute legal proceedings in the name of the City to collect any utility license fee or any amount of fee, interest or civil penalties. Any collection action must be filed within three years after the amount required to be collected becomes due and payable to the City, or within three years after any written determination by the Director becomes final, that is otherwise subject to appeal under Section 7.14.090.
- B.** In addition to other enforcement authority, upon written approval of the Commissioner in Charge, the Director may have the City Attorney institute legal proceedings to enforce the Utility License Law or any determinations made by the Director under the Utility License Law.

7.14.130 Confidential Financial Information.

Except as otherwise required by law, the Bureau, the Auditor, or any officer, employee, or agent of the City, shall not divulge, release, or make known in any manner any financial information submitted or disclosed to the Bureau under the Utility License Law. Nothing in this section shall be construed to prohibit:

- A.** The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of the Utility License Law, or collecting utility license fees imposed under the terms of the Utility License Law, or collecting City business license fees;

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- B.** The disclosure to the utility licensee or its authorized representative of its financial information, including amounts of utility license fees, penalties, or interest, after filing of a written request by the utility licensee or its authorized representative and approval of the request by the Director;
- C.** The disclosure of the names and addresses of any persons to whom utility licenses have been issued;
- D.** The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular utility licensee quarterly reports;
- E.** The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Director deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau; or,
- F.** The release of such information in the filing of any legal action by or on behalf of the Bureau to obtain payment on unpaid license fees, interest and penalties, or to enforce any determination by the Director.

Chapter 7.16

CHARITABLE SOLICITATIONS

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

Chapter 7.18

**LIQUOR LICENSE
RECOMMENDATIONS**

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

Chapter 7.22

**STREET AND SIDEWALK
USE PERMITS**

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

Sections:

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

7.22.010 Purpose.

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

7.22.020 Authorization.

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

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2. No sooner than thirty days from the publication of the notice, the Director of the Bureau of Licenses may adopt the proposed administrative regulations. All administrative regulations adopted by the Bureau Director shall be filed in the office of the Bureau of Licenses. Copies of all current administrative regulations shall be made available to the public upon request.
3. Notwithstanding subsections 1. and 2. of this section, the Director of the Bureau of Licenses may adopt interim administrative regulations without prior public notice upon the Director's finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for prejudice. Any administrative regulation adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

7.22.030 Permit Required.

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

7.22.040 Revocation of a Permit.

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

7.22.050 Permit Subject to Ordinances and Regulations.

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

7.22.060 Diversion of Traffic.

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

7.22.070 Interference Prohibited.

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

- A.** Blocking, obstructing, or impeding the passage of participants, vehicles, or animals along the route.
- B.** Walking, running, driving a vehicle, riding a bicycle or skateboard through, between, with, or among participants, vehicles, or animals.
- C.** Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals.
- D.** Throwing, squirting, dumping, or dropping any liquid, solid or gaseous substance on, toward, among, or between participants, vehicles, or animals.
- E.** Grabbing at, taking hold of, hitting, pulling, or pushing any participant, vehicle, or animal or anything in the possession of any participant.
- F.** Vending or offering for sale any food or merchandise during the hours and on the route of a street and sidewalk use permit without first having obtained the written permission of the sponsor, in addition to any permits and/or licenses otherwise required for such activity.

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Chapter 7.24

**TOWING AND PAY
AND PARK FACILITIES**

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

Sections:

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

7.24.010 Towing of Vehicles from Private Property.

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

- A. Short Title.** Sections 7.24.010 through 7.24.019 shall be known as the PPI (Private Property Impound) Code.
- B. Purpose.** The purpose of the PPI Code is to require that towing from private parking facilities be performed safely and at a reasonable price. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure that the public safety and convenience are protected.
- C. Conformity to State Laws.** The PPI Code shall be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property. The Director shall have authority to adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code.
- D. Savings Clause.** If any provision of the PPI Code is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of the PPI Code.

7.24.011 Administrative Authority.

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

- A.** The Director is authorized and directed to enforce all provisions of the PPI (Private Property Impound) Code. The Director shall have the power to investigate any and all complaints regarding alleged violations of the PPI Code. The Director may delegate any or all authority granted under this Section to the Towing Coordinator or any Revenue Bureau officer, employee or agent.

- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.

- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
 - 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

 - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

 - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue Bureau and the Office of the City Auditor in compliance with Section 1.07.030. Copies of all current rules shall be available to the public upon request.

 - 4.** Notwithstanding 7.24.011 C. 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

- D.** Rates. The Director is authorized to establish a schedule of maximum rates permissible for all PPI tows from properties located within the city limits of

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Portland. The jurisdiction of this code section may be expanded by intergovernmental agreement with other agencies.

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

7.24.012 Definitions.

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

- A. **"Director"** means the Director of the Revenue Bureau.
- B. **"Dispatching facilities"** means the PPI tower's facilities used for communication with Tow Desk and maintaining radio contact with tow vehicles.
- C. **"Oversized tow vehicle"** means a tow truck equipped to perform towing of automobiles or other vehicles, and which has a maximum gross vehicle weight rating (GVWR) of over 10,000 pounds. Vehicles with maximum GVWR of at least 19,000 pounds are designated as "Class B." Vehicles with maximum GVWR of at least 44,000 pounds are designated as "Class C."
- D. **"Owners agent"** means a person bearing documentation from the registered owner officially authorizing them to possess or operate the vehicle.
- E. **"PPI Police tow"** means any PPI tow that, upon notification to the local police agency, is found to have been reported stolen, or for any other reason becomes a police tow as defined in the Contract for Vehicle Towing and Storage of the City of Portland, or requires a police release.
- F. **"PPI tower"** means any towing firm duly registered and permitted to perform Private Property Impound tows within the City of Portland.
- G. **"Private parking facility"** means any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking. Private parking facility does not include:

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

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

7.24.013 Private Property Impound (PPI) Tower Registration.

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

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

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

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7. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the Director.

7.24.014 Towing Regulations.

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

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

7.24.015 Towing and Storage Rates.

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

7.24.016 Conditions.

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

- A. Perform all PPI tows in a safe manner, taking care not to cause damage to the person or property of others while towing or storing a vehicle; and
- B. Practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle; and
- C. Cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle; and
- D. Issue to the owner/owner's agent a clearly legible receipt complete with all required information and with all fees and considerations itemized; and

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

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foreclosure of a possessory lien by facsimile transmission to the Tow Desk within eight (8) hours after the release; and

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

7.24.017 Prohibitions.

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

- A.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- B.** Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed or relieving the PPI tower from responsibility for the condition of the vehicle or its contents;
- C.** Solicit PPI towing business by means of payment of a gratuity, commission or any other consideration, except as provided in this PPI Code, to the private property owner, operator, manager or employee;
- D.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- E.** Use predatory practices, as defined in Administrative Rule LIC 9.05, to secure PPI tows.
- F.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.

- G.** Assess or collect a surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Section 7.24.020 "Pay and Park and Non-Pay Private Parking Facilities."
- H.** Make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this Code.

7.24.018 Remedies.

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

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

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

7.24.019 Appeals.

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

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

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3. Procedures and Rules. The Director shall establish rules and procedures for the Board and the Board shall follow those procedures in all matters heard by the Board.
4. Staff. The Revenue Bureau shall provide staff and assistance to the Board.
5. Powers of the Board. The PPI Appeals Board shall hear protests of Administrative Rules adopted by the Director. Written notice of the protest must be received by the Revenue Bureau Towing Coordinator within 30 days after the notice of adoption of the Administrative Rule. The protest shall state the name and address of the PPI tower and an explanation of the grounds for the protest. Requests not received within 30 days of the notice of adoption shall not be heard.

7.24.020 Pay and Park and Non-Pay Private Parking Facilities.
(Replaced by Ordinance No. 182298, effective November 28, 2008.)

- A. Purpose. The purposes of this Section are to ensure that the regulation of parking at pay and park and non-pay private parking facilities is applied objectively with proper notice; and to protect fairness and convenience for the parking public.
- B. Savings Clause. If any provision of this Section is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding has no effect on the validity, legality and enforceability of any other provision of this Section.
- C. Definitions. Except where the context requires otherwise, the following words and phrases have the definitions given in this Section:
 1. "Administrative Fee" means a fee assessed by a department of motor vehicles for the purpose of determining the registered owner of a vehicle.
 2. "Boot" means a mechanical device attached to a vehicle to prevent its movement.
 3. "Director" means the Director of the Revenue Bureau or his or her designee.
 4. "Operator" means any person or entity whose business includes assessing and collecting penalties at registered parking facilities.
 5. "Park" means to leave a vehicle standing for more than 5 minutes with no driver at the wheel.

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6. "Parker" means any person in control of any vehicle that is parking at a registered parking facility.
7. "Payment device" means any device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
8. "Penalty" means an amount assessed for failure to pay, or properly display proof of payment, for parking at a pay and park facility or for unauthorized or over-time parking at a non-pay private parking facility.
9. "Penalty payment letter" means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 10 days of the date the penalty notice was affixed to a vehicle.
10. "Penalty notice" means the notice affixed to vehicles parked without payment, parked without properly displaying proof of payment or parked without authorization at a registered facility, and which is the initial demand for payment.
11. "Registered Facility" means a parking lot or structure that is accessible to the public that has been registered with the Revenue Bureau and is either:
 - a. A non-pay private parking facility at which the free parking or storage of vehicles is limited by time or authorization by the property owner/operator; or
 - b. A pay and park facility that is open for parking or storage of vehicles by the general public, at which a fee must be paid for parking, where payment of parking fees is enforced by issuance of penalty notices, and where parkers receive a receipt or ticket at the time of payment that has the parking expiration time printed on it.

"Registered Facility" does not include property used for governmental purposes by any agency or special district.
12. "Second penalty payment letter" means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 30 days of the mailing date of the first penalty demand for payment letter.

D. Authorization.

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- 1.** Enforcement. The Director is authorized to enforce all provisions of this Section.
 - a.** Investigation. The Director has the power to investigate any and all complaints regarding alleged violations of this Section.
 - b.** Inspection. The Director may inspect any operator records required to be maintained pursuant to this Section. Such records must be made available for inspection during normal business hours within 24 hours of notice by the Director.
 - c.** Delegation. The Director may delegate the authority provided under this Section to any City employee or agent thereof.
 - 2.** Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Section.
 - 3.** Adoption of rules. The Director may adopt rules pertaining to matters within the scope of this Section.
 - a.** 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 10 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.
 - b.** During the hearing the Director will consider oral and/or written testimony. The Director will adopt, 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.
 - c.** Notwithstanding Subsections a. and b. above, the Director may adopt an interim rule without prior public notice upon a finding by the Director 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 subsection will be effective for a period of not longer than 180 days.
- E.** Registration as the operator of a facility. No person may assess any penalty at any facility unless that person is in compliance with the provisions of this Section.

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- 1.** Applications. An applicant for registration as an operator of a facility must submit to the Bureau:
 - a.** The name, address and telephone number of the applicant;
 - b.** Proof of valid insurance as described in this Section;
 - c.** A sample copy of the proposed penalty notice;
 - d.** A sample copy of the proposed penalty payment letters;
 - e.** The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
 - f.** Such other information relating to the purposes of this Section as the Director may require.

- 2.** Penalty notices, penalty payment letters and any subsequent demands for payment must include:
 - a.** The name, address and telephone number of the operator;
 - b.** The vehicle's make, model, color and license plate number;
 - c.** The time and date the penalty notice was issued;
 - d.** The exact location of the facility;
 - e.** Any facility number that may be assigned by the operator;
 - f.** The amount of the penalty demanded;
 - g.** Instructions describing deadlines and acceptable methods of payment;
 - h.** Warning that an Administrative Fee may be assessed if the payment of the penalty is not received within 10 days of issuance of a penalty notice;
 - i.** Any additional penalty that may be added if not paid within 30 days; and

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3. The Director shall inspect an operator's facility following receipt of the written request for registration, the facility drawing, and the registration fee. If the Director determines that a facility complies with this Section's requirements, the Director will issue a registration certificate to the operator for the facility. If the Director determines that the facility does not comply with this Section's requirements, the application will be denied and notice will be sent to the operator that lists the requirements the facility failed to meet. If an application is denied, the operator may resubmit the application without payment of additional registration fees at any time within 60 days of the notice date if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of registration fees may be made with respect to each facility. If upon such reapplication the registration is again denied, the operator must file a new facility application accompanied by the required registration fee.
 4. Facility registrations are valid from the date of issuance until the last day of that same month the following year.
 5. Reporting Changes. Operators must notify the Director of any changes to the operator's office location, contact information, and insurance provider prior to implementation of the change. Operators must also notify the Director of any changes to a facility that affect a parker's use of the facility including, but not limited to, location of entrances and exits and location of a payment machine. Changed facilities must be reinspected before any penalty notices are issued.
 6. Renewal. The Bureau will send invoices for facility registration renewal to all operators at least 1 month prior to the expiration date. Registrations will be renewed upon payment of the nonrefundable fee for each facility as required by the Administrative Rules.
 7. Non-assignability. A registration issued or renewed pursuant to the provisions of this Section is not assignable or otherwise transferable.
- G.** Payment device. Payment devices must be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.
- H.** Signage requirements. All signs required pursuant to this Section must be unobstructed, reflectorized and visible during all hours of operation. All signs required to be posted at a facility entrance must be no more than 10 feet from the entrance, must be located within 2 feet of the property line, and the center of such sign must be at least 4 feet from the ground.

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1. Pay and Park Signage.
 - a. Pay and Park facilities must have a sign posted at each entrance (in letters at least 7 inches high) stating either "PAY TO PARK ALL HOURS," or "PAY TO PARK POSTED HOURS." For facilities with a "POSTED HOURS" sign, the sign must also state (in letters at least 3 inches high) the exact hours that the facility is operated as a pay and park facility.
 - b. At each facility containing a payment device, there must be a sign (in letters at least 9 inches high) visible from every vehicle entrance stating "PAY HERE," indicating the location of the payment device.
 - c. At each payment location there must be a sign(s) that states (in letters at least 2 inches high):
 - (1) all applicable charges for parking including the posted hours at a "PAY TO PARK POSTED HOURS" facility;
 - (2) that proof of payment must be displayed and clearly visible through the windshield;
 - (3) the phone number for the release of vehicles if they are subject to being towed;
 - (4) a warning that the facility may be monitored; and
 - (5) that vehicles parked without valid proof of payment or permit are subject to a parking penalty.
 - d. In spaces reserved for parkers with a disabled person parking permit, the operator must attach a sticker or sign to the disabled parking sign at the front of each space that notifies the disabled parking customer that he/she is responsible for payment, regardless of having a disabled person parking permit.
2. Non-Pay Private Parking Signage.
 - a. Non-pay facilities must have a sign posted at each entrance stating:
 - (1) that parking is prohibited, reserved or otherwise restricted;

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- (2) who is authorized to park;
- (3) all limitations on parking;
- (4) the hours during which parking is restricted;
- (5) that the facility may be monitored; and
- (6) that parking in violation of posted restrictions may result in assessment of a penalty or towing and storage of a vehicle at the vehicle owner's expense.

- b. If a private parking facility is shared by more than one business, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.

I. Assessment of Penalties.

- 1. Pay and park facilities. The operator of a pay and park facility may assess and collect a penalty from any parker found to have either parked without paying the required parking fees upon parking the vehicle, or parked without placing the proof of payment in the vehicle so that it is clearly visible through the windshield.
- 2. Non-pay private parking facilities. The operator of a non-pay private parking facility may assess and collect a penalty from any parker found to have parked without authorization.
- 3. The penalty amount assessed to vehicles described in Subsections 1. and 2. above must not exceed the following amounts:
 - a. Not more than the overtime parking penalty set by Multnomah County Circuit Court if paid within 30 days of the mailing date of the penalty payment letter.
 - b. Not more than double the overtime parking penalty set by Multnomah County Circuit Court if paid after 30 days from the mailing date of the penalty payment letter.

J. Parking Penalty Notice.

- 1. When a vehicle is parked in violation of a registered facility's requirements, the operator may affix to the vehicle, in a prominent location, a penalty notice.

2. The penalty notice must be processed as follows:
 - a. A copy must be affixed to the vehicle,
 - b. A record of the notice must be retained by the operator for not less than 1 year, and
 - c. All records of penalty notices must be available to the Director upon request.

K. Penalty payment letters.

1. If the operator does not receive payment within 10 days from the day the operator affixed the penalty notice to the vehicle, the operator may mail a penalty payment letter to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle. The letter must be mailed no earlier than 10 days nor later than 30 days from the penalty notice issuance date. The letter must include:
 - a. The amount demanded;
 - b. Acceptable method(s) of payment;
 - c. The schedule of increases for continued non-payment as described in Subsection 7.24.020 I. above;
 - d. Space for the recipient to inform the operator that the person to whom the letter was sent is not the current registered owner of the vehicle;
 - e. A statement that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve any disputes with the operator have been unsuccessful;
 - f. The mailing address of the Bureau, and
 - g. A statement to the effect that the Bureau will only investigate complaints by parkers regarding the issuance of a parking penalty notice filed within 90 days of the date of the first penalty payment letter.
2. Administrative Fees.

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- b.** During that time the operator affixed and mailed the notices and payment letters as provided for in this Section; and
- c.** Three or more penalties remain unpaid; and
- d.** The operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle will be towed if the vehicle is again parked at a registered parking facility. The notice must also state the total amount due for outstanding penalties, the issue date and parking facility location for each outstanding penalty, the method(s) of payment accepted, the name, address and phone number of the operator, and that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful. The operator shall retain a copy of each notice for not less than 1 year and make such copies available upon request of the Director. The notice must be in a form approved by the City Attorney's Office; and,
- e.** Such towing is performed in compliance with Section 7.24.010 Towing of Vehicles from Private Property.

M. Complaint Handling Procedures.

- 1.** Operators responding to the complaints of parkers or registered owners of vehicles must follow these guidelines:
 - a.** The operator must be available by telephone, fax and e-mail to the public during normal business hours to accept and respond to public complaints. The operator must have voicemail and must respond to telephone messages by the end of the next business day.
 - b.** The operator must respond in writing to written complaints within 10 days from the date the operator received the complaint.
 - c.** The operator's written response must include the mailing address of the Revenue Bureau and a statement that the parker or registered owner of the vehicle may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful.

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1. Such insurance must provide coverage of not less than \$1 million combined single limit per occurrence, with aggregate of \$1 million for bodily injury or property damage.
 2. The limits of the insurance are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.
 3. The insurance must be without prejudice to coverage otherwise existing.
 4. The insurance must name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance must protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein will operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.
 5. The coverage must apply as to claims between insureds on the policy.
 6. The insurance policy must provide that it will not terminate or be canceled without 30 days written notice first being given to the Director.
 7. The adequacy of the insurance is subject to the approval of the City Attorney.
 8. Failure to maintain liability insurance is cause for immediate revocation of the registration of the operator by the City.
- P.** Prohibitions. No operator shall:
1. Require any person to make any statement or sign any document promising not to dispute the validity of a penalty or relieving the operator from responsibility for the condition of the vehicle.
 2. Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a facility.
 3. Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle.

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- Q.** Remedies. Upon a violation by the operator of any requirements of this Section, the Director may exercise the following authority and may apply one or more of the following remedies:
- 1.** Suspension or revocation. The Director may suspend a registration of any facility if investigation reveals that the violation has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension will be effective from the operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation will be effective upon the mailing of written notice by the Director.
 - 2.** Civil Penalty. The Director may impose a civil penalty of up to \$500 for each violation.
- R.** Appeals. Any operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10.

7.24.030 Locking Parked Cars.

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

CHAPTER 7.26

REGULATION OF PAYDAY LENDING

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

Sections:

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

7.26.010 Purpose.

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

7.26.020 Definitions.

As used in this Chapter unless the context requires otherwise:

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

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

7.26.030 Permits.

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

7.26.040 Administrative Authority.

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

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

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

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

7.26.050 Payment of Principal Prior to Payday Loan Renewal.

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

7.26.060 Cancellation of Payday Loan.

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

7.26.070 Payment Plan for a Payday Loan.

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

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

7.26.080 Remedies.

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

7.26.090 Appeals.

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

7.26.100 Complaints.

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

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

7.26.110 Severability.

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

