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PARKS & RECREATION**

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Chapter 20.04

GENERAL PROVISIONS

(Chapter replaced by Ordinance No. 173530,
effective July 30, 1999.)

Sections:

- 20.04.010 Definitions.
- 20.04.020 Use Encouraged.
- 20.04.030 Powers of Council.
- 20.04.040 Commissioner to Make Rules and Regulations.
- 20.04.050 Public Notification – Recreational Fields.
- 20.04.060 Good Neighbor Agreements – Recreational Fields.
- 20.04.070 Completion of Field Improvements.
- 20.04.080 Building Permit Applications.

20.04.010 Definitions.

(Amended by Ordinance Nos. 178282 and 183750, effective June 4, 2010.) As used in this Title, unless the context requires otherwise, the following definitions apply:

- A. **“Bureau” or “Portland Parks and Recreation”** means the Bureau of Parks and Recreation of the City of Portland.
- B. **“Commissioner”** means the Commissioner in Charge of Portland Parks and Recreation. Wherever this Title grants authority to or places responsibility on the Commissioner, that authority or responsibility may be exercised by any person designated by the Commissioner.
- C. **“Council”** means the City Council of the City of Portland, Oregon.
- D. **“Director”** means the Director of Portland Parks and Recreation, or the Bureau head, however designated. Wherever this Title grants authority to or places responsibility on the Director, that authority or responsibility may be exercised by any person designated by the Director.
- E. **“Park”** means any publicly or privately owned real property, and the buildings, structures and facilities thereon, placed under the jurisdiction of Portland Parks and Recreation for park or recreational purposes, and includes all land granted to the City for such purposes.
- F. **“Parks Reservation Center”** means the person or persons authorized by the Director to receive, process, issue or deny permits for the use of any Park.

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- G. "Park Officer"** means any of the following, while acting in the scope of employment, agency or duty:
1. Any employee or agent of Portland Parks and Recreation;
 2. Any peace officer as defined by Oregon law and any reserve officer of the Portland Police Bureau;
 3. Any person providing security services in any Park pursuant to any contract with the City when the contract delegates such exclusion authority, or providing security services pursuant to any contract with any person, firm or corporation managing the Park on the City's behalf;
 4. Golf Course concessionaires and their employees;
 5. In the South Park Blocks, any public safety employee of Portland State University;
 6. Any person specifically designated in writing as a "Park Officer" by the Commissioner or by the Director.
- H. "Field permitting Organization."** Any entity that permits or assigns permitting duties for organized sports use (as defined in Section 33.910.030) on public parks and public schools (as described in Section 33.920.480). Sections 20.04.050 through 20.04.080 of this Chapter shall apply to any site owned or operated by any school district in the City of Portland, whether or not Portland Parks and Recreation is the field permitting organization for that site.

20.04.020 Use Encouraged.

The Parks are maintained for the recreation of the public and the greatest possible use is encouraged, subject only to such regulation as will preserve the Parks for the purposes for which they are laid out and the enjoyment, convenience, and safety of all concerned.

20.04.030 Powers of the Council.

The Council, except as herein otherwise provided, shall have the general management and supervision of all Parks, squares, openings, and public grounds surrounding public buildings now owned or hereafter acquired by the City, and also shall have power to regulate and control the planting, trimming, growing, use, preservation, and maintenance of all shade or ornamental trees, shrubs, plants, or flowers in, upon, or over any street, boulevard, path, or sidewalk of the City. The Council may adopt such rules and regulations for the use, management, and supervision of the Parks, squares, openings, public grounds, and grounds surrounding public buildings, bath houses, or other places of recreation, now belonging to the City or hereafter acquired by it, as to the Council may seem reasonable and necessary.

20.04.040 Commissioner to Make Rules and Regulations.

The Commissioner is authorized to make such rules and regulations not in conflict with the ordinances of the City as the Commissioner finds necessary for the better control and management of the Parks. If any person feels aggrieved by any such rule or regulation, the person may appeal to the Council for its amendment or repeal by filing with the City Auditor a petition which shall be presented to the Council at its next regular meeting. Until and unless amended or repealed by the Council, any rule or regulation made by the Commissioner shall be in full force and effect as if it were an ordinance.

20.04.050 Public Notification – Recreational Fields.

(Added by Ordinance No. 183750, effective June 4, 2010.)

- A.** Field permitting organizations (FPOs) are responsible for mailing a public notice to owners of residentially-zoned property within a radius of 400 feet of the site property lines, recognized neighborhood organizations within a radius of 1,000 feet of the site property lines, and existing organized sports user groups (permit holders) of the site for any of the following proposed improvements on schools, school sites or park sites that are adjacent to residential property and that do not require a (Title 33) conditional use:
- 1.** Adding one (1) new field for organized sports use where there is current or previous (last 10 years) approved organized sports use elsewhere at the school or park site. The new field must be no more than 300 feet from the current or previous organized sports use. The addition of two (2) or more fields requires a conditional use. A new field more than 300 feet from the current or previous organized sports use requires a conditional use (see Title 33);
 - 2.** Upgrading, improving, or converting an existing recreational field for organized sports use primarily by older youth (ages 13-17) or adults (for baseball, age 10 and older), where there is no such current or previous (last 10 years) use on the subject field;
 - 3.** Bleachers or seating fixtures 210 lineal feet or smaller in size per field and less than 100 feet from an abutting residential property;
 - 4.** Concession stands 1,500 square feet or smaller in size (temporary or permanent) and within 100 feet of a residential property; or
 - 5.** Parking areas with 5 parking spaces or fewer AND within 15 feet of a residential property.

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- B.** The notice shall describe in detail the type of improvements or change in use proposed. The notice shall include the type, size, location, and setbacks proposed for the field as well as the current (if any) and proposed sports user groups. The public notice of proposed field improvement will provide contact information for the neighbors to call or send written questions, comments, or concerns within 21 calendar days. If these written comments can be addressed to the neighbor's satisfaction, no further action is necessary. The FPO shall respond to these written comments in writing within 21 days.
- C.** If the FPO's written responses to the written concerns received after the public notice are not satisfactory, a public meeting can be scheduled if requested by a neighborhood association within 1,000 feet of the subject site. The request must be made within 45 calendar days of the date of the last FPO written response to comments. A Good Neighbor Agreement (GNA) may be proposed by Portland Parks and Recreation, the school district, both organizations jointly, or other appropriate FPO if there are remaining concerns after the public meeting. Neighborhood associations within 1,000 feet of the subject site may also request a GNA, in writing, within 10 calendar days of the date of the public meeting. GNAs can be linked to sports field use permits and may address a variety of compatibility issues such as:
1. Hours of use outside currently established park & school operating hours;
 2. Tournament play;
 3. Placement of fields, temporary portable restrooms, storage areas, etc.;
 4. Screening for privacy and safety (netting and/or landscaping);
 5. Noise concerns outside established noise ordinance regulations (portable music players, whistles, bullhorns, etc.);
 6. Litter, loitering, and other nuisances; and
 7. Parking usage.
- D.** The field permitting organization may require sports groups and field improvement project proponents to assist with and help pay for the preparation and distribution of the required notice.

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20.04.060 Good Neighbor Agreements – Recreational Fields.

(Added by Ordinance No. 183750, effective June 4, 2010.)

- A. The Director or the Director's designee is authorized to negotiate, execute and administer Good Neighbor Agreements (GNAs) under Section 20.04.050 on behalf of the City, when the City is the Field Permitting Organization (FPO).
- B. When the City is not the FPO, the FPO may negotiate, execute and administer GNAs under Section 20.04.050 according to its own internal processes.
- C. All GNAs, whether entered into by the City or by any other FPO, must comply with the Good Neighbor Agreement Policy adopted by Portland Parks & Recreation, including the process.

20.04.070 Completion of Field Improvements.

(Added by Ordinance No. 183750, effective June 4, 2010.) If a Good Neighbor Agreement process is initiated, it must be completed or resolved before any of the proposed improvements in Section 20.04.050 A. are implemented.

20.04.080 Building Permit Applications.

(Added by Ordinance No. 183750, effective June 4, 2010.) All of the steps required in Title 20 must be completed before an applicant may apply for a building permit.

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Chapter 20.08

PERMITS

(Chapter replaced by Ordinance No. 173530,
effective July 30, 1999.)

Sections:

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

20.08.010 Permits Required for Park Uses.

It is unlawful for any person to conduct or participate in any activity in a Park, for which a permit is required, unless the Parks Reservation Center has issued a permit for the activity. A permit is required for any activity in a Park under any one or more of the following circumstances:

- A. The activity is intended to involve, is reasonably likely to involve, or actually involves, as participants and/or spectators, at any one time, 150 or more persons;
- B. The activity includes the placement of any temporary or permanent structure, including but not limited to any table, bench, stage, fence, tent or other facility in a Park. No permit is required under this Subsection for the placement of any temporary facility in an area of a Park which the Director has designated for such use without a permit;
- C. The activity requires, or is reasonably likely to require, City services additional to those already provided to the public as a matter of course in the Park, including but not limited to: increased police or fire protection; the turning on or off of water; provision of utilities, such as gas, electricity or sewer; placing, removing, opening or closing bollards, gates or fences; or the special preparation of fields or other facilities;

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- D.** The person or persons engaged in the activity seek to exclude, or to have the right to exclude, any member of the public from the activity or from any Park or from any area of any Park;
- E.** The activity is conducted in any building in any Park, except for personal use of public restrooms; or
- F.** The activity includes using the Park or Park area in a manner inconsistent with uses designated by the Director for that Park or Park area, or includes conduct that otherwise is prohibited in a Park, including, but not limited to, conducting business, charging admission or otherwise receiving payment for goods or services related to the activity, or possessing, serving or consuming alcoholic beverages.

20.08.020 Applications; Reservation Center to Promulgate Policies and Procedures.

- A.** Any person desiring a permit under Section 20.08.010 shall apply with the Parks Reservation Center. The Parks Reservation Center, subject to the Director's approval, shall establish written policies and procedures, including but not limited to fees and standard conditions, for applications and for permits. The written policies and procedures shall be available for public inspection. Every application shall state the purpose for which the Park would be used, the date and time of the proposed use, the name of the Park, and the area thereof that would be used, the anticipated number of persons who would be present and such other information relating to the contemplated use as the Parks Reservation Center may require.
- B.** The Parks Reservation Center shall issue the requested permit if a complete application complying with all adopted policies and procedures is filed and all of the following conditions are met:
 - 1.** The proposed activity is consistent with the size of the Park and any specialized purpose for which it is normally used, or for which specialized facilities have been provided;
 - 2.** The proposed activity will not have an unreasonably adverse impact, from noise, litter or traffic, on the Park or on the surrounding neighborhood;
 - 3.** The proposed activity does not pose an unreasonable risk to public health or safety or to the physical integrity of the Park;
 - 4.** The applicant pays all required fees and agrees to comply with all conditions of the permit;

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5. The proposed use is otherwise lawful, but nothing in this Chapter shall require the issuance of a permit for an activity otherwise prohibited by this Title;
 6. The proposed activity does not conflict with an activity already scheduled for the Park or for which a different permit already has been applied for or issued for the Park;
 7. The applicant, including any person, firm or corporation affiliated with the applicant and with the activity, has not failed to comply with conditions of any permit previously issued by the Parks Reservation Center.
- C.** The Parks Reservation Center may issue a permit for use of a Park during hours when the Park is closed if it approves the application. If the requested use does not meet the criteria of Subsection B of this Section, the Parks Reservation Center may deny the application or may impose restrictions or conditions upon the permit or issue a permit for a different date, time, Park, or Park area so as to meet such criteria. Action by the Parks Reservation Center shall be completed as quickly as reasonably possible, and, at the latest, within seven (7) days after a complete application is filed.
- D.** Any person whose application is denied or who is issued a permit other than as applied for or who objects to restrictions or conditions included in the permit may appeal the matter to the Council by filing within five days after denial or inclusion of restrictions a written notice of appeal with the City Auditor. Upon receiving such a notice the City Auditor shall within 14 days schedule the appeal on the Council Calendar for hearing by the Council. At the hearing, the Council may affirm or modify the decision of the Parks Reservation Center, as the Council may deem necessary, to meet the criteria of Subsection B of this Section.
- E.** In determining whether the criteria of Subsection B of this Section are met, no consideration shall be given to the content of any constitutionally-protected expression connected with the planned activity. No permit shall be required under this Chapter, nor any condition imposed on any permit, if requiring a permit or imposing the condition would violate rights protected by the Constitution of the United States or by the Constitution of the State of Oregon. No permit shall be required under this Chapter in order for any person to participate in any activity programmed by or sponsored by Portland Parks and Recreation.
- F.** If any portion or provision of this Section is held by a court of competent jurisdiction to be invalid, such portion or provision shall, so far as possible, be held severable, and shall not affect the remainder, which shall continue in full force and effect.

20.08.030 Permits to be Exhibited.

Any person claiming to have a permit issued under this Chapter shall produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same.

20.08.040 Permits Subject to Ordinances and Regulations; Indemnification.

All permits issued under this Chapter shall be subject to the City ordinances and the rules and regulations of the Parks. The persons to whom such permits are issued shall be bound by said rules, regulations, and ordinances as fully as though the same were inserted in such permits. Any person or persons to whom such permits shall be issued shall be liable for any loss, damage, or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued, as well as for any breach of such rules, regulations, and ordinances, to the person or persons so suffering damages or injury, and shall indemnify, defend and hold harmless the City and its officers, employees and agents from any and all claims, demands, actions and suits (including all attorney fees and costs, through trial and on appeal) arising from the permittee's use of the Park under the permit.

20.08.050 Permits Non-Transferrable.

Any permit issued under this Title shall be personal to the permittee, and shall be void if transferred or assigned in any manner, except with the written consent of the Director or the Parks Reservation Center.

20.08.060 Prohibited Conduct at Permitted Events.

(Replaced by Ordinance No. 179337, effective June 15, 2005.) In addition to any other applicable provision of law, it is unlawful for any person to engage in any of the following conduct at any event for which a permit has been issued in any Park:

- A. Any conduct that substantially prevents any other person from viewing, hearing or meaningfully participating in the event.
- B. Any conduct that substantially interferes with the free passage of event participants or attendees by creating an insurmountable obstacle at any entrance, aisle, walkway, stairwell, ramp, esplanade, vendor booth, ride or other area commonly used for public access, egress or ingress.
- C. Using any facility, structure, fixture, improvement or other thing within the area covered by the permit in a manner contrary to or inconsistent with its intended, designated or safe use. This Subsection does not apply to any person engaged in any constitutionally protected expression, unless, and then only to the extent that, in connection with the expression, the person engages in conduct that amounts to misuses of things as proscribed by this Subsection.

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- D.** Except as expressly provided for under the terms of the permit, lighting any fire. This prohibition does not apply to smoking devices designed for and used for smoking tobacco, in areas where such smoking is permitted.
- E.** Any sexual conduct, as defined under ORS 167.060, including but not limited to any physical manipulation or touching of a person's sexual organs through, over or under a person's clothing in an act of apparent sexual stimulation or gratification, regardless of the person's subjective intent.
- F.** Operating any bicycle, in-line skates, roller blades or other human-powered form of accelerated propulsion, except in such places as the permittee may provide or allow for such activities.
- G.** Entry into the area subject to the permit without consenting to an inspection of personal belongings for the purpose of preventing the introduction of prohibited items into the event. For purposes of this Subsection, "personal belongings" includes backpacks, duffel bags, sleeping bags, purses, coolers, bulky apparel items and other personal items large enough to conceal or contain prohibited items.
- H.** Bringing into or possessing within the area covered by the permit any prohibited item. For purposes of this Section, "prohibited item" includes any fireworks, laser light, laser pointer, animals of any kind (except for service animals while performing their qualifying services), sound producing or reproducing or audio or video recording equipment (except as authorized by the permittee), glass bottles or containers, alcoholic beverages (except as provided by the permittee in accordance with the permit), furniture or fixtures (except as authorized by the permittee), any thing specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another (except for concealed handguns lawfully carried by persons in accordance with valid concealed handgun permits), and any item whose possession violates any other applicable provision of law.
- I.** Entry into or remaining in any area covered by any permit for any event that is not open to the public without the consent of the permittee, or entry into or remaining in any area covered by any permit for any event that is open to the public only upon the payment of an entry fee or charge, without first paying the applicable entry fee or charge.

The prohibitions contained in this Section do not apply to conduct by any Park Officer in the performance of duty, or by any person authorized to engage in that conduct in connection with the event in accordance with the permit.

20.08.070 Non-Park Use of Park Property.

Sections 20.08.010 and 20.08.020 do not apply to non-park use of Park property. Unless authorized in writing by the Director and in accordance with the terms and conditions of said written authorization and with the Council's adopted policy for the non-park use of Park property, it is unlawful for any person to make any non-park use of Park property, including but not limited to excavating for, erecting or installing or doing any act as part of or commencement of excavation, erection, or installation for, a permanent or temporary structure or facility in or on any Park.

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Chapter 20.12

PROHIBITED CONDUCT

(Chapter replaced by Ordinance No. 180743,
effective February 23, 2007.)

Sections:

- 20.12.010 Purpose of Establishing Prohibited Conduct.
- 20.12.020 Soliciting for or Conducting Business.
- 20.12.030 Unlawful Urination or Defecation.
- 20.12.040 Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.
- 20.12.050 Possession of Weapons.
- 20.12.060 Prohibited Conduct Relating to Permits.
- 20.12.070 Unlawful Use of Trees, Monuments, Vases, Fountains Railings, Fences or Tables.
- 20.12.080 Structures in Parks.
- 20.12.090 Disposing of Rubbish.
- 20.12.100 Vandalism; Protection of Park Property and Vegetation.
- 20.12.110 Fires, Fireworks and Smoking Prohibited.
- 20.12.140 Animals.
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- 20.12.160 Unlawful Use of River Frontage Along Park Property.
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- 20.12.190 Emergency Park Closure.
- 20.12.200 Trespassing and Areas Closed to the Public.
- 20.12.210 Hours of Park Closure.
- 20.12.220 Condition of Parole or Probation or Other Judicial Order.
- 20.12.225 Exclusion From McCoy Park.
- 20.12.230 Pioneer Courthouse Square.
- 20.12.240 Rules and Regulations, Directions of Park Officers to be Obeyed.
- 20.12.250 Park Officers Not Affected.
- 20.12.265 Park Exclusions.

20.12.010 Purpose of Establishing Prohibited Conduct.

The purpose of this Chapter is to preserve the Parks for the enjoyment, safety, comfort and convenience of the public and to enhance the orderly administration of the Parks, by prohibiting conduct that unreasonably interferes with the administration and lawful use of the Parks. The purpose of this Chapter is not to punish any person for prior conduct, but, rather, to provide civil and non-punitive regulations the Council finds necessary to

prevent nuisances and to protect the health, welfare and safety of the public using the City's Parks. Any violation of the provisions of this Chapter is punishable in accordance with Section 1.01.140 of this Code.

20.12.020 Soliciting For or Conducting Business.

- A.** Except as expressly permitted under the terms of a lease, concession or permit, no person shall solicit for or conduct any business in a Park.
- B.** For purposes of this Section, "solicit for or conduct any business" means:
 - 1.** Sell or offer to sell any article or service;
 - 2.** Display goods, or descriptions or depictions of goods or services, with the intent to engage any member of the public in a transaction for the sale of any good or service; or
 - 3.** Perform or engage in any act with the intent or expectation of receiving payment therefor from any person.
- C.** Nothing in this Section shall prohibit any act by any Park Officer in the scope of employment or duty, or by any person performing any work on behalf of the City, nor shall this Section be construed to prohibit any act protected under the circumstances by the federal or state constitution.

20.12.030 Unlawful Urination or Defecation.

No person shall urinate or defecate in any park except in a convenience station designed for that purpose; or blow, spread, or place any nasal or other bodily discharge; or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public convenience station or in any place in such station, excepting directly into the particular fixture provided for that purpose; or place any bottle, can, cloth, rag, or metal, wood, or stone substance in any of the plumbing fixtures in any such station.

20.12.040 Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.

- A.** No person shall sell, possess or consume any alcoholic beverage in any park, except under a concession contract or lease, or by permit issued under Chapter 20.08. Such permit may include any conditions as, in the discretionary judgment of the Parks Reservation Center, will promote the preservation of the parks for the peaceful enjoyment of the public at large.
- B.** No person shall commit any of the following acts in a Park:

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1. Sell, distribute, make available or offer to provide a controlled substance or prescription drug to another;
 2. Package, possess or store a controlled substance;
 3. Transport a controlled substance or materials intended to be used in the packaging of a controlled substance;
 4. Solicit another to provide, make available, sell or distribute a controlled substance or prescription drug to any person; or
 5. With the intent to engage in any act prohibited by this Section, seek, meet, approach or encounter another.
- C. Nothing in Subsection B of this Section shall prohibit the possession in a Park of medications prescribed to the person or to a person under that person's care, if and under such conditions as possession of such substance is otherwise lawful.
- D. For purposes of this Section, "controlled substance" shall have the meaning provided in ORS 475.005(6), and "prescription drug" shall have the meaning provided in ORS 689.005(6).

20.12.050 Possession of Weapons.

No person shall possess in any Park any thing specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another. Things prohibited under this Section include, but are not limited to: any firearm, pellet gun, spring-loaded weapon, stun gun or taser, any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any knife with a blade longer than 3-½ inches, any dirk, dagger, ice-pick, sling shot, slungshot, metal knuckles, nunchaku, studded handcoverings, swords, straight razors, tear gas containers, saps, sap gloves, hatchets or axes. The prohibitions of this Section do not apply to handguns lawfully carried by persons exempt from local regulation under ORS 163.173. The prohibitions of this Section do not apply to any thing possessed or used to carry out actions authorized by any contract or permit in any Park.

20.12.060 Prohibited Conduct Relating to Permits.

- A. No person shall engage in any conduct or activity in any Park for which a permit is required under Section 20.08.010 of this Code, unless a permit has been issued for that conduct or activity.
- B. No person, at any event in any Park for which a permit has been issued under Chapter 20.08 of this Code, shall engage in any conduct prohibited by Section 20.08.060 of this Code.

20.12.070 Unlawful Use of Trees, Monuments, Vases, Fountains, Railings, Fences or Tables.

It is unlawful for any person to climb any tree, or walk, stand, or sit upon the monuments, vases, railings, or fences, or lie on any picnic table in any Park. No person shall climb, walk, stand or sit upon, or enter, wade or dive into or swim in any fountain in any Park, except for fountains where such use is designated by the Director.

20.12.080 Structures in Parks.

Except as permitted under Subsection 20.08.010 B. and/or under Section 20.08.070, no person shall excavate for, erect, install or place, or do any act as part of or commencement of excavation, erection, installation or placement of any permanent or temporary structure or facility in or on any Park. This Section does not prohibit the mere carrying of any item in or through a Park, nor does it prohibit the use or placement of personal accessories, such as purses, backpacks or bags, or the use or placement of wheelchairs, walkers or baby carriages or child strollers in any Park, except in areas where those items are prohibited by the Director.

20.12.090 Disposing of Rubbish.

- A.** No person shall place any garbage, or other rubbish, or refuse or debris, nor shall any person deposit or leave birdseed, breadcrumbs or other food particles or food waste, in or upon any Park. Nothing in this Section shall prohibit any person from eating food in any Park, nor shall the prohibitions of this Section apply to the incidental loss of food particles that cannot reasonably be collected and properly disposed of.
- B.** No person shall enter any Park with garbage, or other rubbish or refuse or debris that has originated from outside the Park, for the purpose of disposing of any of the rubbish, refuse, or debris in the Park.
- C.** The prohibitions of this Section shall not apply to the disposal, in receptacles provided for that purpose, of garbage or refuse that results from the normal use of the Park for recreational or other lawful purposes.

20.12.100 Vandalism; Protection of Park Property and Vegetation.

- A.** No person shall take, remove, destroy, break, cut, injure, mutilate, or deface in any way or attach any thing to, any structure, monument, statue, vase, fountain, wall, fence, railing, gate, vehicle, bench, or other property in any Park. No person shall remove, destroy, break, injure, mutilate, or deface in any way in any Park any tree, shrub, fern, plant, flower, or other vegetation without a permit from the Forester under the provisions of Chapter 20.40. This provision shall not prohibit authorized work done for, by or on behalf of the City.

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- B.** No person shall, without prior authorization, take, use, or have in his or her possession any equipment belonging to the City and designated for park or recreation use, outside of the limits of the established Park or Parks facility.

20.12.110 Fires, Fireworks and Smoking Prohibited.

- A.** No person shall light any fire in any Park, except in areas and/or facilities designated by the Director for such use and in conformance with all applicable laws. This Section does not prohibit lighting cigarettes, cigars or pipes in areas where smoking is permitted, nor does it prohibit the use of legal fireworks except as provided in Subsection B. of this Section or in areas in which the Director has prohibited such use.

- B.** No person shall possess or ignite any fireworks in any Park, where such possession or use is unlawful under State law. No person shall possess or ignite any otherwise legal fireworks in any of the following Parks, without a permit:

1. Pioneer Courthouse Square;
2. O'Bryant Square;
3. Lownsdale Square;
4. Forecourt/Ira Keller Fountain;
5. Ankeny Square;
6. Classical Chinese Garden;
7. Block 5 Park (Moyer);
8. Eastbank Esplanade;
9. Holladay Park;
10. Any nature park or area designated as a natural area;
11. Any other Park or Park area designated by the Director.

- C.** No person shall light or smoke any tobacco products within twenty-five (25) feet of any play structure, picnic table or designated children's play area, or in an area under permit where prohibited by the permit holder, or in any other place in any Park where smoking is prohibited by the Director.

20.12.140 Animals.

- A.** No person shall injure, harm, disturb, or molest any wild or domestic animal in any Park.
- B.** No person owning, in control of or responsible for any dog shall allow that dog to be in any Park if the dog is not held securely on a leash no greater than eight feet in length, except in such Parks or portions of Parks as the Director may designate as off-leash areas, or during such times as the Director may establish as off-leash hours; provided, however, that a violation of any rule established by the Director governing any designated off-leash area or off-leash hours shall be a violation of this Section. Nothing in this Section shall limit the authority of the Director to terminate, alter or amend the designation of any off-leash area or off-leash hours.
- C.** No person owning, in control of or responsible for any horse or other animal capable of being ridden by a person shall allow that animal to be in any Park, except in such Parks or portions of Parks as the Director may designate for use by such animals.
- D.** No person shall hitch any animal to any tree, shrub, fence, railing, or other structure or facility in any Park, except to such structures or facilities as are designated for that purpose.
- E.** No person shall bring or keep any animal in any Park if the animal is not within the person's immediate reach and control.
- F.** No person owning, in control of or responsible for any animal shall allow that animal to enter or remain upon any of the following in any park:
 - 1.** Any lake, fountain, pond or stream.
 - 2.** Any tennis court, basketball court, running track or other artificial sports surface or manicured turf sports field.
 - 3.** Any sports facility enclosed by a fence or wall.
 - 4.** Any area where such animals are prohibited by the Director.
- G.** No person shall allow any animal in that person's ownership, possession, custody or control to injure any other person or animal or damage any property in any Park. Any person so allowing any animal to cause any such injury or damage shall be liable for the full amount of the injury or damage and for the costs of impounding the animal.

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- H.** No person shall allow any animal in the person's possession, custody or control to discharge any fecal material in any Park unless the person promptly removes and disposes of the fecal material in an appropriate receptacle. No person shall allow any animal in the person's possession, custody or control to enter or remain in any Park unless the person has in the person's possession the equipment necessary to remove and properly dispose of any fecal material deposited by the animal in the Park.
- I.** No person owning, in control of or responsible for any animal shall allow that animal to be in any Park if the animal is not in compliance with applicable Multnomah County Animal Control regulations; provided, however, that dogs otherwise complying with those regulations may be off leash in designated off-leash areas or during designated off-leash hours.
- J.** Any animal in any Park in violation of any provision of this Section may be impounded, at the expense of the animal's owner, on the order of any Park Officer or of any Animal Control officer.
- K.** The prohibitions of this Section do not apply to service animals while performing their qualifying services, nor to animals while in the course of the official performance of police or rescue activities.

20.12.150 Fishing and Bathing.

No person shall fish, wade, swim, or bathe in any Park except in the places designated by the Director for such purposes.

20.12.160 Unlawful Use of River Frontage Along Park Property.

- A.** No person shall jump or dive from any seawall, pier or dock in any Park, into the Willamette or Columbia Rivers.
- B.** No person shall tie or fasten any log, boat, or other floating equipment to or upon Park property bordering upon the Willamette or Columbia Rivers, except for temporary mooring of pleasure boats, in accordance with the provisions of Section 19.16.060 of this Code.

20.12.170 Use of Certain Devices or Equipment.

- A.** No person shall use any slingshot, javelin, shotput, discus, golf equipment, or archery equipment, or any device capable of launching a projectile, in or upon any Park, except in areas specifically designated or provided for that particular use, subject to the direction of authorized Park Officers.

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- B.** No person shall use any wheeled vehicle, including unicycles, bicycles, tricycles, skateboards, roller skates or roller blades, motorized or unmotorized scooters, or any motorized vehicle on any tennis court, basketball court, running track or other artificial sports surface or designated sports facility except in areas specifically designated or provided for such use. The prohibitions of this Subsection shall not apply to medical mobility devices or to child strollers or baby carriages.
- C.** Without limiting the applicability of Section 20.12.030 to this or any other activity, no person shall ride or operate a skateboard on any brickwork, cobblestone or ornamental surface, picnic table, tennis court, fountain area, planter, or sculpture located in a Park.
- D.** No person shall operate any motorized vehicle or motorized wheeled vehicle or motorized wheeled device in any Park, except on Park roads or in designated vehicle parking areas, or by permit. The prohibitions of this Section do not apply to authorized service or emergency vehicles or to the following electric mobility devices used by persons who need assistance to be mobile, and used in accordance with all applicable park and traffic rules:

 - 1.** “Electric assisted bicycle” as defined in ORS 801.258;
 - 2.** “Motorized wheelchair,” “Mobility scooter” or “Power chair” defined as an electric powered transportation device for one person in a seated position, with feet resting on floorboards or foot rests, and incapable of exceeding a speed of 20 mph; or
 - 3.** “Human or personal transporter system” defined as a self-balancing, electric-powered transportation device with two wheels, able to turn in place, and designed to transport one person in a standing position, with a top speed of 20 mph.
- E.** No person shall operate an electric mobility device in a park in an unsafe manner or at a speed exceeding 15 mph, or, when pedestrians are present, at a speed exceeding 5 mph, or fail to yield the right-of-way to all pedestrians.

20.12.180 Remote Control Vehicles, Aircraft and Watercraft.

No person shall operate any remote-controlled internal combustion powered vehicle, or any remote-controlled electric or internal combustion powered watercraft or aircraft, in, on or over any Park, except in such places the Director may designate for such use.

20.12.190 Emergency Park Closure.

- A.** In case of an emergency, or in case where life or property are endangered, all persons, if requested to do so by any Park Officer, shall depart from the portion of

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any Park specified by that Park Officer, and shall remain off that Park or that portion of the Park until permission is given to return.

- B.** Notwithstanding Section 20.12.210, whenever it is in the interest of public health or safety to do so, the Commissioner or the Mayor, the Director, or an officer of the Bureau of Police may close any Park, or any part thereof, and may erect or cause to be erected barricades prohibiting access to any such Park, or part thereof, at appropriate locations. Notices that any Park, or part thereof, is closed shall be posted at appropriate locations during the period of such closure, if feasible; however, failure to post such notices shall not invalidate such closure nor shall it invalidate any exclusion for violating this Section.
- C.** No person shall enter any Park or any part thereof that has been closed under this Section, or remain in such Park, or part thereof, after having been notified of the closure and having been requested to leave by the Commissioner, the Mayor, the Director or an officer of the Bureau of Police or Park Officer. A closure under this Section shall not exceed 18 hours without the written approval of the both the Commissioner and the Mayor.
- D.** When a state of emergency is declared under Section 15.04.040 of this Code, the Mayor or other persons authorized by Section 15.08.020 or by subsection B. of this Section may close any park and recreation facility to normal use and may designate that facility for emergency operations, which operations may include providing emergency services to the public, subject to the following conditions:

 - 1.** The scope of use of park facilities during such emergency shall be defined by approved City emergency plans or by the Mayor or Commissioner in Charge.
 - 2.** If emergency services are provided in any Park facility, members of the public may be allowed into the facility, under the control of and subject to restrictions and conditions established by the organization responsible for the emergency operations at that facility.
 - 3.** Costs incurred by Portland Parks and Recreation for emergency operations shall be submitted to the City's Office of Emergency Management for reimbursement. Costs reimbursable under this Section include facility operating costs, costs to repair damage caused by the emergency operations, and the costs to restore the facility to the condition it was in at the commencement of the emergency.
 - 4.** As soon as practicable after the state of emergency is officially terminated, any Park facility closed on account of the emergency or used for emergency operations will re-open for normal use.

20.12.200 Trespassing and Areas Closed to the Public.

- A.** No person, without the consent of the Director or other authorized Park Officer, shall enter any building, enclosure, or place within any Park upon which the words "no admittance," or similar words indicating that entry is prohibited or restricted, are displayed.
- B.** No person shall ride, drive, or walk on such parts or portions of the Parks or pavements as are closed to public travel, nor shall any person interfere with barriers erected in any Park.
- C.** No unauthorized person shall enter any municipal swimming pool, secured stadium or other secured Park facility, or any enclosed area thereof, at any time other than when the facility is regularly open for public use.
- D.** No person shall enter or remain in any municipal swimming pool, nor in any deck area adjacent thereto, nor in any locker room, shower room, changing room or restroom serving a municipal swimming pool, nor within any designated children's play area, nor in any area of a Park within twenty-five (25) feet of any outdoor pool fence line or children's play area, if the person previously has been convicted of any sexual offense under ORS 163.305 to 163.479, or under ORS 163.665 to 163.689, or under the laws of any other jurisdiction that would constitute such an offense if it had been committed in the State of Oregon, if the victim of any such offense was sixteen years of age or younger and was not biologically related to the person. This section shall not apply if the sole basis of the conviction was the lack of consent due solely to the victim's lack of capacity to consent by reason of being less than a specified age, if the victim was not more than three years younger than the person at the time of the offense.
- E.** No person, other than a Park Officer on lawful business, shall enter or remain in or on any Park or Park facility for which an admission or use fee is required, without having paid that admission or use fee.
- F.** No person shall enter or remain in any Park in violation of an exclusion issued under Section 20.12.265.

20.12.210 Hours of Park Closure.

- A.** No person shall be in a Park during hours of park closure. Unless the Director designates otherwise for any Park, "hours of park closure" means any time between the hours of 12:01 a.m. and 5 a.m.
- B.** This Section shall not apply to the following:

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1. Vehicular traffic crossing on a Park roadway;
2. Pedestrians crossing the North or South Park Blocks, Pioneer Courthouse Square, Lownsdale Square, Chapman Square, Pettygrove Park, or Lovejoy Park.
3. Persons playing golf at a municipal golf course when the golf course is open;
4. Persons attending, participating in, going to or coming from an activity either programmed or scheduled by Portland Parks and Recreation or under a permit issued under Chapter 20.08;
5. Persons in parked vehicles at scenic viewpoints along or adjacent to park roads, where designated parking areas are provided, at times when those roads are open to vehicular traffic;
6. Pedestrians crossing a Park area between the two paved portions of one street or boulevard.

20.12.220 Condition of Parole or Probation or Judicial or Other Order.

No person shall be in any Park when that person is required by any term or condition of the person's parole, probation, post-prison supervision, pretrial release agreement or other judicial order, to stay out of the Park. No person shall be in any Park at any time if an exclusion of the person from that Park under Section 20.12.265 is in effect.

20.12.225 Exclusion From McCoy Park.

(Added by Ordinance No. 184073, effective August 18, 2010.) No person shall be in McCoy Park at any time if an exclusion of the person from New Columbia Properties or the Tamarack Apartments under a Housing Authority of Portland Notice of Exclusion is in effect, provided that the Housing Authority of Portland Notice of Exclusion conspicuously informs the person that, under the provisions of this Section, the person may not be in McCoy Park while that exclusion is in effect. For purposes of this Section, "McCoy Park" means the area bounded by the public street right-of-way on the north by N. Fessenden St., on the south by N. Trenton St., on the east by N. Newman Ave. and on the west by N. Fiske Ave. A person excluded from McCoy Park by operation of this Section may, pursuant to Subsection 20.12.265 G. of this Code, apply in writing to the Commissioner for a waiver of some or all of the effects of the exclusion for good cause.

20.12.230 Pioneer Courthouse Square.

- A. In addition to the other provisions of this Chapter, the provisions of this Section apply in Pioneer Courthouse Square. "Pioneer Courthouse Square" means the city

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block bounded on the north by the south curb of Southwest Morrison Street, on the south by the north curb of Southwest Yamhill Street, on the east by the west curb of Southwest Sixth Avenue, and on the west by the east curb of SW Broadway. It specifically includes the entire area of that block and all improvements thereon, including all pedestrian walkways and transportation shelters and facilities.

- B.** No person shall climb, stand, sit or lie upon any of the water troughs, trellises, garbage containers or planters, nor climb, stand or lie upon any bench within Pioneer Courthouse Square.
- C.** No person shall operate any radio or other amplified sound producing device, so as to be audible to another, within Pioneer Courthouse Square, except by permit.
- D.** No person shall throw any ball, disc or other object, use roller skates or skateboards, ride any bicycle or other wheeled device other than a medical mobility device or a child stroller or baby carriage, or roll any shopping cart within Pioneer Courthouse Square.
- E.** No person shall violate any ordinance, rule or regulation duly promulgated by TriMet governing the use of its shelters or other facilities located within Pioneer Courthouse Square.
- F.** The following areas of Pioneer Courthouse Square are designated exclusively for transit use:
 - 1.** The walkway areas under the overhead canopies adjacent to SW Yamhill Street, between the southernmost drip line of any overhead canopy and the south side of the base of the decorative wall; and
 - 2.** The area within the drip lines of the structures commonly known as the mushroom sculptures adjacent to SW Morrison Street.

No person shall remain in those areas except for the purpose of entering into, exiting from or waiting for a light rail train or trolley.

- G.** No person shall smoke in any part of Pioneer Courthouse Square.
- H.** No person shall possess any type of fireworks, whether or not such fireworks are otherwise allowed by law, in Pioneer Courthouse Square, except by permit.
- I.** No person shall possess any graffiti instrument in Pioneer Courthouse Square with the intent that the instrument be used to tamper with, mar or deface property therein, or knowing that another person intends to so use it, or when a reasonable

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person would know that the instrument is likely to be so used. For purposes of this Subsection, “graffiti” means the unauthorized spraying or marking of paint, chalk, dye or any other substance to any building, structure or surface. For purposes of this Subsection, “graffiti instrument” means any can of paint or other marking substance under pressure, which can be used to spray surfaces with the paint or other marking substance, or any ink, chalk, dye or other instrument or article adapted or designed for spraying or marking surfaces.

20.12.240 Rules and Regulations, Directions of Park Officers to be Obeyed.

No person shall violate any rule or regulation established under the authority of Section 20.04.020 or 20.04.050, nor refuse or fail to obey any reasonable direction of a Park Officer. For purposes of this Section, a direction of a Park Officer is reasonable if it directs a person to obey, or to cease a violation of, any law, rule or regulation applicable in the Park, or if it is otherwise reasonably related to protection of the health, welfare or safety of the person or of any other person in the Park or to the prevention of damage to property, or if it is reasonably necessary to preserve the peace or to prevent the disruption of any organized activity or permitted event in the Park. A direction of a Park Officer is not “reasonable” under this Section if it is directed to speech or conduct the right to engage in which is, under the circumstances, protected by the federal or Oregon constitution.

20.12.250 Park Officers not Affected.

Nothing in this Chapter shall prohibit the performance by any Park Officer of any otherwise authorized act or duty.

20.12.265 Park Exclusions.

- A.** In addition to other remedies provided for violation of this Code, or of any of the laws of the State of Oregon, any Park Officer may exclude any person who violates any applicable provision of law in any Park from that Park in accordance with the provisions of this Section. Non-supervisory Park employees, other than Park Rangers, and employees of Golf Course concessionaires shall issue exclusions only at the direction of or with the approval of a supervisor or of the manager of the Park in which the exclusion is to be issued. Nothing in this Section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the state or federal constitutions. However, a person engaged in such protected activity who commits acts that are not protected, but that violate applicable provisions of law, shall be subject to exclusion as provided by this Section.
- B.** For purposes of this Section, "applicable provision of law" includes any applicable provision of this Code, of any City ordinance, or of any rule or regulation promulgated by the Commissioner or the Council under this Title, any applicable criminal or traffic law of the State of Oregon, any law regarding

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controlled substances or alcoholic beverages, any applicable County ordinance or regulation, and any ordinance or regulation adopted by the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) governing any Tri-Met facility in that Park. For purposes of this Section, "applicable" means relating to the person's conduct in the Park.

- C.** An exclusion issued under the provisions of this Section shall be for thirty (30) days. If the person to be excluded has been excluded from any Park at any time within two years before the date of the present exclusion, the exclusion shall be for ninety (90) days. If the person to be excluded has been excluded from one or more Parks on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for 180 days.
- D.** Before issuing an exclusion under this Section, a Park Officer shall first give the person a warning and a reasonable opportunity to desist from the violation. An exclusion shall not be issued if the person promptly complies with the direction and desists from the violation. Notwithstanding the provisions of this Subsection, no warning shall be required if the person is to be excluded for engaging in conduct that:

 - 1.** Is classified as a felony or as a misdemeanor under the following Chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such felony or misdemeanor defined in ORS:

 - a.** Chapter 162 - Offenses Against the State and Public Justice;
 - b.** Chapter 163 - Offenses Against Persons;
 - c.** Chapter 164 - Offenses Against Property, except for ORS 164.805, Offensive Littering;
 - d.** Chapter 165 - Offenses Involving Fraud or Deception;
 - e.** Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering;
 - f.** Chapter 167 - Offenses Against Public Health, Decency and Animals;
 - g.** Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors; or
 - 2.** Otherwise involves a controlled substance or alcoholic beverage; or

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3. Has resulted in injury to any person or damage to any property; or
 4. Constitutes a violation of any of the following provisions of this Code:
 - a. Section 14A.40.030 - Indecent Exposure;
 - b. Section 14A.40.040 - Loitering to Solicit Prostitution;
 - c. Section 14A.40.050 - Unlawful Prostitution Procurement Activities;
 - d. Section 14A.60.010 - Possession of a Loaded Firearm in a Public Place;
 - e. Section 14A.60.020 - Discharge of a Firearm;
 - f. Section 14A.60.030 - Tear Gas and Stun Guns;
 - g. Section 14A.60.040 - Explosives and Bottle Bombs;
 - h. Section 20.12.030 – Unlawful Urination or Defecation, except if the conduct involves only urination on a permeable surface (such as grass, dirt, mulch or other plant materials) in a Park;
 - i. Section 20.12.040 - Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs;
 - j. Section 20.12.050 – Possession of Weapons;
 - k. Section 20.12.170 C - Use of Skateboards; or
 5. Is conduct for which the person previously has been warned or excluded for committing in any Park.
- E.** Written notice shall be given to any person excluded from any Park under this Section. The notice shall specify the date, length and place of the exclusion, shall identify the provision of law the person has violated and shall contain a brief description of the offending conduct. The notice shall inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal. It shall be signed by the issuing party. Warnings of consequences for failure to comply shall be prominently displayed on the notice.
- F.** A person receiving such notice of exclusion may appeal to the Code Hearings Officer in accordance with the provisions of Title 22 of this Code. The Code

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Hearings Officer shall uphold the exclusion if, upon the Code Hearings Officer's de novo review, the preponderance of evidence admissible under the provisions of Title 22 of this Code convinces the Code Hearings Officer that, more likely than not, the person in fact committed the violation, and if the exclusion is otherwise in accordance with law.

- G.** At any time within the period of exclusion, a person receiving such notice of exclusion may apply in writing to the Commissioner for a waiver of some or all of the effects of the exclusion for good reason. If the Commissioner grants a waiver under this Subsection, the Commissioner shall promptly notify the Portland Police Bureau's Records Division and the Parks Director of such action. In exercising discretion under this Subsection, the Commissioner shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be in the Park during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the Commissioner determines to be relevant to the determination of whether or not to grant a waiver. Notwithstanding the granting of a waiver under this Subsection, the exclusion will be included for purposes of calculating the appropriate length of exclusions under 20.12.265 C. The decision of the Commissioner to grant or deny, in whole or in part, a waiver under this Subsection is committed to the sole discretion of the Commissioner, and is not subject to appeal or review.
- H.** If an appeal of the exclusion is timely filed under Section 20.12.265 F., the effectiveness of the exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon the issuance of the Hearings Officer's decision, unless the Hearings Officer specifies a later effective date.
- I.** If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion under 20.12.265 C. If the predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the predicate exclusion had not been issued. If multiple exclusions issued to a single person for a single Park are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.
- J.** No person shall enter or remain in any park at any time during which there is in effect a notice of exclusion issued under this Section excluding that person from that park.

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Chapter 20.20

MUNICIPAL GOLF COURSE RATES

Sections:

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

20.20.010 Playing Rates.

(Replaced by Ordinance No. 173286, effective January 1, 1999.) Green fees shall be charged and collected for the privilege of playing golf at the Eastmoreland, Rose City, Progress Downs and the Greenback and Great Blue courses at Heron lakes. In addition, fees shall be charged and collected for the use of other golf facilities and equipment such as driving ranges and golf carts. The Director of Portland Parks and Recreation or his or her designee shall determine the appropriate rates related to the use of golf courses, their facilities, and equipment. Those rates and charges, as well as other necessary regulations, shall be listed in the "City of Portland Golf Operations Manual."

20.20.020 Collection and Use of Fees.

(Amended by Ordinance No. 139221, effective January 20, 1975.) It shall be the duty of the concessionaire contracted by the City to collect at the municipal golf courses and account for the fees herein provided. It will be the duty of City employees to collect and account for the fees where no such concessionaire contract is provided. All fees and charges received on account of the issuance of the tickets shall be devoted to administrative purposes of the City's golfing facility with the understanding that participants in the games are subject to prescribed rules and regulations, that they assume their own risks, and that no obligation on the part of the City shall obtain other than what may apply to the City in its governmental capacity.

20.20.030 Holders of Life Certificates.

(Amended by Ordinance No. 139221, effective January. 20, 1975.) Any person who has been employed by the Bureau of Parks in connection with the municipal golf courses for a period of 25 years or more, shall be granted a lifetime certificate entitling him to use without charge and at all times any golf facility operated by the City. Such certificates shall be issued by the Bureau of Parks and shall not be transferable.

The holder of a life certificate, however obtained, possesses no playing rights superior or prior to any person playing on a single green fee or otherwise in accordance with the rules of golf courses.

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20.20.040 Delegation of Authority.

(Added by Ordinance No. 141276, effective February 5, 1976.) The privilege of playing under any rate established herein may be suspended or terminated and cancelled immediately without refund by the Commissioner In Charge for any violation of course rules or regulations, or for any conduct which interferes with the proper administration of the golf course or its enjoyment by the public. The Commissioner In Charge is authorized to delegate his authority to the person in charge of each municipal golf course.

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Chapter 20.24

**PORTLAND ZOO ADMISSION
CHARGES**

Sections:

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

20.24.010 Rates Established.

(Amended by Ordinance Nos. 131073, 133949, and 141817; effective May 27, 1976.)
The following charges shall be collected for admission to the Portland Zoo:

A. The Portland Zoological Society, while managing the Portland Zoo during the term of a Zoo management agreement with the City, may provide for free admissions and charge admission fees to the Zoo.

B. The prescribed admission fee for residents of the Metropolitan Service District shall be:

Children under 6 years	Free
Children 6 years and older but less than 12 years	\$.25
Persons 12 years or older but less than 65 years	\$.75
Persons 65 years or older	\$.25

C. The prescribed admission fee for nonresidents of the Metropolitan Service District shall be:

Children under 6 years	Free
Children 6 years and older but less than 12 years	\$.75
Persons 12 years or older but less than 65 years	\$1.50
Persons 65 years or older	\$.75

- D. Supervised groups of children from schools, institutional homes, and nurseries located within the MSD area shall be admitted free with attending the Zoo as part of a regular child education program. Adults entrusted by the school or institution with custody and supervision of every such group also shall be admitted free, but only to the extent of one adult supervisor for each 10 children in the group.

20.24.020 Portland Zoological Society Members.

(Amended by Ordinance No. 132931, effective July 1, 1971.) Members of the Portland Zoological Society paying a membership fee shall have free admission to the Portland Zoo under the following conditions:

- A. The Portland Zoological Society shall pay to the City two children admission fees for each junior membership sold, two adult admission fees for each individual membership sold, and four adult admission fees for each family membership sold. Remittance to the City shall be made monthly by the Society as memberships are sold.
- B. Junior membership shall be limited to children ages 6 through 15, inclusive.
- C. Family membership shall be limited to parents and their minor children.

20.24.030 Group Rates.

Tickets for admission to the Zoo may be purchased in advance at group rates. The rates shall be less than the charges provided in Section 20.24.010 as follows:

Number of Tickets	Reduction
50 to 99	20 percent
100 to 249	25 percent
250 to 399	30 percent
400 or over	35 percent

Tickets purchased under this Section shall not be redeemable. The preparation of the tickets, the procedure under which they may be purchased and the time limit upon their validity shall be prescribed by the Commissioner In Charge of the Bureau of Parks.

20.24.040 Special Events.

The admission fees fixed in this Chapter are waived for special events scheduled by the Zoo operator when a catering fee or service fee is charged which becomes part of the gross annual revenues from concessions and a portion of which is subject to remittance to the City.

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20.24.050 Lifetime Passes.

The Commissioner In Charge of the Portland Zoo shall have authority to grant to donors who contribute supplies, materials, and exhibits of value in excess of \$1,000, a lifetime pass.

20.24.060 Rates Under Zoo Management Agreement.

(Added by Ordinance No. 132931, effective July 1, 1971.) Notwithstanding the rates established by this Chapter, the Portland Zoological Society, while managing the Portland Zoo during the term of a zoo management agreement with the City, may establish different charges to be collected for admission to the Portland Zoo, not to exceed the rates set herein.

Chapter 20.28

**RENTAL CHARGES FOR CIVIC
STADIUM**

Sections:

- 20.28.020 Insurance Coverage.
- 20.28.030 Restriction of Use.
- 20.28.040 Collection of Rentals.

20.28.010 Basic Rental Charges.

(Repealed by Ordinance No. 185569, effective September 28, 2012.)

20.28.020 Insurance Coverage.

Sponsors of events in Portland Civic Stadium shall maintain liability insurance against claims for damage or personal injury, including death, which may arise out of its operations in the stadium or in connection therewith. Such insurance shall afford coverage of not less than \$100,000 for personal injury to each person, \$300,000 for each accident or occurrence, and \$50,000 for property damage; such insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City, its officers, agents, and employees. Evidence of such insurance shall be furnished the Auditor of the City prior to the event and the same shall be kept in full force and effect throughout the full term of Stadium usage, subject to approval of the City Attorney as to sufficiency of coverage.

20.28.030 Restriction of Use.

- A.** Whenever, in the opinion of the Commissioner In Charge of the Civic Stadium or of the Council of the City, any applicant or permittee for the use of the Civic Stadium is likely to or does advocate to any audience in the Stadium the overthrow of the United States government or the government of any state or subdivision thereof by force, and when such Commissioner shall file a report with the City Auditor to that effect, or when the Council shall make a finding to that effect, then the application shall be rejected or the permit of such permittee for the rental of said Stadium is hereby declared to be null and void. All permits for the rental of the Civic Stadium hereafter entered into shall be subject to the provisions of this Chapter, and this Chapter shall be a part of such permit of rental. In case of the annulment of any permit as herein provided, the amount of rental paid thereunder, less any expense actually incurred thereunder by the City, shall be refunded to the permittee.

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- B.** Use of the Civic Stadium shall be deemed a privilege and not a right. Subject to the approval of the Commissioner In Charge, the Manager of the Civic Stadium may reject any application for rental of all or any portion of the Stadium whenever he finds that the particular event or performance may result in extraordinary risk of damage to the Stadium structure, furnishings, or facilities. If the Commissioner In Charge finds that such risk is of a character that special conditions may adequately protect the people of the City and the City itself from liability and loss, whether by penal bond, money deposit, special security measures at the expense of the applicant for rental, or other device, without other events and rentals, then the Commissioner In Charge may impose such special restrictions and requirements as he finds appropriate and adequate for such protection. The conditions of any such deposit or special requirements and the provisions of any such bond, shall be approved as to form by the City Attorney.

20.28.040 Collection of Rentals.

All rental charges and reimbursements for expenses chargeable to sponsors of events shall be due upon billing from the City Auditor.

Chapter 20.30

PORTLAND INDOOR TENNIS CENTER

(Chapter repealed by Ordinance No. 164427,
effective July 10, 1991.)

Chapter 20.32

PITTOCK MANSION

Sections:

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

20.32.010 Admission Charges for Viewing Interior of Mansion.

(Amended by Ordinance Nos. 144250, 147839, 152225, 157277, 157649, 158387 and 161281, effective October 1, 1988.) Fees for admission to Pittock Mansion during its regular viewing hours shall be reviewed by Pittock Mansion Advisory Commission, approved by the Superintendent of Parks and established by rule by the Commissioner In Charge of the Bureau of Parks according to Section 20.04.050.

20.32.020 Charges for Special Uses of the Mansion.

(Repealed by Ordinance No. 158992, effective September 11, 1986.)

20.32.030 Pittock Mansion Society.

(Amended by Ordinance No. 148542, effective October 4, 1979.) Members of the Pittock Mansion Society holding a continuing, annual, or individual membership shall have free admission to the Pittock Mansion. Free Admission to such memberships shall include the member and his family. For each continuing, annual, or individual membership, the Pittock Mansion Society shall pay to the City the following amounts:

- A. Continuing and annual memberships \$3
- B. Individual memberships
 - 1. Husband and wife - \$2
 - 2. Adult - \$1
 - 3. Student - \$.50

Remittance to the City shall be made annually by the Society as memberships are old.

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20.32.040 Photography at Pittock Mansion.

(Repealed by Ordinance No. 165019, effective January 29, 1992.)

20.32.050 Fees for Commercial Photography.

(Added by Ordinance No. 135182; amended by Ordinance No. 147839, 151528 and 160657, effective April 14, 1988.)

- A.** All activity of commercial photographers shall be subject to supervision by the Pittock Mansion staff. The Director of the Pittock Mansion shall designate a staff member to supervise all interior photography. The Director may designate a staff member to supervise exterior photography where deemed necessary.
- B.** Fees for photographer location work done within Pittock Acres Park shall be proposed by the Director of Pittock Mansion and approved by the Superintendent of Parks or designated representative.
- C.** Special fees may be charged for commercial photographic work intended for national dissemination, including television productions and motion pictures, or which involves extraordinary circumstances. Such fees shall be negotiated with the Director of Pittock Mansion and approved by the Superintendent of Parks or designated representative.
- D.** Photographic use requiring major staff time, extraordinary circumstances or inordinate demand on the facilities may be referred to the Advisory Commission for their recommendation.
- E.** At the discretion of the Director of Pittock Mansion, fees may be waived for representatives or students of educational institutions, the news media, and projects of State, county or municipal governments.

Chapter 20.36

PORTLAND INTERNATIONAL
RACEWAY WEST DELTA PARK

(Chapter replaced by Ordinance No. 135855;
effective January 11, 1973.)

Sections:

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

20.36.010 Authority to Issue Permits.

(Amended by Ordinance No. 165019, effective January 29, 1992.) The Superintendent of Parks or his or her authorized representatives shall have the authority to allow motor vehicle and motorcycle racing, testing, demonstration, exhibition, or driving training at West Delta Park, hereafter referred to as PIR, and to grant exclusive use of all or part of the park roadways and other facilities in West Delta Park for such events in the park by issuing permits, or by assessing fees as described in Section 20.36.040 or for such other events and uses as the facilities can accommodate.

20.36.020 Conditions of Permits.

The permits issued under the authority granted under Section 20.36.010 hereinabove shall be conditioned by rules and regulations of the Bureau of Parks governing use of PIR, and shall include provisions designating the event which may be staged, the courses and areas to be used and the limit, if any, on the number of vehicles or persons that may participate in the permitted event. The permit shall provide that the Superintendent or his authorized representatives have authority to immediately terminate operations under the permit if permittee fails to comply with orders and regulations of the Superintendent or his authorized representatives or the conditions of the permit. The permit shall require that the permittee lock up and secure the racing facility after each event. The Superintendent or his authorized representatives may require a bond or cash deposit to insure compliance with the conditions of the permit. The permittee shall be required to indemnify and save the City, its officers, agents, and employees harmless from claims for damage to persons or property resulting from the use of PIR under the permit.

The Superintendent or his authorized representatives may, depending upon the nature of the event, require the permittee to furnish evidence of liability insurance covering his operations under the permit, which insurance shall provide coverage of not less than \$100,000 for personal injury for each person, \$300,000 for personal injury for each event,

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and \$50,000 property damage. The City, its officers, agents, and employees shall be named as additional insureds. Such evidence of insurance shall be in form satisfactory to the City Attorney.

20.36.030 Fees.

(Amended by Ordinance Nos. 141335, 145146, 148765, 150854, 152673, 156919, 159303, 161474 and 165019, effective January 29, 1992.) The Superintendent of Parks is authorized to establish, maintain and modify a schedule of fees for the events and uses the Superintendent allows under Section 20.36.010 of this Code. It shall be unlawful for any person to use the facilities described in Section 20.36.010 without first paying the fee established by the Superintendent for that use or event.

20.36.040 Additional Charges (No Permit Will Be Issued.)

(Amended by Ordinance Nos. 139567, 145146, 150854, 152673, 156919, 159303 and 161474 effective January 1, 1989.)

- A.** Testing of cars on the road course, on the days set aside by the Superintendent will be \$100 per car, per day. Testing of cars on the on the drag strip on the days set aside by the Superintendent will be \$75 per car per day. Private testing on nonscheduled test days will be \$650 per day for up to two cars and an additional charge of \$150 per car for each vehicle over two. For C.A.R.T. Indy car teams and I.M.S.A. GTP teams that require private testing, the charge will be \$1200/per day for up to two cars and \$200 per car for each vehicle over two.
- B.** Recreational riding in the motorcycle area on days set aside by the Superintendent will be \$5 per rider per day, persons under 12 years of age will be free.
- C.** For miscellaneous events, not listed above, the Superintendent will set the rental rate according to the size and description of the event and considering the facilities to be provided which shall return to the City at least minimum operational costs.
- D.** Users of the raceway or other facilities who require use of the raceway lights will be charged at the rate of \$65 per day in addition to any other charges or permit fees.
- E.** The Superintendent or his/her authorized representatives is authorized to sell advertising space within the raceway, hereby waiving Section 20.12.030 of the City Code. The rates will vary depending on the size of the sign, the location of the sign, and the length of the agreement, with charges subject to approval by the Commissioner In Charge.
- F.** A \$200 surcharge will be made to any user who violates established raceway noise regulations.

Chapter 20.38

MULTNOMAH CENTER

(Chapter added by Ordinance No. 152710;
effective January 13, 1982.)

Sections:

- 20.38.010 Term Leases and Facilities Use Permits.
- 20.38.020 Authority to Issue Permits for Short Term Use.
- 20.38.030 Rules and Regulations.
- 20.38.040 Conditions of Permits.
- 20.38.050 Charge for Use of Facilities.
- 20.38.060 Waiver of Charges.
- 20.38.070 Policies on Use.
- 20.38.080 Priority for Users.

20.38.010 Term Leases or Facilities Use Permits.

The City Council may authorize leases or facilities use permits with non-profit organizations for rental of space in the Center for a period not to exceed 5 years.

20.38.020 Authority to Issue Permits for Short Term Use.

(Amended by Ordinance No. 153957, effective December 6, 1982.) The Superintendent of Parks or an authorized representative shall have authority to issue permits to non-profit and commercial organizations for short term use of facilities which have not been rented on a long term basis by lease or permit. The purpose of the commercial organizations must be compatible with the community services provided by the Multnomah Center. Issuance of such permits shall be in accordance with the provisions of this Chapter.

20.38.030 Rules and Regulations.

The Superintendent of Parks, subject to approval of the Commissioner In Charge, may adopt rules and regulations relating to use of the Center which shall not be inconsistent with the provisions of this Chapter. Such rules and regulations shall not conflict with the provisions of any pre-existing lease or permit.

20.38.040 Conditions of Permits.

The permits issued under the authority granted under Section 20.38.020 shall be conditioned by rules and regulations of the Bureau of Parks governing use of the Center, and shall include provisions designating the nature of the use and the areas or facilities to be used. The permit shall provide that the Superintendent or his authorized

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representatives have the authority to immediately terminate the use under the permit if permittee fails to comply with the rules and regulations or the conditions of the permit. The permittee shall be required to indemnify and save the City, its officers, agents, and employees harmless from claims for damages to persons or property resulting from the use of the Center under the permit.

The Superintendent or his authorized representative may, depending on the nature of the use, require the permittee to furnish evidence of liability insurance covering the use under the permit, which insurance shall provide coverage of not less than \$100,000 for personal injury for each person, \$300,000 for personal injury for each occurrence and \$300,000 property damage for each occurrence. The City, its officers, agents, and employees shall be named as additional insureds. Such evidence of insurance shall be in form satisfactory to the City Attorney.

20.38.050 Charge for Use of Facilities.

(Amended by Ordinance Nos. 153957 and 159171, effective December 15, 1986.) Charges will be made for the use of the following Multnomah facilities by permit issued pursuant to Section 20.38.020: class rooms, conference rooms, kitchenette, gym, auditorium, and kitchen. There will be a minimum charge, a refundable cleaning deposit, a kitchen cleanup deposit, and a liquor deposit. There will be additional staff charges for use of the facility at times other than regular hours of the Multnomah Center operation. Various set-up and take-down charges will be applied if existing table and seating arrangements are altered. Specific charges and fee rules and regulations will be determined and adjusted periodically by the Superintendent of Parks or an authorized representative.

20.38.060 Waiver of Charges.

The Superintendent of Parks or his authorized representatives may waive the charges specified in Section 20.38.050 for use of multi-purpose rooms by community groups which provide information to the community relating to the community's health, education, or welfare. Such groups shall not charge members of the public to attend any such function and such function shall be open to the public. Groups eligible for fee waiver shall not be commercial, partisan, political, or religious groups and shall not use the Center to advocate for or against any candidate for public office, or for or against any measure or proposition to be voted upon by the voters.

20.38.070 Policies on Use.

(Amended by Ordinance No. 153957, effective December 6, 1982.) The proposed use must be in accordance with the provisions of the City Code and Ordinances and the rules and regulations relating to use of the Multnomah Center established pursuant to this Chapter. Events which involve political, religious, or income generating activities must be approved by the Commissioner In Charge of the Bureau of Parks.

Organizations using Multnomah Center facilities by permit issued pursuant to Section 20.38.020 shall be allowed to serve alcoholic beverages within the Center with the following restrictions:

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- A. Alcoholic beverages served by a licensed and insured caterer; or
- B. The renting organization must obtain the appropriate OLCC license and provide the Multnomah Center with a certificate of comprehensive general liability insurance for \$300,000 naming as insured the City of Portland, its officers, agents, and employees, and sign a “Hold Harmless” agreement with the City of Portland for any liability; and
- C. All supplies and materials or other property brought on the premises will be the sole responsibility of the user.

20.38.080 Priority for Users.

(Repealed by Ordinance No. 159171, effective December 15, 1986.)

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Chapter 20.40

**STREET TREE AND OTHER PUBLIC
TREE REGULATIONS**

(Chapter replaced by Ordinance No. 159490,
effective March 12, 1987.)

Sections:

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

20.40.010 Purpose.

The purpose of this Chapter is the managing, conserving and enhancing the existing trees located in the parks and public areas owned by the City of Portland and in public rights-of-way, and thereby enhancing the appearance of the City and protecting an important environmental and economic resource for the benefit of the City's residents and visitors, and for the purpose of assisting property owners and public agencies to improve and maintain trees in a manner consistent with adopted City polices.

20.40.020 Definitions.

As used in this Chapter, the singular includes the plural and vice versa.

- A. Arboriculture** refers to that part of horticulture which deals with the study and care of trees and other woody plants.
- B. City** means the City of Portland.
- C. Commission** means the Urban Forestry Commission.
- D. Engineer** means the City Engineer.
- E. Forester** means the City Forester.
- F. Person** includes any individual, firm, association, corporation, agency, or organization of any kind.
- G. Plan** means the Tree Planting and Maintenance Plan for streets, parks and public areas, also known as the Urban Forestry Plan.
- H. Pruning** refers to cutting or removing any part of the branching structure of a plant in either the crown, trunk or root areas.
- I. Public area** means City-owned lands not located in the park or street right-of-way.
- J. Removal** refers to the cutting or removing of 50 percent or more of the crown, trunk or root system of a plant, resulting in the loss of aesthetic or physiological viability.
- K. Street** shall have the meaning set forth in Section 9-101 of the City Charter.
- L. Superintendent** means the Superintendent of Parks and Recreation.

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- M.** **Tree** shall include only those trees which are located on public property or those which are assigned to the jurisdiction of the Forester by other City policies, procedures and Code provisions.
- N.** **Urban Forestry** has as its objective the cultivation and management of trees and related plants for their present and potential contribution to the physiological, sociological and economic well being of urban society. Inherent in this function is a comprehensive program designed to educate the urban populace on the role of trees and related plants in the urban environment. In its broadest sense, urban forestry is one essential component of a multi-managerial system that includes watersheds within the City, wildlife habitats, outdoor recreation opportunities, landscape design, recycling of municipal vegetative wastes and tree care in general.
- O.** **Utility** means public utilities, businesses or organizations in the business of supplying electrical energy, gas, heat or steam, water, communications, or other services through or associated with telephone or telegraph, sewage disposal and treatment, and other operations for public service, but does not include transportation service, railroad operations, or service otherwise licensed under City Code.

20.40.030 Urban Forestry Commission.

(Amended by Ordinance No. 171655, effective November 7, 1997.)

- A.** The Urban Forestry Commission is hereby created. It shall consist of eleven members who have demonstrated an interest in the preservation of trees and the beautification of Portland, appointed by the Mayor in consultation with the Commissioner of Parks and Recreation and confirmed by the City Council. Members shall serve without compensation for terms of 4 years and may be reappointed. At least three members shall have experience and expertise in arboriculture, landscape architecture or urban forestry. One member shall be a member of the Board of Trustees of the Hoyt Arboretum. The remaining seven members, insofar as possible, shall represent diverse regions or interests of the community. Two of the three members initially appointed with experience or expertise in arboriculture or urban forestry shall initially serve a term of two years. Two of the members appointed from geographically diverse regions of the City shall initially serve a term of two years. The City Forester and the Commissioner of Parks and Recreation or the Commissioner's designee, and the City Engineer or the City Engineer's designee shall serve as ex-officio members of the Commission.
- B.** The Urban Forestry Commission shall elect its own chair and adopt such rules of procedure as it deems necessary to the conduct of its duties.

- C. The Commission shall meet at least monthly and may meet more often.
- D. The Commission shall:
 - 1. Provide assistance in the development of the Urban Forestry Master Plan, submit the same to the City Council for approval, and review and update such plan periodically.
 - 2. Advise the Forester, Superintendent and Bureau of Parks and Recreation Budget Advisory Committee on the preparation and contents of the Annual Forestry Unit budget request.
 - 3. Review plans and policies developed pursuant to other City Code provisions which contain elements or which affect matters related to Urban Forestry and arboricultural concerns in the City and other matters brought forward by the Forester and others.
 - 4. Prepare and submit to the Commissioner of Parks and Recreation an annual report which shall contain a section or sections specifically dealing with the relations with and concerns of the various City bureaus.

20.40.035 Technical Assistance.

- A. The Forester shall assist the Forestry Commission in the discharge of its duties.
- B. When requested by the Urban Forestry Commission and Commissioner In Charge, the City may retain the services of a professional review panel of not more than three members, either foresters, arboriculturists, landscape architects or some combination thereof to advise the Commission on the efficiency of proposed actions and planting schemes. At least one member of this panel should be very familiar with Portland. The Forester shall present a list of qualified names to the Forestry Commission for its review and selection. No member of the professional review panel shall serve if he/she has a conflict of interest.

20.40.040 Urban Forestry Master Plan.

- A. The Urban Forestry Commission shall develop and establish a Comprehensive Urban Forestry Plan for the planting, maintenance and replacement of trees in parks, along streets or in other public areas. When a portion of such plan has been developed and established, it shall be submitted to the City Council for adoption prior to implementation. The Forester shall seek the advice of any bureau which will be affected by the plan.

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- B.** The Forester shall maintain a list of approved varieties of trees that may be planted on any street or in any park or public area, consistent with the provisions of the plan.
- C.** All tree planting, maintenance and removal shall comply with and conform to the Plan or such portions thereof as shall have been adopted at the time of the planting, maintenance or removal.

20.40.045 Superintendent.

The Superintendent shall have the following responsibilities relating to the Urban Forestry Commission:

- A.** Preserve and enhance the Urban Forest.
- B.** Develop and maintain the Urban Forestry Master Plan.
- C.** Carry out the other responsibilities applicable to the Urban Forestry Commission.
- D.** The Superintendent will meet with the Urban Forestry Commission upon their written request.
- E.** The Superintendent shall administer and monitor the implementation of the Master Plan.
- F.** Upon 15 calendar days' written notice from the City Engineer of impending, non-emergency road or sewer maintenance activities, the Superintendent shall implement and carry out the abatement procedures in Section 20.40.270 as necessary to provide tree branch clearances over the street as set forth in Title 17.

20.40.050 City Forester.

There shall be a City Forester position within the Bureau of Parks and Recreation. The position shall be filled by a qualified arborist. The duties of the City Forester are:

- A.** To manage the Forestry Division.
- B.** To assist the Superintendent of Parks and Recreation in responsibilities specified in 20.40.045.
- C.** To provide administrative staff services to the Urban Forestry Commission.
- D.** To develop and periodically update specifications for planting, pruning, removing and maintaining trees in accordance with proper arboricultural practices.

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- E.** To prepare and submit the annual budget request for the operation of the Forestry Division.
- F.** To provide all supervision of tree maintenance services including cutting, pruning, spraying, planting and tree removal required by or performed by the City bureaus, subject to the annual budget provided for by the City Council for such services and subject to City bureaus' contracting to have such services provided by private contractors as may be engaged by City bureaus pursuant to the City's normal contracting procedures through the City's Bureau of Purchases and Stores.
- G.** To prepare a monthly report on Urban Forestry activities for Commission review.
- H.** To carry out the other duties specified in this Chapter.

20.40.070 Planting of Trees.

(Amended by Ordinance Nos. 163739, 173534 and 176955, effective October 9, 2002.)

- A.** The Forester may plant or cause trees to be planted in the streets, parks and other property of the City. In addition to using his/her own personnel, he/she may hire independent contractors consistent with City Code provisions.
- B.** The owner of any property upon which there is new residential or commercial construction or improvements to existing development, which exceed \$25,000 in value, as determined by the Bureau of Development Services, shall be required to plant street trees, in accordance with the requirements of this Chapter. The Forester may waive any or all of the requirements of this Subsection if, in the Forester's judgment, compliance is not practicable. The Forester may impose conditions at the Forester's discretion upon such waiver, including, without limitation, requiring the planting of trees on the owner's private property.
- C.** It shall be unlawful for any person to plant or set out any tree or authorize or cause or procure any person to set out any tree in or upon any part of any street, park or public area without first obtaining from the Forester a written permit to do so and complying in all respects with the conditions set forth in such written permit and with the provisions of this Chapter. Such permit shall be receipted for in writing. All applications for such permit shall describe the work to be done and the variety, size and precise location of each tree to be planted. If the Forester has found that the proposed planting is in accord with the Plan or that trees proposed to be planted have a reasonable likelihood of prospering and such permit specifies the location, variety and grade of each tree and method of planting, including among other things the supplying of suitable soil, then he/she may grant a permit. The permit shall be valid only during the period of time stated in the permit.

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- D.** Any owner of property whose construction or improvements necessitate street tree planting under Subsection 20.40.070 B. shall obtain from the Forester a permit for such planting as provided in Subsection 20.40.070 C. The Bureau of Development Services shall have authority to enforce the requirements of this Subsection 20.40.070 B., and shall not issue any approval of final inspection until this planting required by the Forester under that Section has been accomplished. Whenever tree planting is required for any land division under Section 20.40.110, the Bureau of Development Services shall have the authority to issue and enforce, through its own permitting and enforcement processes, permits required by this Section. When issuing and enforcing such permits, the Bureau of Development Services shall require that plantings conform to the tree species and layout plan designated by the Forester at the time of, and required by, the land division.
- E.** Every person planting any tree under this Chapter shall conform to the City's Tree Standards as established by the Forester,
- F.** The Council may establish, by ordinance, inspection fees as part of the tree permit process.
- G.** All trees required by this Section must be planted prior to the issuance of a certificate of occupancy. If the applicant files security with the City, which ensures that the trees will be installed, the trees may be deferred during the summer months and planted during the dormant period, in the discretion of the Forester. Any security filed under this Subsection must comply with the regulations for performance guarantees established in Title 33.
- H.** The Forester may require any property owner subject to this Section to identify street trees on the property deed, and to note on such deed that the trees are subject to the regulations of this Chapter.
- I.** The Forester shall submit for review all tentative planting proposals in streets to the City Engineer for the purpose of protecting existing utilities and sewer branches. The City Engineer shall issue an appropriate permit for planting, barring any conflict with any known facility.

20.40.080 Maintenance of Trees.

- A.** The Forester may prune, control insects and disease and maintain or cause to be pruned, sprayed and maintained, all of the trees in the streets, parks and other public areas and those other trees on private property which the Forester determines it is in the public interest to maintain to control infestations of insects or disease or to maintain public safety.

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- B.** It is the duty of every owner of property adjacent to which or in front of which any tree is standing on any street and of every owner of property upon which any tree is standing which projects into the street to maintain and prune such tree using proper arboricultural procedures, according to the requirements for tree branch clearance over street and sidewalk areas and signs as set forth in Titles 16 and 17 of the Code of the City of Portland. The Forester shall give, with each permit printed, standards for proper arboricultural procedures.
- C.** Every property owner shall be liable to any person who is injured or otherwise suffers damage by reason of the property owner's failure to maintain or prune trees as required by Titles 16, 17 and 20 of the Code of the City of Portland. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by Titles 16, 17, 20 and 33 of the Code of the City of Portland.
- D.** Whenever the owner or owners, lessees, occupants or persons in charge of private grounds shall neglect or refuse to prune any tree as provided in this Section, the Forester may prune or treat or cause to be pruned or treated such tree. The person remedying the condition shall be authorized to enter the premises for that purpose.
- E.** Pruning for or by a utility. Upon obtaining a written permit from the Forester, a utility maintaining its utility system in a street may prune or cause to be pruned, using proper arboricultural practices in accordance with said permit, any tree located in or overhanging the street which interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system; but no tree shall be pruned without the consent of the abutting owner until the utility shall have given a written or printed notice to the owner or occupant of the premises. The owner or occupant has one month after receipt of notice to have said trees pruned by a qualified line clearance contractor, at the owner's or occupant's expense, and in accordance with the terms of the permit. If the owner or occupant fails, neglects or refuses to have such tree pruned as required by the notice and permit, the utility may prune or cause to be pruned, the tree at its expense in accordance with the conditions of the permit. The Forester, at his/her discretion, may waive the notification and single tree permit process if the utility adequately demonstrates the ability to meet the performance requirements of this Section and to apply consistently proper arboricultural practices to the pruning of trees.
- F.** Nothing in this Chapter shall be deemed to impose any liability upon any member of the City Council or the City, or any of its officers or employees nor to relieve the owner of any private property from the duty to prune trees in accordance with Titles 16, 17 and 20 of the Code of the City of Portland.

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- G.** The City may accept gifts which are specifically designated for the purpose of planting or maintaining trees within said City.

20.40.090 Removal of Trees.

- A.** Diseased trees. When any tree located on a street or on private property is diseased or infested with insects or is, in the opinion of the Forester, infectious and may spread such disease or insects to other trees in the City, the Forester may summarily abate or remove or treat the tree or cause same to be removed or treated at the property owner's expense.
- B.** Regulations regarding root interference with sewers and damage to curbs and sidewalks are set forth in Title 17, Public Improvements, of the Code of the City of Portland.
- C.** The Forester may abate or remove or cause to be abated or removed any tree located in the street area or which encroaches from private property into the street area because of age, disease or other debilitating cause, death, insecure root system or any other condition which, in the opinion of the Forester, causes its continued existence to be detrimental to the public interest. The Forester may require that the removed tree be replaced with a new tree at the expense of the property owner.
- D.** It shall be unlawful for any person, without a prior written permit from the Forester, to remove, destroy, cut, break, or injure any tree, or to remove, except as provided in this Chapter, any tree that is planted or growing in or upon any street, park or public area or cause or authorize or procure any person to do so; or injure, misuse or remove any device set for the protection of any tree in or upon any street.
- E.** The approval of a tree removal by the Forester may be conditioned on replacement with a new tree of approved variety if the Forester finds the replacement necessary to maintain an ornamental tree system on the street, block or portion thereof.
If approval by the Forester is so conditioned the tree removal permit shall contain such condition. Cost of replacement is the responsibility of the property owner. If the tree is not replaced in a timely manner, the Forester may plant or cause to be planted the approved tree or trees and assess the costs to the permittee and/or the property owner responsible for maintaining the tree under Section 20.40.080 of the Code of the City of Portland.

20.40.100 Permit Requirements and Conditions.

- A.** Any person desiring for any purpose to plant, remove, destroy, cut, prune or treat any tree in or upon any street, shall make application to the Forester on forms furnished by the City. Such application must state the number and kind of tree to be planted, removed, pruned or treated, the name of permittee and/or contractor, and the time by which the proposed work is to be done and such other information as may be required by the Forester. Any work done under such written permit must be performed in strict accordance with the terms and provisions of this Chapter. In issuing or denying a permit, the Forester shall apply all the standards as set forth in this Chapter and the objectives of the Street Tree Plan.
- B.** If the Forester refuses to issue any permit as required by this Chapter, he/she shall at once so notify the applicant, who may appeal to the Commission in writing within 10 days thereafter. The Commission shall proceed to hear and determine the appeal, calling upon the Forester to give his/her reasons. If a permit is again denied, the applicant may appeal to the City Council.
- C.** In case of emergency caused by a tree being in a hazardous and dangerous condition, such tree may be removed by permission of any member of the Police or Fire Department. In the course of performing unexpected or emergency road or sewer maintenance activities, representatives of the City Engineer and/or City Traffic Engineer may trim and/or prune a tree as required for the performance of the immediate work.

20.40.105 Major Improvements.

When the City Engineer undertakes to plan or design major capital improvements to the road system, the Urban Forestry Commission shall be consulted through the Superintendent. The purpose of these consultations shall be to ensure that the beautification policies of the Arterial Streets Classification Policy are implemented to the maximum extent feasible.

20.40.110 New Land Division.

(Amended by Ordinance No. 173534, effective July 31, 1999.) The Forester shall require the planting of street trees within the planting strips of any new land division in conformity with the Urban Forestry Master Plan. All such planting shall be done in accordance with the planting specifications governing the planting of trees in planting strips as provided by the Forester.

20.40.120 Protection.

- A.** It shall be unlawful for any person to attach or keep attached to any tree in or upon any public street, or to the guard or stake intended for the protection of such

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tree, any ropes, wires, chains or other device whatsoever, except that the same may be attached to any tree as support or protection thereof.

- B.** During the erection, repair, alteration or removal of any building or structure, it shall be unlawful for any tree to be injured or for any person in charge of such erection, repair, alteration or removal to leave any tree in or upon any street in the vicinity of such building or structure without a good and sufficient guard or protector as shall prevent injury to such tree arising out of or by reason of such erection, repair, alteration or removal.

20.40.130 New Streets.

(Amended by Ordinance No. 182671, effective May 15, 2009.) Any proposed change in width in a public street right-of-way or any proposed street improvement shall, where feasible, include allowances for tree and landscape planting. Plans and specifications for planting such areas shall be integrated into the general plan of improvements and it shall be the duty of the City Engineer to coordinate the design of such improvements with the Forester and Bureau of Planning and Sustainability prior to completion of final overall plans.

20.40.140 Liabilities and Responsibility for Costs.

Nothing in this Chapter shall be deemed to impose any liability upon any member of City Council or the City or any of its officers or employees nor to relieve the owner or occupant of any private property from the duty to keep his/her private property, sidewalks, planting strip and trees in front of such private property in a safe condition so as not to be hazardous to public travel nor to relieve said property owner of the obligation to pay the cost of planting, removal and replanting of street trees in the planting strip adjacent to the property of said property owner or to relieve said property owner of liability to persons injured or otherwise damaged by reason of the property owner's failure to keep his/her private property, sidewalks, planting strips and trees fronting such private property in a safe condition so as not to be hazardous to public travel, as required by Titles 16, 17 and 20 of the Code of the City of Portland. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by Title 16, 17, 20 and 33 of the Code of the City of Portland.

20.40.150 Heritage Trees.

(Replaced by Ordinance No. 165530; amended by Ordinance No. 166542, effective May 19, 1993.)

- A.** The Forester shall prepare or cause to be prepared as soon as possible after passage of this Section and annually thereafter, a list of trees within the City which, because of their age, size, type, historical association or horticultural value, are of special importance to the City. Upon recommendation of the Urban

Forestry Commission, the Council may designate such a tree a “Heritage Tree”, provided that the tree’s health aerial space and open ground area for the root system have been certified as sufficient by a qualified arboriculturist. No tree standing on private property shall be designated a “Heritage Tree” without the consent of the property owner; however, the consent of a property owner shall bind all successors, heirs and assigns. Upon unanimous recommendation of the Urban Forestry Commission, the Council may remove the designation of any tree as a Heritage tree if it finds that such designation no longer is appropriate.

- B.** When a tree is designated as a Heritage Tree, a plaque so signifying may be placed near the tree. The Forester shall maintain all Heritage Trees located on City property or on public rights of way within the City. Subject to the requirements and limitations of subsections C and D of this section, it shall be the duty of every owner of property upon which a Heritage Tree is standing to maintain that tree. The Forester may give advice and assistance to property owners regarding proper maintenance of Heritage Trees. If, in the judgment of the Forester, a Heritage Tree, whether standing on public or private property, has become a hazard, the Forester shall have the authority to effect its removal, subject to the requirements of Subsection D of this Section.
- C.** It shall be unlawful for any person, without a prior written permit from the Forester, to remove, destroy, cut, prune, break, or injure any Heritage Tree, to injure, misuse or remove any device set for the protection of any Heritage Tree, or to cause or authorize or procure any person to do so. The Forester shall report to the Urban Forestry Commission all such permits issued.
- D.** No Heritage Tree shall be removed without the consent of the Urban Forestry Commission after a public hearing.

20.40.160 Disposition of Wood from Trees.

All wood removed from trees located in either public rights-of-way or public areas shall be disposed of at the discretion of the Forester who has complete authority for the disposal of said wood and debris. In the event that the wood is given to the adjoining property owner, the property owner shall sign an agreement holding the City harmless. If the Forester determines that the cost of storage or sale of the wood is not commercially feasible, he/she may cause such surplus wood to be donated to such groups or organizations as may be designated from time to time by the Superintendent of Parks. It shall be unlawful to possess or dispose of any wood from any tree that has been cut or pruned in violation of the provisions of this Chapter. Publicly financed and privately financed street improvements under permit from the City Engineer are excluded from this Section.

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20.40.170 Nuisances - Abatement Procedure.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A. Any condition of any tree upon, abutting or fronting private property which is in violation of any of the provisions of this Chapter or any other applicable Chapter of the City Code, is hereby declared to be a nuisance. Except for those conditions which this Chapter authorized the Forester to summarily abate, whenever the Forester has knowledge that such nuisance exists, he/she shall post upon the property liable for the abatement of the nuisance a notice directing the removal of the nuisance. The notice shall be substantially in the following form:

NUISANCE ABATEMENT

Notice To Abate Nuisance

To the owner, agent of owner and occupant of the following described real property:

in the City of Portland, Oregon.

You are hereby notified to remove and abate the nuisance existing on the above-described property within 15 days of the date of this notice, or show the Bureau of Parks and Recreation of the City of Portland that no nuisance exists as provided in Section 20.40.180 of the Code of the City of Portland. The nuisance consists of:

In the case of failure to remove the nuisance within the time set forth above, the City of Portland will cause the nuisance to be abated and charge the cost of abatement, Auditor's fee, County Recorder's fee, plus any overhead costs incurred and a civil penalty in the amount of \$300 against the property described above. The owner of the above-described property shall be personally liable for the costs of abatement, Auditor's fee, County Recorder's fee plus any overhead and civil penalties.

Before planting, removing, destroying, cutting, pruning or treating any tree in or upon any street, you must obtain a permit from the City Forester.

Date: _____

City Forester for the Director of Parks

- B.** When summary abatement is authorized, notice to the owner, agent or occupant of the property prior to abatement is not required. Following summary abatement, the Bureau of Parks and Recreation shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance.
- C.** “Summary abatement” as used in this Chapter means abatement of the nuisance by the City, or a contractor employed by the City, by removal, repair or other acts necessary to abate the nuisance and without notice to the owner, agent or occupant of the property except for the notice required by this Section.
- D.** Upon posting of the notice described in Subsections A and B of this Section, the Director or the Forester as his/her designee shall cause a copy of the notice so posted to be mailed with the postage prepaid to the owner or agent of the owner or real property, directed to his/her last known address or, if that address is unknown, to the owner or agent at the address of the property.
An error in the name of the owner or agent or the use of a name other than that of the true owner or agent of the property shall not render the notice void, but in such case, the posted notice shall be deemed sufficient.

20.40.180 Abatement by Owner, Administrative Review, Appeal to the Code Hearings Officer.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A.** Within 15 days after the posting and mailing of a notice to remove the nuisance, the owner, agent of the owner or occupant of the affected property shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing may be made by filing a written statement that no nuisance exists, with the City Forester. Upon receipt of the statement, the City Forester shall schedule the matter for administrative review as set out in 20.40.185 of this Title. Notice of the time and place of administrative review shall be given to the person filing the statement not less than 5 days prior to the time set for the review.
- B.** Any person aggrieved by the determination of the administrative review may appeal such determination to the Code Hearings Officer as set out in Chapter 22.10 of this Code.

20.40.185 Administrative Review.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A.** Upon the request of the person filing the statement described in Section 20.40.180 of this Code, or, if a nuisance has already been abated by the City, upon referral from the Auditor, pursuant to Section 20.40.195, the Forester shall review his/her actions and decisions concerning the alleged nuisance.

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- B.** The owner, agent of the owner or occupant of the subject property shall be given the opportunity to present evidence to the Forester in the course of said review.
- C.** In those instances where the nuisance has been abated by the City, the City Forester shall have discretion to waive the cost of abating a nuisance, in whole or in part, if, in the course of its review of its decision, the Bureau finds that any of the following did not conform to the provisions of this Code:
 - 1.** The notice to remove the nuisance;
 - 2.** The work performed in abating the nuisance;
 - 3.** The computation of charges.

20.40.190 Abatement by the City.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A.** If within the time fixed in this Chapter, the nuisance described in the notice has not been abated, or cause shown as specified in Section 20.40.180 why such nuisance should not be removed or abated, or where summary abatement is authorized, the City Forester may cause the nuisance to be removed and abated.
- B.** Except as set forth in Section 20.40.205 whenever a nuisance is abated by the City, the City Forester shall keep an accurate account of all expenses incurred, including cost of abatement, Auditor's fees, County Recorder's charges and a civil penalty of \$300 for each nuisance abated.
- C.** When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property owned by the same person, an additional civil penalty of 50 percent (minimum of \$50) of the cost of abatement shall be added to the costs, charges and civil penalties provided for in Subsection B of this Section. The civil penalty shall be imposed without regard to whether the nuisances abated by the City involve the same real property or are of the same character.
- D.** The City Forester shall, after completing the removal and abatement, file a statement of costs with the Auditor.

20.40.195 Notice of Assessment.

(Replaced by Ordinance No. 178215, effective February 25, 2004.)

- A. Whenever a nuisance is abated by the City, the City Forester shall keep an accurate account of all expenses incurred, including a civil penalty of \$300.00 plus overhead charges of contractor's costs and County Recorder's fees for each nuisance abated.
- B. When a property meets the conditions for costs or penalties as described in this section, the Bureau of Parks and Recreation shall file a statement of such costs or penalties with the Auditor. Upon receipt of the statement, the Auditor shall mail a notice to the property owner, stating the City's intent to assess the property in question the amount due plus charges to cover the administrative costs of the City Auditor. In the event the amount due set forth in the notice is not paid in full within 30 days of the date of the notice, the Auditor shall enter that amount or the amount of the unpaid balance, plus charges to cover the administrative costs of the City Auditor in the docket of City liens which shall thereafter constitute a lien against the property.
- C. A determination issued pursuant to Subsection 20.40.195 A. may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of the City Code. The Auditor shall not enter any amount on the lien document under Subsection 20.40.195 B. as to any charge which has been appealed to the Code Hearings Officer under this subsection, until the appeal has been decided and the period for seeking judicial review has passed, or any judicial review has become final.

20.40.200 Personal Liability of Owner.

The person who is the owner of the property at the time at which the notice required under Section 20.40.170 of this Code is posted shall be personally liable for the amount of the assessment including all interest, civil penalties and other charges.

20.40.205 Cost of Abatement; Low Income, Elderly Persons.

(Amended by Ordinance No. 168234, effective October 26, 1994.)

- A. Notwithstanding the other provisions of this Chapter, the cost of abating a nuisance shall be waived for low income, elderly persons if upon application it appears to the Superintendent that the conditions set forth in Subsection B. are met.
- B. Persons eligible for a waiver of nuisance abatement costs shall be over 62 years of age, and:
 - 1. A person living alone, whose total income for the preceding calendar year did not exceed 1-1/2 times the maximum amount a Social Security

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recipient at age 65 may have earned in that year without having any benefits withheld; or the head of a household which household received a total income for the preceding calendar year that did not exceed 2-1/4 times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld; and

2. Must furnish proof of the age and income requirements set forth in Subsection B 1 of this Section in a manner and form acceptable to the Superintendent; and
 3. Must own, or be in the process of purchasing the property from which the nuisance is abated; and
 4. Be living on the property from which the nuisance is abated.
- C. The removal of the nuisance in question must have been required by the Superintendent and the person requesting the waiver of costs must have been officially notified by the Superintendent to remove the nuisance.
- D. Applications for waiver of nuisance abatement costs shall be filed with the Superintendent, on forms supplied by the City, within 10 days after receipt of a notice to remove nuisance or a work order notice unless the Superintendent extends that time on good cause shown. All information required to be given on such form shall be supplied and verified by the applicant. An application for waiver of nuisance assessment costs must be submitted for each removal notice sent to the applicant.
- E. The maximum amount which may be waived under this Section for any one parcel of real property or any one person shall be \$750 per calendar year.
- F. No overhead charge or civil penalty shall be imposed for any real property for which a waiver, pursuant to this Section, shall have been approved.

20.40.210 Criminal Penalty.

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

20.40.215 Civil Penalties.

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

- A. Any person who cuts or removes any tree that is subject to the provisions of this Chapter, or who contracts for, pays for or otherwise allows or suffers such cutting or removal, if such cutting or removal is undertaken without a permit as required

by this Chapter or in non-compliance with any term, condition, limitation or requirement of such permit, shall be subject to a civil penalty as provided in this Section. For purposes of this Section, each tree shall constitute a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit shall also constitute a separate violation. The Forester, or the Forester's designee, is authorized to initiate proceedings before the Code Hearings Officer, pursuant to the procedures in Title 22 of this Code, to enforce the provisions of this Section.

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

20.40.220 Civil Remedies.

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

20.40.230 Institution of Legal Proceedings.

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

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20.40.235 Notification to Planning and Sustainability Commission.

(Added by Ordinance No. 163739; Amended by Ordinance No. 184046, effective September 10, 2010.) Prior to the adoption of any amendments to Chapter 20.40, the Forester will submit a copy of the proposed amendments to the Planning and Sustainability Commission for its review and comments.

20.40.240 Severability.

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

Chapter 20.42

TREE CUTTING

(Chapter replaced by Ordinance No. 170775,
effective January. 10, 1997.)

Sections:

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

20.42.010 Purpose.

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

20.42.020 Definitions.

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

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

4. Cannot be further subdivided or partitioned pursuant to the Portland Zoning or Land Division Codes.

20.42.030 Applicability.

- A. These regulations are not land use regulations and are being adopted under the City's police power to regulate to protect the public health, safety and welfare.
- B. The requirements of this Chapter do not apply to tree cutting which is reviewed pursuant to any other provision of City Code with the exception of Chapter 24.70, Clearing, Grading, and Erosion Control, particularly PCC 24.70.020. On parcels subject to PCC 24.70.020, a permit is required under both that Section and under this Chapter.
- C. The requirements of this Chapter do not apply to tree cutting on any parcel for which a building or development permit has been approved through land use review.

20.42.040 Tree Cutting Without Permits Prohibited.

- A. No person shall cut a tree on regulated property without first obtaining a tree cutting permit from the City pursuant to this Chapter.
- B. No person shall cut a tree on unregulated property without a permit if a permit is required by PCC 20.42.050.
- C. In any action under this Chapter or to enforce the provisions of this Chapter, the property owner has the burden to prove that the criteria for granting a permit are satisfied or that cutting is allowed without a permit.

20.42.050 Tree Cutting on Unregulated Property.

- A. Trees may be cut on unregulated property without a permit except where the tree proposed to be cut:
 1. Has been expressly protected through an applicable land use regulation or required to be preserved as a condition of approval; or
 2. Is located within a parcel that has received a Historic Landmark Designation pursuant to PCC Chapter 33.845; or
 3. Has been designated a Heritage Tree under the provisions of Section 20.40.150 of this Code.

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- B.** If a permit is required under Subsection A. of this Section, a person must seek such a permit through the process for reviewing or modifying land use regulations or approvals, Historic Landmark Designations or Heritage Tree designations, as applicable, and not through this Chapter.

20.42.060 Application for Permits.

An application for a tree cutting permit shall be made upon forms prescribed by the City. The application shall contain:

- A.** A statement of the reason for cutting or removal;
- B.** The number, size and species of the trees to be cut;
- C.** The street address and legal description of the property upon which the trees to be cut are located;
- D.** The time and method of cutting or removal;
- E.** If mitigation is required pursuant to PCC 20.42.090 information concerning the proposed planting of new trees to replace the trees to be cut;
- F.** Any other information reasonably required by the City;
- G.** The applicant's name, address and phone number;
- H.** The property owner's name, address and phone number, if different from the applicant's.

20.42.070 Fees.

The application shall be accompanied by a filing fee in the amount of \$35.00.

20.42.080 Review of Applications.

- A.** The Urban Forester shall review applications for conformance to the provisions of this chapter and either accept as complete and in conformance, return for revisions, or deny the application.
- B.** If the application is accepted as being complete and in conformance, the Urban Forester shall not issue the permit until notice has been posted according to Section 20.42.110 of this Code and all appeals have been settled in favor of the applicant.

- C. The issuance of the Tree Cutting Permit shall constitute conformance to the provisions of these regulations and approval for the tree removal.
- D. Notwithstanding subsection A of this Section, if the tree proposed to be cut has been required to be preserved or protected as a condition of approval of a land use action pursuant to the City of Portland Zoning Code, the tree cutting application shall be processed as an amendment to that land use action and shall be reviewed and approved by the body responsible for reviewing such land use actions.

20.42.090 Criteria for Issuance of Permits.

The tree to be removed must meet one of the following criteria in order for a tree cutting application to be approved:

- A. **Dead, Dying and Dangerous Trees:** A tree cutting permit shall be issued if the Urban Forester determines that a tree is dead, dying or dangerous, except as provided by subsection 2 of this section.
 - 1. For the purposes of this section:
 - a. “Dead” means the tree is lifeless.
 - b. “Dying” means the tree is in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees.
 - c. “Dangerous” means the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
 - 2. The Urban Forester may require the retention of dead or dying trees located in wetlands, natural areas, stream corridors, parks or open space areas, in order to provide for wildlife habitat and natural processes, unless the tree presents a potential hazard to persons or property.
- B. **Trees that are not dead, dying or dangerous:** A tree cutting permit shall be issued for a tree that is not dead, dying or dangerous if the Urban Forester determines that the following criteria are met:
 - 1. Removal of the tree will not have a significant negative impact on the following:

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- a.** erosion, soil stability, soil structure, flow of surface waters, water quality, health of adjacent trees and understory plants, or existing windbreaks; and
 - b.** the character, aesthetics, property values or property uses of the neighborhood.
- 2.** The city shall require an adequate mitigation plan be submitted according to the requirements of Section 20.42.100 as a condition of approval for the permit, including requiring the submission of a drainage plan if appropriate This mitigation plan may be considered when determining the impacts in Subsection B.1. of this Section.
- 3.** Forest Health Reasons: A tree cutting permit shall be issued for a tree that is not dead, dying or dangerous if the Urban Forester determines that the removal of select trees from a forested plot will promote the health of the overall forested plot and meets the requirements of PCC 20.42.090 B.1. Mitigation is not required for any tree permitted to be cut under this subsection.
- 4.** Emergency Permits:

 - a.** The Urban Forester shall issue an emergency tree cutting permit without formal application or payment of a fee if the condition of a tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property. For purposes of this subsection, “immediate danger of collapse” means that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the non-emergency process. “Immediate danger of collapse” does not include hazardous conditions that can be alleviated by pruning or treatment.
 - b.** If an emergency situation arises at a time when the Urban Forester is unavailable, and a significant likelihood exists that the tree will topple or otherwise fail before such officials become available, the tree owner may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days after such removal, the tree owner shall apply for a retroactive emergency tree cutting permit. If the evidence and information presented by the tree owner does not justify the emergency tree cutting standards set forth in PCC 20.42.090 B. the application shall be denied and the tree owner shall be subject to the penalties and to the mitigation requirements of this Chapter.

- c.** In the event that the City Engineer or the Urban Forester determines that an emergency exists and that the safety of the traveling public or the integrity of a public street and associated improvements may be at imminent risk from any tree on private property, the City Engineer and the Urban Forester may order or effect the removal of the tree without a permit. An emergency for the purpose of this Subsection is an unplanned or non-routine event which, by its nature, requires prompt or immediate action to reduce the risk of injury to persons using public streets, damage to public transportation facilities or loss or use of public transportation facilities. The decision that an emergency exists is not reviewable.

20.42.100 Mitigation Requirement.

- A.** Mitigation is required as a condition of a permit issued under PCC Subsection 20.42.090 B., or if a tree is cut in violation of this Chapter. The mitigation plan shall be submitted at the time of application and shall provide for the following:

 - 1.** Tree replacement shall be determined according to the DBH of the tree to be removed. The total DBH of the replanted trees shall equal the DBH of the tree to be removed. The DBH of the replacement trees must be the largest reasonable available by local nurseries.
 - 2.** The location of the replacement trees shall meet one or more of the following at the discretion of the Urban Forester:

 - a.** In the public right-of-way adjoining the property where the tree to be removed is located, in accordance with PCC 20.40.070. The Urban Forester shall consult with the City Engineer to avoid conflict with current and future utilities.
 - b.** On the property where the tree to be removed is located. Site characteristics shall be taken into consideration.
 - c.** If no suitable place exists on the property where the tree to be removed is located or in the adjoining right-of-way, the applicant may plant trees on another property in the neighborhood with the permission of the property owner.
 - d.** If no suitable place exists on the property where the tree to be removed is located, the applicant may, in lieu of planting, pay a mitigation fee into the City's tree fund in accordance with fees set by the Urban Forester.

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- B.** When the Urban Forester determines that the above mitigation requirements create an unreasonable burden to a property owner, the Urban Forester may adjust the mitigation requirements. Mitigation shall not be reduced if it is determined that an intentional violation exists.
- C.** If any replacement tree dies within three years of the planting, the property owner shall replace the tree. No replacement tree shall be cut without a permit under this Chapter.
- D.** Any person who fails to enter into a mitigation plan as required by this subsection or who fails to comply with any condition of that agreement, or with any condition of any permit issued under PCC 20.42.090 B., shall be subject to the penalties provided for violation of the Chapter.

20.42.110 Notice of Tree Cutting Permit.

- A.** An applicant for a tree cutting permit shall post notice on the property in a location clearly visible from the street nearest the tree. The notice shall state that a tree cutting permit is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that the tree cutting permits can be appealed within 14 days of the date of posting by filing a written notice of intent to appeal with the Urban Forester. The applicant shall mark each tree proposed to be cut by tying or attaching yellow plastic tagging tape around the trunk of the tree at 4.5 feet above ground level. The applicant shall file an affidavit of posting and marking once the property has been posted and the trees have been marked pursuant to this section. The tree cutting permit shall not be issued for fourteen days from the date of filing of the affidavit of marking to allow for appeal. The applicant shall maintain the posting and marking for the full fourteen days.
- B.** The Urban Forester will send a copy of the affidavit of posting and marking to the office of the affected Neighborhood Coalition.

20.42.120 Appeal.

- A.** Any person may appeal a decision to approve a tree cutting permit by filing a written notice of intent to appeal, along with the applicable appeal fee established by the City Council, within fourteen days of the filing of the affidavit of posting pursuant to PCC 20.42.070. Failure to file within the fourteen-day appeal period shall preclude appeal. If no appeal of a decision to approve a tree cutting permit is filed within the fourteen-day appeal period, the decision is final and the applicant may cut trees in accordance with the approval, subject to any conditions thereof.

- B.** An applicant for a tree cutting permit may appeal denial of the permit by filing a written notice of intent to appeal, along with a filing fee in the amount of \$100.00, within fourteen days of the date of denial.
- C.** The appeal shall be heard by the Urban Forestry Commission (UFC), who shall hold a public hearing on the appeal. The City shall send written notice of the hearing to the applicant, the appellant if different from the applicant, and to the recognized Neighborhood Coalition for the area in which the subject property is located, at least ten days in advance of the hearing. Appeal hearings may be scheduled as part of the UFC's regular meeting agenda, or at any special meeting called by the UFC for that purpose. Appeals may be heard either by the full Commission or by a subcommittee delegated by the full Commission. Appeals shall be heard not later than the first regular monthly meeting of the UFC after the expiration of the ten days required for notice to the Neighborhood Coalition, and in no event later than sixty days after the filing of the notice of intent to appeal, except that the applicant may request a hearing at a later time.

20.42.130 Evidence of Violation.

- A.** If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is 38" or more in circumference shall be considered prima facie evidence of a violation of this chapter.
- B.** Removal of the stump of a tree cut without a tree cutting permit prior to the determination provided in subsection A of this section is a violation of this chapter.
- C.** Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.
- D.** As soon as a violation is determined, the Urban Forester shall notify the property owner in writing regarding the mitigation requirements of Section 20.42.100 of this code. Within thirty (30) days of the date of mailing of this notice, the property owner shall submit a tree cutting application in accordance with Section 20.42.060 and enter into a mitigation plan approved by the Urban Forester. The application fee will be \$70.00.

20.42.140 Criminal Penalties.

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding \$1,000.00 or shall be imprisoned for a term not exceeding 6 months, or shall be punished by both such fine and imprisonment.

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20.42.150 Civil Penalties.

Any person who cuts any tree in violation of this chapter, or who breaches any condition of a permit granted under this chapter, or who violates any other provision of this chapter shall be subject to a civil penalty of \$1,000 for any such violation. The unlawful cutting of each individual tree shall be a separate violation hereunder. Failure to comply with a condition of approval or of a mitigation plan shall be a separate violation each day the failure to comply continues.

20.42.160 Nuisances.

Cutting a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings.

20.42.170 Institution of Legal Proceedings.

Upon request of the Urban Forester, or direction from Council, the City Attorney, acting in the name of the City, may institute and maintain an action in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this Chapter.

20.42.180 Remedies Cumulative.

The rights, remedies and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

20.42.190 Severability.

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

Chapter 20.44

**NONRESIDENT PARTICIPATION
FEES**

(Chapter repealed by Ordinance No. 158454,
effective May 1, 1986.)

Chapter 20.48

ST. JOHNS RACQUET CENTER

(Chapter repealed by Ordinance No. 164427,
effective July 10, 1991.)

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Chapter 20.50

**COLUMBIA SOUTH SHORE
SLOUGH TRAIL**

(Chapter added by Ordinance No. 166785,
effective July 21, 1993.)

20.50.010 Prohibited Activities.

It shall be unlawful to ride a bicycle or to have domestic animals leashed or unleashed on the Columbia South Shore Slough Trail. The trail area is defined by Title 33, Map 515-2. This provision does not apply to police officers who may have the need for the use of horses or bicycles during their official performance of duties.