

UPDATE INFORMATION SHEET

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

Vols. I & II – Portland City Code

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

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

Update Packet Enclosed	March 31, 2015
Previous Update Packet	December 31, 2014

CODE OF THE CITY OF PORTLAND, OREGON
Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
1st Quarter 2015 (March 31, 2015)

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**OFFICE OF
MANAGEMENT AND FINANCE**

(Chapter replaced by Ordinance No. 181483;
amended by Ordinance No. 184539,
effective May 20, 2011.)

Sections:

- 3.15.010 Organization.
- 3.15.020 Bureau of Internal Business Services.
- 3.15.030 Business Operations Division.
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- 3.15.050 Bureau of Human Resources.
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- 3.15.080 Enterprise Business Solution Division.

3.15.010 Organization.

(Amended by Ordinance Nos. 185807, 186746 and 187060, effective March 25, 2015.)

- A.** The Office of Management and Finance shall be under the direction and control of the Chief Administrative Officer (CAO) and shall include such other employees as Council may provide. The CAO shall report to the Mayor, but shall serve the entire Council, including providing information and advice to elected officials. The Office of Management and Finance is responsible for providing and coordinating administrative services of the City in support of the operational needs of City bureaus, and other duties as assigned. Administrative services include all those functions that provide products, services and support to City employees and programs that in turn provide direct services to the public. These services include, but are not limited to, the following: accounting, debt management, treasury management, payroll, grant administration, license, tax and fee collection, risk management, facilities and property management, fleet management, human resources and personnel services including employee training and education, technology services, printing and distribution, and procurement services.
- B.** The Office of Management and Finance consists of the Office of the CAO, the Bureau of Internal Business Services, the Bureau of Revenue and Financial Services, the Bureau of Human Resources, and the Bureau of Technology Services.

**TITLE 3
ADMINISTRATION**

- C. The CAO shall be responsible for the overall coordination of the administrative services functions of the City. The CAO shall be authorized to:
1. Formulate, approve and issue administrative rules and systems for providing City administrative services.
 2. Implement and monitor administrative rules and systems for providing City administrative services.
 3. Determine if any administrative service should be provided by City staff or outside vendors. Bureaus shall use the services of the Office of Management and Finance unless otherwise authorized by the CAO or directed by the City Council.
 4. Determine the classifications, duties and reporting relationships for positions responsible for centralized administrative services including, but not limited to, human resources, procurement and technology services.
 5. Recommend alternatives to Council for providing administrative services.
 6. At Council direction, provide administrative services to any other governmental or private agency.
- D. The CAO's duties include, but are not limited to:
1. Evaluate the delivery of City administrative services; initiate improvements; and periodically report to Council on services and initiatives.
 2. Provide the City Council with an annual workplan to improve city administrative services. The CAO will periodically meet with City Council to report on efforts to continually evaluate and improve all city administrative services, including those contained in the annual workplan.
 3. Advise the Council and provide staff support to citywide projects and oversight committees including, but not limited to, technology oversight committees.
 4. Participate with the City Budget Director, Mayor and City Council on City budget decisions, and ensure that information necessary to prepare the financial forecast is available to the City Budget Office.

- E.** The Office of the CAO shall be comprised of the Business Operations Division, the Enterprise Business Solution Division, a Policy Team, Spectator Facilities management, and Citywide projects assigned to the CAO.

3.15.020 Bureau of Internal Business Services.

(Amended by Ordinance No. 187060, effective March 25, 2015.)

- A.** The Bureau of Internal Business Services shall be supervised by a Director who shall report to the CAO. The Bureau of Internal Business Services consists of CityFleet, Facilities Services, Printing and Distribution Services and Risk Management. The Bureau of Internal Business Services provides facilities, fleet, printing and distribution and risk management services for the City; manages and maintains the Portland Oregon TM sign and all associated intellectual property; and any other duties assigned by the CAO. The Bureau of Internal Business Services shall be responsible for the CityFleet Operating Fund (PCC 5.04.180), the Facilities Services Operating Fund (PCC 5.04.185), the Printing and Distribution Services Operating Fund (PCC 5.04.200), the Insurance and Claims Operating Fund (PCC 5.04.230), the Worker's Compensation Self Insurance Operating Fund (PCC 5.04.240) and other assigned funds.
- B.** The Bureau of Internal Business Services Director shall be authorized to:
 - 1.** Determine the City's equipment or leasing needs and determine appropriate methods of funding and financing such needs.
 - 2.** Execute real property agreements including, but not limited to, easements, permits, licenses and leases, and amendments or renewals of such real property agreements.
 - 3.** Execute intellectual property license agreements for use of the Portland Oregon TM sign. Develop, adopt and maintain an Acceptable Use policy and fee schedule for licensing of the Portland Oregon TM sign. Maintain, protect, and enforce the City's intellectual property rights in the Portland Oregon TM sign.
 - 4.** Coordinate advance payments for building rentals. In cases where building space has been or shall be rented by the City on lease or on a month-to-month basis and the owner requires advance payment of rentals or a security deposit, the Auditor hereby is authorized to audit and allow such advance payment of rentals or security deposit, provided that advance payments of rentals shall be for a period of not to exceed 31 days.
 - 5.** Develop and enforce Rules of Conduct for City Buildings, and require all persons to obey the Rules of Conduct. City buildings, includes all real

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properties placed under the facilities management of the Office of Management and Finance. Any person who fails to comply with the Rules of Conduct for City Buildings, or the reasonable direction of the Person-in-Charge, may be excluded as provided in this Section.

- a.** Person-in-Charge is defined in ORS 164.205(5) and includes, but is not limited to, any of the following while acting in the scope of employment, agency or duty:
 - (1)** Any peace officer as defined by Oregon law and any reserve officer of the Portland Police Bureau;
 - (2)** Any person providing security services in any City buildings pursuant to any contract with the City, or with any person, firm or corporation managing City leased properties on the City's behalf; or,
 - (3)** Any person specifically designated in writing as the Person-in-Charge by the Commissioner-in-Charge of the Office of Management and Finance or by the Bureau of Internal Business Services Director.

- b.** City Building Exclusions. Any Person-in-Charge may exclude any person who violates any Rule of Conduct while in or upon any City building or property, from a specific City building or property or from all City buildings and properties, for a period of 24 hours. The Mayor, and specifically identified designees of the Mayor, may issue an exclusion for any period of time up to and including permanent exclusion from City buildings.
 - (1)** The notice of exclusion shall be in writing, given to the person excluded and signed by the Person-in-Charge. It shall specify the dates and places of exclusion. It shall contain a warning of consequences for failure to comply with the notice of exclusion and information concerning the right to appeal the exclusion.
 - (2)** A person receiving a notice of exclusion may appeal, in writing, to the Code Hearings Officer in accordance with the provisions of Title 22 of the Code to have the notice of exclusion rescinded. Notwithstanding the provisions of Title 22, the appeal to the Code Hearings Officer shall be filed within 5 days of issuance of the notice of exclusion, unless extended by the Code Hearings Officer for good

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cause shown. The sworn statement of the Person in Charge who issued the notice of exclusion shall be used as evidence on appeal, unless the appellant requests, in writing, the presence of the Person-in-Charge at the appeal hearing.

- C. The Commissioner-in-Charge of the Office of Management and Finance is authorized to request the City Attorney to proceed in court as necessary to enforce the provisions of any agreement authorized by Section 3.15.020.

- D. CityFleet shall be supervised by a Fleet Manager who shall report to the Bureau of Internal Business Services Director. CityFleet is responsible for managing all City vehicles and equipment, owned leased or rented by the City. The Fleet Manager shall provide fleet management services as required by the CAO including, but not limited to:
 - 1. Maintain an inventory of all city-owned, leased, or rented motorized vehicles and equipment, licensed trailers, and wheel-mounted equipment. This does not include fire fighting apparatus.
 - 2. Operate the City's maintenance and repair facilities now existing or in the future established for maintenance or repair of the above described fleet equipment.
 - 3. Assist with identifying City vehicle and equipment needs.
 - 4. Manage the assignment of fleet vehicles and equipment.
 - 5. Assist in the development of fuel and resource conservation plans.
 - 6. In cooperation with the Procurement Services Division, purchase, lease or rent vehicles and equipment as defined above. Any proposed lease transactions shall first be reviewed and approved by the City's Debt Manager.

- E. Facilities Services shall be supervised by a Facilities Manager who shall report to the Bureau of Internal Business Services Director. The Facilities Manager shall provide facilities management services as required by the CAO including, but not limited to:
 - 1. Provide property management services for the inventory and rental of city-owned real property. Provide property management services for the purchase, sale and replacement of city-owned real property.

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2. Provide facilities maintenance services, including but not limited to, maintenance and repair of City buildings and their related equipment; and the administration of janitorial, maintenance and security contracts.
 3. Provide architectural services including but not limited to architectural design, facilities and space planning, and project management of City capital projects.
- F.** Printing and Distribution Services shall be supervised by a Manager who shall report to the Bureau of Internal Business Services Director. Printing and Distribution Services is responsible for managing all reproduction, mail, distribution and copy services used by the City, and shall be responsible for the equipment needed to provide these services. The Printing and Distribution Manager shall provide printing and distribution management services as required by the CAO including, but not limited to:
1. Provide rapid, convenient reproduction, distribution and mail services, and provide advice and consultation on these services.
 2. In cooperation with the Procurement Services Division, review and approve requests for the lease or purchase of office copiers/printers.
 3. Manage the processing of U.S. mail and pick up and delivery of interoffice mail, packages and equipment.
- G.** Risk Management shall be supervised by a Risk Manager who shall report to the Bureau of Internal Business Services Director. Risk Management is responsible for administering, coordinating and controlling all activities related to commercial and self-insurance including, but not limited to: property and casualty insurance, workers' compensation insurance, liability insurance and the City's right to subrogation on these insurance programs. Risk Management shall obtain a public liability insurance policy or provide the necessary funding through a self-insurance program protecting the City, its officers, agents and employees with limits of not less than the maximum statutory limits of liability imposed on municipalities of the State of Oregon. Risk Management shall monitor and coordinate a citywide loss prevention and control program to minimize potential property, liability, fidelity and personnel losses. Risk Management shall maintain records relating to commercial and self-insurance losses or claims filed against the City. It shall execute any claim or proof of loss for damage to City property.
1. The Risk Manager is hereby delegated authority to evaluate and approve applications for self-insurance programs in lieu of commercial insurance requirements in any City agreement including, but not limited to, contracts and permits. Upon approval of a self-insurance program, the insurance

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coverage obligation in the City agreement shall be automatically amended without further action by the Council, subject to the approved form being filed with the City Auditor or such other bureau as may be charged with keeping the records.

2. The Risk Manager is authorized to act on behalf of the City on all matters related to workers' compensation including, but not limited to: accept, deny or defer claims; authorize payments of workers' compensation benefits in the amounts required by law relating to workers' compensation claims filed with the City; and, subject to the provisions of the City Charter governing settlements, enter into settlements of workers' compensation claims whether it be on a disputed claims disposition agreement or disputed claim settlement basis. Workers' compensation insurance shall be administered in accordance with the laws for the State of Oregon and shall be on a self insurance basis. The City Attorney may represent the City on workers' compensation matters, including litigation or settlement of claims. The City Attorney shall approval all settlements as to form.
3. Subject to the provisions of City Charter governing settlements, the Risk Manager is authorized to act on behalf of the City of Portland in the settlement of tort claims and court actions alleging employment discrimination and violations of civil rights, subject to concurrence of the Bureau of Human Resources Director.
4. The Risk Manager is authorized to investigate complaints of discrimination filed with the Civil Rights Division of the Oregon Bureau of Labor and Industries, or the Equal Employment Opportunity Commission. During the investigation of complaints filed, the Risk Manager or designee shall be an agent of the Office of the City Attorney for purposes of representing the City. The Risk Manager is authorized to settle such complaints subject to the following provisions.
 - a. Subject to PCC Section 3.15.040, the Risk Manager may make settlements in an amount not exceeding \$5,000 and shall file a report with the Council two weeks after the end of each month with respect to the settlements entered into pursuant to this subsection.
 - b. Where a settlement agreement provides for payment of a claim in an amount in excess of \$5,000, the settlement must be approved by City Council.

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5. The Risk Manager is authorized to investigate and enter into settlements on fair and moral claims which are not covered by insurance.

3.15.030 Business Operations Division.

Business Operations Division shall be supervised by a Manager who shall report to the CAO. Business Operations is responsible for policy development, communications, specific project management services, and budget and financial services for all bureaus and divisions in the Office of Management and Finance.

3.15.040 Bureau of Revenue and Financial Services.

(Amended by Ordinance Nos. 185652, 185807, 186746 and 187060, effective March 25, 2015.)

- A. The Bureau of Revenue and Financial Services (BRFS) shall be supervised by a Director, who shall also serve as the Chief Financial Officer (CFO) of the City. The Director shall report to the CAO, but shall serve the entire Council including providing information and advice to elected officials. The Bureau of Revenue and Financial Services shall consist of the following units: Accounting; Public Finance and Treasury, Revenue, Procurement Services and Grants. The Bureau of Revenue and Financial Services is responsible for treasury and debt management, accounting, procurement, grants management and assigned grant funds, pension oversight, revenue and tax collection, regulatory programs, programs of the Office for Community Technology, and other services or responsibilities the Council or the CAO may assign.
- B. Serving as CFO, the Director shall be responsible for the overall coordination of financial services of the City. The duties shall include, but not be limited to, the following Citywide responsibilities:
 1. Financial management and policy development
 2. Long-range financial planning and financial sustainability
 3. Revenue development and collection activities
- C. The Accounting Division shall be supervised by a Controller who reports to the the BRFS and shall have specific authority to:
 1. Establish, maintain and enforce Citywide accounting policies, practices, rules and regulations. The Controller shall be the final authority for interpretations of accounting and financial reporting policies and practices.
 2. Authorize reports that disclose the fiscal condition of the City to external users including the Comprehensive Annual Financial Report (CAFR), the

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Single Audit Report, and other reports required by federal, state and local regulations.

3. Conduct or contract with public accounting firms to conduct financial and compliance audits and other tests to determine compliance with Citywide accounting and financial reporting policies and current professional standards and adequacy of internal controls over accounting transactions, the cost of which shall be paid by the bureau being audited.
- D.** Public Finance and Treasury Division shall be supervised by the City Treasurer, who shall report to the BRFS Director. The Treasurer shall have those authorities and responsibilities as described in PCC Chapter 3.08. Debt Management within the Public Finance and Treasury Division, shall be supervised by the Debt Manager who shall report to the City Treasurer. Debt Management is responsible for managing the City's debt program to ensure access to capital markets including long- and short-term capital financing programs, providing expert advice to City bureaus and officers regarding placement of debt and capital financing issues, and performing other duties as assigned. The Debt Manager is responsible for assuring that sales or leasing agreements entered into by the City comply with applicable Federal tax exemption regulations for funding and financing.
- E.** The Revenue Division shall be supervised by a Director who shall report to the BRFS Director. The responsibilities of the Revenue Division shall include, but are not limited to:
1. Manage all billing and collection software used by the Revenue Division including, but not limited to, maintenance, defect troubleshooting, problem resolution, development, enhancements and upgrades.
 2. Support end users in diagnosing and resolving system problems.
 3. Conduct business and system process improvements.
 4. Manage, enforce and collect business license taxes.
 5. Manage, enforce and collect transient lodging taxes.
 6. Manage, enforce and collect the Arts Education and Access Income Tax.
 7. Manage and enforce regulatory programs assigned by City Council, including the authority to enact administrative rules and regulations.

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8. Manage and collect assessments and liens, in coordination with the City Auditor's Office.
 9. Perform business management functions including mail processing, receipting and distribution; and perform overall financial accounting of bureau revenues.
 10. Audit functions including the Portland area business license tax returns, transient lodging taxes and internal systems and processes, as well as other special audits as deemed necessary.
 11. In consultation with the requesting bureau, recommend systems for new revenue or fee collection services.
 12. Manage funds as assigned.
 13. Manage, administer and enforce such responsibilities as are assigned to the Office for Community Technology by City Code or the Council, and
 14. Perform such other duties as may be required by ordinance or by the City Council, or which are necessary to implement the purposes of this Chapter.
- F. The Procurement Services Division shall be supervised by the Chief Procurement Officer (CPO) who shall report to the BRFS Director. The Procurement Services Division shall be responsible for procurement and contractor services as directed by the CAO. The CPO shall be responsible for the duties of the Chief Procurement Officer under the Charter, Code or general law including, but not limited to those described in PCC Section 5.33.040 and PCC Chapter 5.68.

3.15.050 Bureau of Human Resources.

(Amended by Ordinance No. 186746, effective August 6, 2014.)

- A. The Bureau of Human Resources shall be supervised by a Director who shall report to the CAO. The responsibilities of the Bureau of Human Resources shall include coordination and control of the administrative and technical activities relating to maintenance of a comprehensive human resources system for the City, including labor relations and negotiations, promoting diversity and equity in outreach employment and recruitment services, classification and compensation, training and workforce development, human resources systems, payroll, deferred compensation, and employee benefits and wellness. The Bureau of Human Resources shall be responsible for the health benefit plan administration and funding including the Health Insurance Fund.

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- B.** The Human Resources Director shall formulate, administer and monitor administrative rules approved by the Council, or the CAO, including provisions for:
1. Recruitment, examination, certification and appointment on the basis of applicants' knowledge, skills and abilities.
 2. Classification and compensation.
 3. Employee behavior and expectations.
 4. Disciplinary guidelines with notice to employees of prohibited practices.
 5. Employee training and development.
- C.** In accordance with Oregon law, the Human Resources Director or designee, on behalf of the Council, may enter into agreements with labor organizations, recognizing their exclusive representation of specified classifications within City service.
- D.** Dispute Resolution.
1. The Human Resources Director or designee(s) is the official interpreter for the City pertaining to its collective bargaining agreements and any other written compensation and benefits plans and personnel policies established by the Council.
 2. The Commissioner-in-Charge of a bureau shall retain the right to hear individual grievances and or complaints on a case by case basis. In settling such grievances and or complaints, the Commissioner-in-Charge shall do so with the advice and consent of the City Attorney and the Human Resources Director.
 3. If the Commissioner-in-Charge of a bureau does not retain jurisdiction of a grievance and or a complaint within one week of receiving the issues, then the Human Resources Director shall automatically have jurisdiction to settle the issue.
 4. Provision for resolution of disputes is as follows:
 - a. Within one (1) day following the filing of a written grievance under a collective bargaining agreement or complaint under other written personnel policy adopted by Council, the bureau or department recipient of the grievance or complaint shall provide a

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copy to the Human Resources Director of the written grievance or other complaint document. During the investigation of grievances and complaints, the Human Resources Director or designee(s) shall be an agent of the Office of the City Attorney for purposes of representing the City.

- b.** Where the claim is for wages or other monetary benefit not exceeding \$5,000 per claimant, the supervisor, division manager or bureau director, with the approval of the Commissioner-in-Charge of the bureau and of the Human Resources Director, may accept or adjust the claim in settlement on behalf of the City, where settlement is deemed prudent and appropriate, provided that:

 - (1)** The Human Resources Director authorizes the settlement in writing and gives written notice to the payroll division or to the benefits program manager involved to draw and issue a check not exceeding \$5,000 per claim for the settlement expense, charged to the appropriate center code, account number or fund;
 - (2)** Payments which are an exception to Section 5.08.020 of the Code, which requires payroll checks to be drawn only for services rendered, shall be made only when the Human Resources Director determines such payment to be in the best interests of the City and the Office of the City Attorney approves. This Section shall be narrowly applied.
 - (3)** The Office of the City Attorney reviews and approves the settlement agreement as being not in conflict with State or Federal laws, applicable ordinances and collective bargaining agreements pertaining to conditions of employment.
- c.** Where a settlement agreement provides for payment of claims for back wages or other monetary benefit in an amount exceeding \$5,000, the settlement shall not be authorized or enforceable unless approved by the City Council by ordinance.
- d.** The Human Resources Director or designee is authorized to investigate complaints and reports of employment discrimination, in accordance with the Risk Management Section 3.15.020 where applicable. During the investigation of complaints and reports, the Human Resources Director or designee shall be an agent of the Office of the City Attorney for purposes of representing the City.

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- e. The Human Resources Director will file a report to Council 2 weeks after the end of each month with respect to the settlements entered into pursuant to this section.

- E. The Human Resources Director shall establish objectives for the Bureau of Human Resources and develop a plan for accomplishing these objectives and carrying out the mission of the Bureau of Human Resources.

- F. The Human Resources Director shall design, manage and administer a comprehensive and competitive Classification Plan and Compensation Plan. The Council, or the Human Resources Director by express delegation by ordinance from the Council, shall fix the salaries, compensation and benefits of all officers, agents and employees of the City. No other bureau director or subordinate employee has the authority to change the salaries, compensation or benefits of any City officer, agent or employee.

- G. The Human Resources Director and the Benefits Manager shall design, manage and administer a comprehensive, competitive and compliant benefits package, including the Deferred Compensation Program, as approved by the Council, including provisions for:
 - 1. Medical, dental and vision coverage
 - 2. Dependent Care Assistance Plan
 - 3. Medical Expense Reimbursement Plan
 - 4. Life Insurance
 - 5. Long-Term Disability
 - 6. Employee Assistance Program; and
 - 7. Deferred Compensation Program

Such provisions shall include employee participation eligibility and enrollment, claims management, procedures for record keeping and responsibility for all applicable reporting and disclosure requirements.

3.15.060 Revenue Bureau.

(Repealed by Ordinance No. 186746, effective August 6, 2014.)

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3.15.070 Bureau of Technology Services.

(Amended by Ordinance Nos. 186746 and 187060, effective March 25, 2015.)

- A.** The Bureau of Technology Services shall be supervised by the Chief Technology Officer (CTO) of the City, and who shall report to the CAO. The Bureau shall be responsible for the Technology Services Fund (PCC 5.04.500). The CTO shall have specific authority to:
1. Enter into nondisclosure agreements between the City and prospective vendors in order for City employees to review proprietary information on products and technologies that are, or might be, considered for use by the City. A nondisclosure agreement is one that prohibits the release of proprietary or confidential information, whether held by the City or the vendor, and does not include any monetary consideration.
 2. In consultation with the bureau that is the custodian of record, enter into data grant agreements between the City and grantees in order for Bureau employees to share City Geographical Information Systems data. A data grant agreement is one in which the City will grant the use of pertinent GIS data to agencies, organizations or individuals (grantees) for research projects or projects performed under contract with the City. Data grant agreements may include direct cost reimbursements to the City.
- B.** Except as specifically exempted by the CTO, the Bureau shall manage, establish policies and standards, and provide technical support for all City-owned technology systems. Technology systems include, but are limited to, information and electronic communications systems. It shall:
1. Provide citywide technology strategic planning and consulting services, including project scoping, budget preparation and analysis, system planning and procurement, resource allocation and project management for technology projects.
 2. Design, implement and manage all technology hardware and software including system security measures.
 3. Manage all citywide radio, video, data communications, microwave, wireless communications and telephone systems and equipment owned by the City.
 4. Design, implement and manage all citywide voice, video and data applications.

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5. Manage all end user technology support services, including Help Desk and Desktop Support services.
6. Manage citywide Geographic Information Systems.
7. Provide all Internet and Intranet services to City bureaus, offices, boards and commissions.
8. In cooperation with the Procurement Services Division of the Bureau of Internal Business Services, review and approve the purchase of all technology software, hardware and professional consulting services. Any proposed technology lease transaction shall first be reviewed and approved by the City's Debt Manager.
9. Provide technical expertise and information to technical oversight committees for City technology projects.
10. Provide all telephone services to City bureaus; coordinate with telephone vendors; order new facilities and equipment for city-owned or leased systems; plan telephone systems; and resolve all telephone problems.
11. Manage the City's official website.
12. Manage and authorize all City domain name registrations and renewals.

3.15.080 Enterprise Business Solution Division.

(Added by Ordinance No. 187060, effective March 25, 2015.) The Enterprise Business Solution (EBS) Division shall be supervised by a Manager who shall report to the CAO. EBS is responsible for managing technology systems used to standardize and manage the City's business affairs and providing Citywide services in, but not limited to, the areas of fiscal services, procurement, and human resources services.

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Chapter 3.16

CITY BUDGET OFFICE

(Chapter added by Ordinance No. 185807,
effective December 12, 2012.)

Sections:

- 3.16.010 Organization.
- 3.16.020 Authority of Council.

3.16.010 Organization.

The City Budget Office shall be under the direction and control of the City Budget Director and shall include such other employees as Council may provide. The City Budget Director shall report to the Mayor. The City Budget Director shall serve and perform the duties of the City's budget officer, as defined in Oregon Revised Statutes, or shall name a designee to perform these duties. The City Budget Office is responsible for:

- A.** Coordinating development and administration of the City's budget, including capital budgeting and the development of budget recommendations for all City bureaus and funds;
- B.** Financial planning and operational review of the City's utilities, including administration and maintenance of an independent utility review function that provides City Council with an annual review of utility rates and economic impacts;
- C.** Long range financial forecasting for the City's funds, including oversight of the General Fund;
- D.** Preparing General Fund Five-Year Forecasts at least twice each fiscal year. The General Fund Five-Year Forecasts shall be released and made publicly available on or before December 31st and on or before April 30th;
- E.** Collaborating with the Office of Management and Finance on the development of financial forecasts and providing forecasting information to the Chief Administrative Officer when requested;

Chapter 3.26

BUREAU OF PARKS

Sections:

- 3.26.010 Organization Generally.
- 3.26.020 Executive and Clerical Division.
- 3.26.030 Park Maintenance and Operation Division.
- 3.26.040 Nursery and Planting Division.
- 3.26.050 Public Recreation Division.
- 3.26.080 Sale or Exchange of Surplus Animals, Birds or Reptiles.
- 3.26.090 Solar Friendly Trees.

3.26.010 Organization Generally.

The Bureau of Parks shall consist of the Superintendent of Parks who shall be in charge, and such other employees as the Council may provide. The Bureau of Parks shall be made up of the divisions set forth in this Chapter.

3.26.020 Executive and Clerical Division.

The Executive and Clerical Division, supervised by a Principal Clerk or other competent person, shall maintain the necessary records with regard to payrolls, requisitions, and cost accounting for the Bureau of Parks, and in addition shall have control over the women's comfort stations maintained by the Bureau of Parks.

3.26.030 Park Maintenance and Operation Division.

The Park Maintenance and Operation Division, supervised by an Assistant Superintendent of Parks or other competent person, shall have charge of the care, upkeep, and repair of park property in the Zoo, parks, and playgrounds of the City including all swimming tanks. This Division shall also have control over the trucks owned by the Bureau of Parks.

3.26.040 Nursery and Planting Division.

(Amended by Ordinance No. 184522; Amended by Ordinance Nos. 185448 and 186053, effective January 1, 2015.) The Nursery and Planting Division, supervised by a Director of Park Plantings or other competent person, shall have control over the gardening and nursery functions and properties of the Bureau of Parks, including the greenhouse, nursery, golf courses, and floral displays.

Removal of trees, permits for removal of trees, removal of limbs of trees and reports in regard to trees shall be subject to the rules and requirements of Title 11. The City Forester shall be responsible for the application and enforcement of provisions of the Tree Regulations in Title 11, as further specified within that Title.

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3.26.050 Public Recreation Division.

The Public Recreation Division, supervised by a Director of Recreation, shall have charge of the public recreational program and property of the Bureau of Parks, including activities at community houses, summer playgrounds, swimming tanks and summer camps.

3.26.060 Municipal Stadium Division.

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

3.26.080 Sale or Exchange of Surplus Animals, Birds or Reptiles.

The Superintendent of Parks, with the approval of the Commissioner In Charge, hereby is authorized to trade, sell or exchange surplus animals, birds or reptiles, with public or private zoos throughout the United States or Canada, provided that the value of such animal, bird or reptile so traded, sold, or exchanged does not exceed the sum of \$1,000. The Superintendent of Parks, in connection with such transaction, hereby is authorized to pay necessary handling charges incident to such trade, sale or exchange.

3.26.090 Solar Friendly Trees.

(Repealed by Ordinance No. 184522; Amended by Ordinance Nos. 185448 and 186053, effective January 1, 2015.)

Chapter 3.30

BUREAU OF DEVELOPMENT SERVICES

(Chapter replaced by Ordinance No. 175237,
amended by Ordinance No. 176955,
effective October 9, 2002.)

Sections:

- 3.30.005 Organization.
- 3.30.010 Duties of the Bureau of Development Services.
- 3.30.020 Responsibility for the Development Services Center and Development Review Functions.
- 3.30.030 Development Review Advisory Committee.
- 3.30.040 Administration and Enforcement.
- 3.30.045 Administrative Rulemaking Procedures.
- 3.30.050 Special Jurisdiction.
- 3.30.060 Nuisance Abatement Contracts.
- 3.30.070 Inspections.
- 3.30.080 Stop Work Orders.

3.30.005 Organization.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Bureau of Development Services shall be under the supervision of the Director. The Director shall be directly responsible to the Commissioner in Charge.

3.30.010 Duties of the Bureau of Development Services.

(Amended by Ordinance Nos. 176955, 180330, 182671, 182962, 186216, 184522, 185448 and 186053, effective January 1, 2015.) The Bureau of Development Services shall be responsible for:

- A. The administration and enforcement of provisions of the Tree Regulations, Title 11, as further specified in that Title.
- B. The administration and enforcement of:
 - 1. Building Regulations, Title 24.
 - 2. Plumbing Regulations, Title 25.

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3. Electrical Regulations, Title 26.
 4. Heating and Ventilating Regulations, Title 27.
 5. Floating Structures, Title 28.
 6. Property Maintenance Regulations, Title 29.
 7. Signs and Related Regulations, Title 32.
 8. Original Art Murals, Title 4.
 9. State of Oregon Regulations regarding manufactured dwellings.
 10. Other regulations enacted by the State of Oregon and adopted by the City Council and assigned to the Bureau.
- C.** The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of the Bureau of Planning and Sustainability.
- D.** The examination and checking of applications, plans, specifications and supporting documentation required as a prerequisite to the approval of land use actions and permits for development.
- E.** The coordination of related permits with other bureaus and offices as required to manage the Development Services Center.
- F.** The issuance of approvals and permits required for the construction, installation, repair, or alteration of land, buildings or equipment.
- G.** The inspection of sites, buildings or other structures and equipment for compliance with plans and specifications and with applicable Code provisions and laws; and
- H.** Other duties as assigned to the Bureau.

3.30.020 Responsibility for the Development Services Center and Development Review.

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

- A.** The Bureau of Development Services shall be responsible for the operation and management of the City's Development Services Center.

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

3.30.030 Development Review Advisory Committee.

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

- A. Purpose.** The Development Review Advisory Committee is a citizen advisory body, representing those with interests in the outcome of policies, budgets, regulations, and procedures that affect development review processes. The purpose of the Committee is to foster a timely, predictable and accountable development review process that implements the City's goals for land use, transportation, housing, economic development, neighborhood livability and the environment. The Committee advocates for and supports consistent and fair application and implementation of regulations. The Committee provides public input into the development review process by:

1. Providing leadership and expertise on issues affecting development;
2. Providing feedback to Bureaus, Review Bodies, and City Council on the impact of potential regulations and administrative rules on the development review process, taking into consideration the full range of City goals and objectives;
3. Providing recommendations for regulatory, code, and administrative rule changes affecting the development review process;
4. Monitoring the application and enforcement of regulations for their effectiveness in achieving the City's development goals;
5. Recommending customer service, permitting, process, and compliance improvements to Bureaus, Review Bodies, and/or City Council;
6. Serving as an advisory board to Development Review Directors and Bureaus on development review processes and procedures;
7. Providing input to ensure budgets of development review agencies are adequate to meet service goals and desired system outcomes.

- B. Membership.** The Development Review Advisory Committee shall consist of seventeen members. The members shall be appointed by the Commissioner-in-Charge of the Bureau of Development Services and confirmed by the City

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Council. The members shall be selected to provide representation of those persons concerned about planning, design and development. The areas of interest of members shall include, but not be limited to, development, planning, construction contracting, public works, design professions, neighborhood interests, business interests, historic preservation, environmental organizations, and institutional properties. Members shall be appointed so that the Committee consists of one member from organizations representing each of the following groups, or if organizations do not exist, an individual advocate for the representative group will be appointed:

1. Frequent development review customers
2. Citywide neighborhood interests
3. Design professionals
4. Environmental conservation and green building
5. Historic preservation
6. Home builders
7. Home remodelers
8. Land use planning professions
9. Large developers
10. Large construction contractors
11. Low-income housing developers
12. Major facilities landowners
13. Minority construction contractors and development professionals
14. Neighborhood Coalition Land Use Committees
15. Small businesses
16. Planning and Sustainability Commission, as designated by the Planning and Sustainability Commission President, and serves as an ex officio member of the Committee.

17. Public works permit customers

C. Appointments and Terms. Appointment to the Development Review Advisory Committee shall be for a three-year term. If a position is vacated during a term, it shall be filled for the unexpired term. Members of the Development Review Advisory Committee shall serve no more than two, complete three-year terms.

D. Meetings, Officers, and Subcommittees.

1. The Development Review Advisory Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with adopted rules of procedure. Seven members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Development Review Advisory Committee and to conduct any other Committee responsibilities. The election of officers shall take place at the first meeting of each calendar year.

2. The officers of the Committee shall consist of a Chairperson and a Vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice chairperson shall act as chair when the chairperson is not available.

3. The Development Review Advisory Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.

E. Attendance. Members of the Development Review Advisory Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.

F. Compensation. Development Review Advisory Committee members shall serve without compensation.

3.30.040 Administration and Enforcement.

(Amended by Ordinance Nos. 175327, 176955, 183793, 186564 and 186736, effective August 29, 2014.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

A. Adopt, amend and repeal administrative rules, policies, procedures and forms for the enforcement of applicable Code provisions and laws.

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- B.** Establish enforcement fees or penalties for non-compliance.
- C.** Establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by City Council.
- D.** Gain compliance by:
 - 1.** Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code.
 - 2.** Causing appropriate action to be instituted in a court of competent jurisdiction.
 - 3.** Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.
 - 4.** Taking other lawful action.
 - 5.** Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:
 - a.** If the Director determines that cause for revocation of a permit exists, the Director shall provide written notice thereof to the permittee. The notice shall contain a brief description of the facts supporting the revocation, the date the revocation shall become final and a notice of the permittee's right to appeal the revocation.
 - b.** The notice shall be mailed by certified mail, return receipt requested, and regular mail to the permittee. The notice shall be effective upon three days after mailing.
 - c.** The revocation shall become final and effective ten days after the notice is effective, unless an appeal is filed.
 - d.** Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of City Code Chapter 22.10. The filing of an appeal shall stay the

effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.

- E.** Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:
- 1.** Initiating the notification procedures provided in Section 29.60.050.
 - 2.** Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
 - a.** The property is the subject of a notice of violation by the Bureau of Development Services; and
 - b.** A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - c.** The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
 - 3.** Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.
 - 4.** Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
 - 5.** All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties may be updated annually or on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
 - 6.** When a property meets the conditions for charging any Council approved fee or penalty for noncompliance, the Director shall file a statement with the City Auditor identifying the property, the amount of the fee or penalty and the date upon which the charge should be assessed. The City Auditor shall notify the property owner of the amount of the assessed fees and penalties, and a 10 percent City Auditor charge. The City Auditor shall record the total amount as a lien in the Docket of City Liens. The City Auditor shall maintain the lien record until the lien and all associated interest and costs are paid in full, and the Director certifies that all

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violations listed in the original or subsequent notice of violation have been corrected.

7. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.
8. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.010.
9. Allowing exceptions as provided in Section 29.60.100.

3.30.045 Administrative Rulemaking Procedures.

(Added by Ordinance No. 186564, effective June 13, 2014.)

- A. The Director has been delegated the authority to adopt and administer administrative rules appropriate to perform the duties set forth in Section 3.30.010 of this Title. Such administrative rules shall be adopted according to the procedures in this Section.
- B. Permanent rules.
 1. Prior to the adoption of a permanent rule, the Director shall:
 - a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before adoption of the administrative rule. The notice shall include the place and time of a proposed public hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments; and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before adoption. The Director is only required to hold the public hearing if a written request is filed seeking a hearing.
 - b. During the public review process, the Director shall hear testimony and receive written comments regarding the proposed rules.
 - c. The Director will review the testimony and comments and may either adopt the proposed rule, modify it or reject it.
 - d. If the Director makes a substantial modification to the proposed rule, the Director may provide additional time for public review and comment prior to adoption.

2. Unless otherwise stated, all rules will be effective upon adoption by the Director.
- C. Interim rules.
1. The Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the public interest.
 2. Interim rules will be effective for a period of not longer than 180 days.
 3. The Bureau of Development Services shall post public notice of the interim rule not more than 30 days after adoption by posting on its website and shall send notice to the Office of Neighborhood Involvement. Such notice shall identify the location at which copies of the full set of the interim rules may be obtained.
- D. All final and interim rules shall be filed in the office of the Director. Copies of all final and interim rules will be made available to the public at the Development Services Center.

3.30.050 Special Jurisdiction.

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

3.30.060 Nuisance Abatement Contracts.

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

3.30.070 Inspections

- A. Definitions. The terms used in this Section shall be defined as provided in this subsection, unless the context requires otherwise:

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1. Building Regulations means any city code title listed in 3.30.010, or any other safety or health statute, ordinance, regulation, rule, standard or order the Director is authorized to enforce.
 2. Property means real property and all improvements or structures on real property, from property line to property line.
- B. Warrants.** Whenever an inspection is necessary to enforce any of the provisions authorized by this Title, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any condition which makes such property substandard as defined in any building regulations, the Director may request any Circuit Court judge to issue an inspection warrant for the inspection or investigation of any building or upon any property as required or authorized by city code or by statute. The inspection warrant is an order authorizing a safety or health inspection or investigation to be conducted at a designated building or property.
- C. Grounds for Issuance of Inspection Warrants; Affidavit.**
1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the building or property to be inspected or investigated, and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.
 2. Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is cause to believe that a condition of nonconformity with any building regulations exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any building regulations.
- D. Procedure for Issuance of Inspection Warrant.**
1. Examination. Before issuing an inspection warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

2. Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly the person or persons authorized to execute the warrant, the property to be entered, and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any other time of the day or night.

E. Execution of Inspection Warrants.

1. Occupied Property. Except as provided in subsection 2. of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing an inspection warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the search warrant shall be conspicuously posted on the property.
3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the building inspector or representative of the bureau inspecting the property in any way necessary to complete the inspection.
4. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 5 working days from its date of execution, unless such judge before the expiration of such time extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

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3.30.080 Stop Work Orders.

(Amended by Ordinance Nos. 176955 and 186564, effective June 13, 2014.)

- A.** When it is necessary to obtain compliance with this Title, or any violations of provisions administered by the Bureau of Development Services, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the responsible party may not resume work until such time as the Director give specific approval in writing. The stop work order will be in writing and will include:
1. Date of order;
 2. Permit or registration number, where applicable;
 3. Site address, legal description or project location of stop work order;
 4. A description of violations observed; and
 5. The conditions under which the work may resume.
- B.** The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy will be sent to the responsible party by Certified mail. Where the responsible party is not the property owner, a copy of the stop work order will also be sent to the property owner.
- C.** It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D.** A stop work order is effective upon posting.
- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written notice under Section A, above, within 24 hours.
- F.** Stop work orders for work commenced without a permit.
1. The Director may issue a stop work order for work commenced without a required permit.
 2. The Director may impose a penalty as set forth in the Enforcement Fee and Penalty Schedule adopted by the City Council when a stop work order is issued for commencing work without a required permit.

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Chapter 6.04	TRANSIENT LODGINGS TAX
6.04.010	Definitions.
6.04.020	Tax Imposed.
6.04.030	Collection of Tax by Operator; Rules for Collection.
6.04.040	Operator's Duties.
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Chapter 6.06	DISTRICT PROPERTY MANAGEMENT LICENSE
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6.06.260	Lloyd District Fee Rates for Engaging in Property Management Activities.
6.06.270	Revisions to License Fee Year Schedule.
6.06.280	Lloyd District Periodic Sunset Review.
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Chapter 6.07

MARIJUANA AND MARIJUANA-INFUSED PRODUCTS TAX

6.07.010	Purpose.
6.07.020	Definitions.
6.07.030	Levy of Tax.
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6.07.050	Seller Responsible for Payment of Tax.
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- 6.07.100 Actions to Collect.
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- 6.07.120 Confidentiality.
- 6.07.130 Audit of Books, Records or Persons.
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Chapter 6.04

TRANSIENT LODGINGS TAX

(Chapter replaced by Ordinance No. 161506,
effective January 1, 1989.)

Sections:

- 6.04.010 Definitions.
- 6.04.020 Tax Imposed.
- 6.04.030 Collection of Tax by Operator; Rules for Collection.
- 6.04.040 Operator's Duties.
- 6.04.050 Exemptions.
- 6.04.060 Registration of Operator; Form and Contents; Execution; Certification of Authority.
- 6.04.070 Due Date; Returns and Payments.
- 6.04.080 Penalties and Interest.
- 6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.
- 6.04.100 Redeterminations.
- 6.04.110 Security for Collection of Tax.
- 6.04.120 Refunds.
- 6.04.130 Administration.
- 6.04.140 Business License Appeals Board; Hearings Officer; Appeal; Rules.
- 6.04.150 Appeal to Business License Appeals Board, Hearings Officer.
- 6.04.170 Violations.

6.04.010 Definitions.

(Amended by Ordinance Nos. 162647 and 186985, effective February 20, 2015.) Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. **“Accrual accounting”** means the Operator enters the rent due from a transient on his/her records when the rent is earned, whether or not it is paid.
- B. **“Bed and Breakfast Home”** means a home where a resident individual or family rents out guest bedrooms (no more than two) in their house, which is continually occupied as their primary residence.
- C. **“Bed and Breakfast Inn”** means a home where a resident individual or family rents out guest bedrooms (between three and six) in their house, which is continually occupied as their primary residence.

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- D.** “**Booking Agent**” means an Operator or any person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent’s hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:
1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; and/or
 2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; and/or
 3. A hosting or other online site that provides a means through which an Operator, Host or agent may offer a Short-Term Rental unit for transient lodging occupancy.
- E.** “**Bureau**” means the Revenue Division of the Bureau of Revenue and Financial Services of the City of Portland.
- F.** “**Bureau Director**” means the director of the Revenue Division, or his/her designee.
- G.** “**Business License Appeals Board**” means a Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- H.** “**Cash accounting**” means the operator does not enter the rent due from a transient on his/her records until rent is paid.
- I.** “**City Council**” means the City Council of the City of Portland, Oregon.
- J.** “**Host**” means the owner or person who resides at the Short-Term Rental or has been designated by the owner or resident to manage the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or through the use of a Booking Agent.

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- K.** “**Hotel**” means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, house, duplex, condominium, multi-dwelling structure, trailer home, houseboat, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- L.** “**Occupancy**” means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.
- M.** “**Operator**” means the person who is proprietor of the hotel in any capacity. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this Chapter by either the principal or managing agent shall be considered to be compliance by both.
- N.** “**Person**” means any individual, firm, partnership, joint venture, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- O.** “**Rent**” means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.
- P.** “**Rent package plan**” means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this Chapter shall be the same charge made for rent of the identical room when it is not a part of a package plan.
- Q.** “**Short-Term Rental**” means a house, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a person rents guest bedrooms for transient lodging occupancy. Generally, a Short-Term Rental is zoned as residential property.
- R.** “**Tax**” means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he/she is required to report his/her collections.

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- S.** “**Transient**” means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be considered.

6.04.020 Tax Imposed.

For the privilege of occupancy in any hotel, each transient shall pay a tax in the amount of 6 percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the operator to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his/her records when rent is collected if the operator keeps his/her records on the cash accounting basis and when earned if the operator keeps his/her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and space occupancy in mobile home parks or trailer parks.

6.04.030 Collection of Tax By Operator; Rules for Collection.

- A.** Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this Chapter, shall collect a tax from the transient. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City.
- B.** In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.
- C.** The Bureau shall enforce provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the Bureau shall give public notice of its intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when

rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Chapter to violate rules and regulations duly adopted by the Bureau.

- D.** For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

6.04.040 Operator's Duties.

(Amended by Ordinance No. 186985, effective February 20, 2015.)

- A.** Each Operator shall collect the tax imposed by this Chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.
- B.** An Operator or Booking Agent that directly or indirectly accepts, receives or facilitates payment, including through Application Programming Interfaces (APIs) or other computerized devices where third party providers receive information about a transaction and collect funds that may or may not be transmitted to the operator, owner or other person offering a Short-Term Rental, for the transient lodging occupancy from a transient is required to collect, report and remit transient lodging taxes to the City of Portland in accordance with this Chapter.
- C.** Additionally, upon request of the Bureau for any regulatory or tax administration purpose, Operators, which include Booking Agents, must provide all physical addresses of transient lodging occupancy locations within Portland city limits and the related contact information, including the name and mailing address, of the general manager, agent, owner, or Host for the location. Any location and related contact information provided under this Subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns.

6.04.050 Exemptions.

(Amended by Ordinance No. 162647; effective January 4, 1990.) No tax imposed under this Chapter shall be imposed upon:

- A.** Any occupant for more than 30 successive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall not be deemed a transient);

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- B.** Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof, except Bed and Breakfast Homes and Inns;
- C.** Any occupant in a hospital room, medical or mental health facility, convalescent home, home for aged people, or a government owned and operated public institution.
- D.** Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds;
- E.** Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.

6.04.060 Registration of Operator; Form and Contents; Execution; Certification of Authority.

(Amended by Ordinance No. 186736, effective August 29, 2014.)

- A.** Every person engaging or about to engage in business as an operator of a hotel in this City shall register with the Bureau on a form provided by the Bureau. Operators starting business must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place of business and such other information to facilitate the collection of the tax as the Bureau may require. The registration shall be signed by the operator.
- B.** The Bureau shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Bureau upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all occupants and persons seeking occupancy.
- C.** Said certificate shall, among other things, state the following:
 - 1.** The name of the operator;

2. The address of the hotel;
 3. The date upon which the certificate was issued;
 4. “This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the City of Portland for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Portland. This certificate does not constitute a permit.”
- D.** Operators of Type A and Type B accessory short-term rentals as described in Section Chapter 33.207 must include their Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No person shall advertise or otherwise represent that an accessory short-term rental has received approval unless that person holds a current, valid permit or Conditional Use case file. Additionally, this Permit Number or Conditional Use case file number shall be prominently displayed in the rental unit so as to be seen by all short-term occupants.

6.04.070 Due Date; Returns and Payments.

- A.** The tax imposed by this Chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on the 15th day of the following month for the preceding 3 months; and are delinquent on the last day of the month in which they are due. If the last day of the month falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The Bureau has authority to classify and/or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator’s returns. The initial return under this Chapter may be for less than 3 months preceding the due date; thereafter returns shall be made for the applicable quarterly period.
- B.** On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter’s tax collections shall be filed with the Bureau. The return shall be filed in such form as the Bureau may prescribe by every operator liable for payment of tax.
- C.** Returns shall show the amount of tax collected or otherwise due for the related period. The Bureau may require returns to show the total rentals upon which tax

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was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

- D.** The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Bureau at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- E.** For good cause, the Bureau may extend for not to exceed 1 month the time for making any return or payment of tax. No further extension shall be granted, except by the Bureau Director. Any operator to whom an extension is granted shall pay interest at the rate of 1.25 percent per month on the amount of tax due without proration for a portion of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall be added to the tax due for computation of penalties described elsewhere in this Chapter.
- F.** The Bureau, if deemed necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

6.04.080 Penalties and Interest.

- A.** Original delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.
- B.** Continued delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15 percent of the amount of the tax due plus the amount of the 10 percent penalty first imposed.
- C.** Fraud. If the Bureau determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs A and B of this Section.
- D.** Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax

due from the date on which the remittance first became delinquent until paid. Interest shall be compounded monthly.

- E. Penalties and interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts.
- F. Petition for waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the operator may petition the Bureau Director for waiver and refund of the penalty or any portion thereof and the Bureau Director may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.
(Replaced by Ordinance No. 184772, effective August 26, 2011.)

- A. **Deficiency determinations. If the Bureau determines that a return is incorrect, that** required reports or returns have not been filed, or that an operator has otherwise failed to comply with the terms of the Code, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable ten days after service of a deficiency notice from the Bureau. The Bureau may also determine and assess penalties and interest as set forth in Section 6.04.080.
 - 1. In making a determination, the Bureau may offset overpayments, if any, which may have been previously made for a period or periods against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
 - 2. The Bureau shall give to the operator or transient (in the case of a refund request) a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the Bureau or as the Bureau can best determine if the operator has not provided that information to the Bureau. In case of service by mail or any notice required by this Chapter, the service is complete at the time of deposit with the United States Post Office.

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3. Any deficiency is due and payable 10 days after the Bureau serves its written notice. The operator or transient (in the case of a refund request) may petition for a redetermination if the petition is filed within 10 days of service as provided in Section 6.04.100. Nothing prohibits the Bureau from extending the time for petition beyond 10 days at its discretion.
 4. Except as provided herein, every deficiency determination shall be made and notice mailed within 3 years after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return, or willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of such deficiency may be commenced, at any time.
- B.** Operator delay. If the Bureau believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, the Bureau may make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the Bureau after service of notice thereof; provided, however, the operator may petition, after payment has been made, for a redetermination of the Bureau's assessment, if the petition is filed within 10 days from the date of the written notice from the Bureau.

6.04.100 Redeterminations.

(Amended by Ordinance No. 184772, effective August 26, 2011.)

- A.** Any person against whom a determination is made under Section 6.04.090 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 6.04.090, the determination becomes final at the expiration of the allowable time.
- B.** If a petition for redetermination and refund is filed within the allowable period, the Bureau Director shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person an oral hearing and shall give him/her 10 days notice of the time and place of the hearing. The Bureau Director may continue the hearing from time to time as may be necessary.
- C.** The Bureau Director may decrease or increase the amount of the determination as a result of the hearing and, if an increase is determined, such increase shall be payable immediately after the hearing.

- D.** The order or decision of the Bureau Director upon a petition for redetermination of redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order of decision is filed with the Business License Appeals Board within the 10 days after service of such notice.
- E.** No petition for redetermination, redemption or refund or other appeal shall be accepted and no petition or appeal is effective for any purpose unless the operator has first complied with the payment provisions hereof and has paid in full the amount determined to be due by the decision appealed from.

6.04.110 Security for Collection of Tax.

(Amended by Ordinance No. 162647; effective January 4, 1990.) The Bureau, whenever deemed necessary to insure compliance with this Chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the Bureau may determine. The amount of the security shall be fixed by the Bureau but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, determined in such manner as the Bureau deems proper. The amount of the security may be increased or decreased by the Bureau subject to the limitation herein provided.

6.04.120 Refunds.

- A.** Refunds by City to operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Bureau under this Chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Bureau within 3 years from the date of payment. The claim shall be made on forms provided by the Bureau. If the claim is approved by the Bureau, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.
- B.** Refunds by City to transient. Whenever the tax required by this Chapter has been collected by the operator, and deposited by the operator with the Bureau, and it is later determined that the tax was erroneously or illegally collected or received by the Bureau, it may be refunded by the Bureau to the transient, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Bureau within 3 years from the date of payment.
- C.** Refunds by operator to tenant. Whenever the tax required by this Chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator shall refund to

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such tenant the tax previously collected by the operator from that tenant as transient. The operator shall account for such collection and refund to the Bureau. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund under this Section.

6.04.130 Administration.

- A.** Records required from operator, et cetera; form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of 3 years and 6 months after they come into being.
- B.** Examination of records; investigations. The Bureau, or any person authorized in writing by it, may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- C.** At any time within 3 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within 3 years after any determination becomes final, the Bureau may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.
- D.** Confidential financial information. Except as otherwise required by law, it shall be unlawful for the Bureau, the Auditor, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Bureau under the terms of Chapter 6.04, Transient Lodgings Tax. Nothing in this subsection shall be construed to prohibit:
 - 1.** The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of this Chapter, or collecting taxes imposed under the terms of this Chapter, or collecting City business license fees; or
 - 2.** The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the Bureau Manager; or

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3. The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued; or
4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
5. The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Bureau deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau.

6.04.140 Business License Appeals Board; Hearings Officer; Appeal; Rules.

(Replaced by Ordinance No. 184772, effective August 26, 2011.) The Business License Appeals Board shall have power and it shall be its duty:

- A. Except as provided herein, the Business License Appeals Board has authority to hear and determine appeals of orders or decisions of the Bureau or Bureau Director made upon petitions for redetermination of tax. The Board may affirm, modify, or reverse such orders or decisions or dismiss the appeals and prescribe such forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the Bureau or Bureau Director's decision or order, the Board may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of a notice of the Bureau or Bureau Director's decision and shall file a copy of each such determination with the Bureau. Such determination shall become final after 10 days and any increase to the determination becomes due and payable once final, subject to interest and penalties, and enforceable by the Bureau in like manner as an order or decision of the Bureau or Bureau Director.
- B. For an amount in controversy greater than \$10,000 and less than \$50,000, an appellant may request a hearing by an appointed Hearings Officer instead of a hearing by the Business License Appeals Board.
- C. An appeal involving an amount in controversy greater than \$50,000 shall be heard by a Hearings Officer instead of a hearing by the Business License Appeals Board. The Hearings Officer shall be appointed by the City Attorney, shall be a member of the Oregon State Bar and shall not be a City employee.
- D. In appeal hearings held before a Hearings Officer, the appellant and the City's representative shall each have the right to appear in person and be represented by legal counsel, to receive notice, to respond to and present evidence, to call and cross-examine witnesses under oath and to present argument on all issues involved.

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Subject to the provisions herein, the City Attorney may promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.

- E.** The record in a proceeding before the Hearings Officer shall include:
- 1.** All pleadings, motions, and intermediate rulings;
 - 2.** Evidence received or considered;
 - 3.** Stipulations;
 - 4.** A statement of matters officially noticed;
 - 5.** Questions and offers of proof, objections, and rulings thereon;
 - 6.** Proposed findings and exceptions; and
 - 7.** Any proposed, intermediate, or final order prepared by the Hearings Officer.
- F.** The Hearings Officer shall have the power to compel attendance of witnesses by deposition or at hearing and the production of documents by subpoena to any party upon showing of general relevance and subpoena in accordance with civil law.
- G.** The formal rules of evidence shall not apply and any relevant evidence that is the sort of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of serious business affairs shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Hearsay evidence may be considered by the Hearings Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The Hearings Officer shall give effect to the rules of privilege recognized by law.
- H.** The Hearings Officer may take notice of judicially recognizable facts, and the Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of City employees.
- I.** A verbatim, written, mechanical, or electronic record shall be made on all motions, rulings, and testimony if requested by any party. The record shall be transcribed for the purposes of court review. If the City prevails on such review, the reasonable costs of preparing the transcript shall be allowed as a part of the City's costs in such action.

- J.** The Hearings Officer is authorized to rule upon issues of law or fact and to determine the amount of the tax, penalty or interest due in accordance with the Transient Lodgings Tax Law. The Hearings Office shall not have any jurisdiction to waive, mitigate or suspend the collection of any tax, penalty or interest found to be duly imposed.
- K.** The decision of the Hearings Officer shall be issued in writing in a final order. The final order shall become final on the date specified in the order, which date shall be within 30 days after the conclusion of the hearing. The decision shall be the final administrative remedy of the appellant. Any amounts due shall be payable to the City Treasurer within 10 days of the order becoming final. The Hearings Officer shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

6.04.150 Appeal to Business License Appeals Board, Hearings Officer.

(Replaced by Ordinance No. 184772, effective August 26, 2011.) Any operator or transient aggrieved by a decision of the Bureau Director made pursuant to Section 6.04.100 may appeal to the Business License Appeals Board or Hearings Officer as allowed in Section 6.04.140 by filing a notice of appeal with the Bureau Director within 10 days of the service of the notice of a Director's decision. Any hearing shall be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals.

6.04.160 Appeals to City Council.

(Repealed by Ordinance No. 184772, effective August 26, 2011.)

6.04.170 Violations.

(Amended by Ordinance No. 186985, effective February 20, 2015.) It is unlawful for any Operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or any other data required by the Bureau or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this Chapter. The Bureau Director may impose a civil penalty of up to \$500 for each violation of this Chapter. A violation includes, but is not limited to:

- A.** Failure to file any required Transient Lodgings Tax payment and/or report, including any penalties and interest, within 60 days of the due date;
- B.** Filing a false or fraudulent report;

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- C.** Failure to register a hotel or Short-Term Rental with the Bureau as described in Section 6.04.060;
- D.** Failure to maintain a separate account for the transient lodgings tax collected when required by the Bureau;
- E.** Failure to provide any data or other information requested by the Bureau, including but not limited to, the physical address of a transient lodging occupancy location within Portland and the related contact information;
- F.** Failure to obtain an Accessory Short-Term Rental permit, provide the Type A Permit Number or Type B Conditional Use case file number in advertising or other listing services, or post this number in the rental unit; and
- G.** Failure by a Booking Agent to prominently display the Accessory Short-Term Rental permit or case file number.

Chapter 6.05

TOURISM IMPROVEMENT DISTRICT

(Chapter added by Ordinance No. 185443,
effective July 20, 2012.)

Sections:

- 6.05.010 Portland Tourism Improvement District.
- 6.05.020 Definitions.
- 6.05.030 License Required.
- 6.05.040 License Transfer.
- 6.05.050 License Term.
- 6.05.060 Portland Tourism Improvement District License Rate.
- 6.05.070 Due Date; Returns and Payments.
- 6.05.080 Disposition of License Fees.
- 6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.
- 6.05.100 Late Penalties and Interest.
- 6.05.110 Civil Penalties.
- 6.05.120 Revenues and Programs.
- 6.05.130 Portland Tourism Improvement District Periodic Sunset Review.
- 6.05.140 Severability.

6.05.010 Portland Tourism Improvement District.

The Portland Tourism Improvement District includes all hotels, as defined in Section 6.05.020, with 50 or more rooms within the Portland City limits.

6.05.020 Definitions.

- A.** “Bureau” means the Revenue Bureau of the City of Portland, along with its employees and agents;
- B.** “Bureau Director” and “Director” mean the Director of the Revenue Bureau of the City of Portland, or his or her designee;
- C.** “District” means the Portland Tourism Improvement District as described in this Chapter;
- D.** “Notice” means a written document mailed by the Bureau by first class mail to the last known address of a hotel as provided to the Bureau in the latest application or return on file at the Bureau; or, if mailed to a hotel who is not a licensee, then to

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the last known address of the hotel as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Bureau in the latest business license tax return on file at the Bureau or, if none, then to such address as may be determined following reasonable investigation;

- E.** “Hotel” means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- F.** “Engaged in hotel management activities” means:
- 1.** Being financially responsible for a water service provided to a hotel;
 - 2.** Being financially responsible for operation of a hotel business;
 - 3.** Being financially primarily responsible for the indicia of management of a hotel, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a.** Being responsible for waste disposal service provided to a hotel;
 - b.** Being responsible for providing fire insurance for a hotel;
 - c.** Being responsible for repair and maintenance of a hotel;
 - e.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a hotel; and
 - f.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a hotel.
- G.** "City Council" means the City Council of the City of Portland, Oregon.
- H.** "Rent" means the consideration charged by the hotel, whether or not received by the hotel, for the occupancy of guest rooms only, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.
- I.** “Management Corporation” means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-

related economic development plans, programs, and projects; and represents tourism-related businesses.

- J.** “Person” means a natural person, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in hotel management activities within the District.
- K.** “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.

6.05.030 License Required.

Any person engaged in hotel management activities of any hotel with 50 or more rooms within the District shall obtain a license for such activities covering each license year, or if application is made after the beginning of a license year, then for the balance of the license year. Only one person need obtain a license for each hotel in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of hotel property management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City shall not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

6.05.040 License Transfer.

- A.** Except as provided in this Section, no license shall be transferred or assigned from one person to another.
- B.** The Bureau shall allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted hotel management activities requiring a license under this Chapter. Any transfer shall be reported to the Bureau in writing or on a form provided by the Bureau and shall be effective when the Bureau approves the transfer as complete. The licensee shall be responsible for any license fee installments which become payable prior to the Bureau’s approval; and the transferee shall be responsible for any license fee installments which become payable after the Bureau’s approval.

6.05.050 License Term.

- A.** Each license issued under this Chapter shall be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter shall expire on the first September 30 following the date on which the license was issued.

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- B.** Any person under license who wishes to continue engaging in hotel management after the expiration of a license term must file a license renewal at least 30 days before the license expires or such other time as is established by Bureau rule.

6.05.060 Portland Tourism Improvement District License Rate.

The license assessment established by this Chapter for hotel management activities in the Portland Tourism Improvement District for a license year shall be calculated as follows:

- A.** Gross rent charged by the hotel;
- B.** Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);
- C.** Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and
- D.** Minus rent received from stays by any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E.** Multiplied by .02 (two percent).

6.05.070 Due Date; Returns and Payments.

- A.** The assessment imposed by this Chapter is due and payable on the 15th day of the following month for the preceding three months; and are delinquent on the last day of the month in which they are due. If the last day of the month falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The Bureau has the authority to classify and/or direct the hotels for determination of applicable collection periods. The initial return under this Chapter may be for less than three months preceding the due date based on the date of license issuance; thereafter returns shall be made for the applicable quarterly period, unless other reporting periods are required by the Bureau.
- B.** On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter assessment on a form prescribed by the Bureau shall be filed. The return shall be filed in such form as the Bureau may prescribe by every person liable for payment of the assessment.

- C.** Returns shall show the amount of assessment owed for the quarter. The Bureau may require returns to show the total rentals upon which the assessment was calculated, gross receipts of the hotel for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- D.** The person required to file the return shall cause to be delivered the return, together with the remittance of the amount of assessment due, to the Bureau at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the day of delivery for determining delinquencies.
- E.** For good cause shown, the Bureau may extend, the time for making any return or payment of the assessment for a period not to exceed one month. No further extension shall be granted, except by the Bureau Director. Any person granted an extension shall pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month. If an extension is granted and the assessment and interest due is not paid by the end of the extension granted, then the interest shall be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.
- F.** The Bureau, if deemed necessary in order to ensure payment or facilitate collection by the City of the amount of assessments in any individual case, may require returns and payment of the amount of assessments for other than quarterly periods.

6.05.080 Disposition of License Fees.

- A.** To cover its cost of collecting the assessment, the Bureau may retain up to one percent of the revenues collected.
- B.** The Bureau shall forward net revenues collected, minus any amount withheld pursuant to Subsection 6.05.080 A., to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.

- A.** The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.

 - 1.** Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and

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purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.

2. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau's office. Copies of all current rules shall be made available to the public upon request.
3. The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

6.05.100 Late Penalties and Interest.

- A. Original Delinquency. Any Licensee that has not been granted an extension of time for remittance of the assessment due and which fails to remit any assessment imposed by this Chapter prior to the delinquency date shall pay a late penalty of 10 percent of the amount of the assessment due in addition to the amount of the assessment.
- B. Continued Delinquency. Any Licensee which has not been granted an extension of time for remittance of assessments due, and which failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency late penalty of 15 percent of the amount of the assessment due plus the amount of the 10 percent late penalty first imposed and any interest assessed.
- C. Fraud. If the City determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the assessment shall be added thereto in addition to the late penalties stated in Subsections A. and B. of this Section.

- D.** Interest. In addition to the late penalties imposed, any Licensee that fails to remit any assessment imposed by this Chapter shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the assessment due from the date on which the remittance first became delinquent until paid. Interest shall be compounded monthly.
- E.** Late Penalties and interest merged with assessment. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the assessment herein required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts.
- F.** Petition for Waiver. Any Licensee that fails to remit the assessment herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the hotel may petition the City for waiver of the penalty or any portion thereof and the City may, if a good and sufficient reason is shown, waive and refund or credit to another period the penalty or any portion thereof.

6.05.110 Civil Penalties.

- A.** The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

6.05.120 Revenues and Programs.

- A.** Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit hotels paying the assessment. Programs may include:

 - 1. Internet, radio, television, and print advertising;
 - 2. Branding efforts;
 - 3. Sales promotions;
 - 4. Sponsorship of special events which attract out-of-town visitors; and
 - 5. Other programs designed to increase overnight stays at hotels.

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- B.** Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:
1. Prepare and submit to the City, and make available to lodging businesses, an annual report on expenditures and activities;
 2. Manage funds in accordance with the provisions of this Chapter;
 3. Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
 4. Enter into an Agreement with the City relative to management of district funds.
- C.** The Portland Tourism Improvement District is intended to provide supplemental funding for marketing programs above and beyond those currently provided. TID funds shall supplement the existing funding of 1 percent of transient lodging tax dedicated to promotion, solicitation, procurement and service of convention business and tourism in the City.

6.05.130 Portland Tourism Improvement District Periodic Sunset Review.

During 2017 and each 5th year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Portland Tourism Improvement District assessment should be terminated. Prior to the first such hearing in 2017 and each 5th year thereafter, the City shall mail notice of the hearing to the then current Portland Tourism Improvement District hotels under this Chapter.

6.05.140 Severability.

If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases shall not be affected but shall remain in full force and effect.

Chapter 6.06

**DISTRICT PROPERTY
MANAGEMENT LICENSE**

(Chapter replaced by Ordinance No. 175729,
effective July 27, 2001.)

Sections:

- 6.06.010 License Required.
- 6.06.020 Definitions.
- 6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.
- 6.06.040 License.
- 6.06.050 Exemptions from License Requirements.
- 6.06.060 License Transfer.
- 6.06.080 License Term.
- 6.06.090 Preparation and Notice of Fee.
- 6.06.095 Preparation and Notice of Fee Adjustment.
- 6.06.100 Appeals.
- 6.06.110 Registration for License.
- 6.06.120 Interest on Delayed Application.
- 6.06.140 Fee Payment in Two Installments.
- 6.06.145 Fee Payment in One Installment.
- 6.06.150 Penalty and Interest on Failure to Pay Fee.
- 6.06.160 Civil Penalties.
- 6.06.180 Severability.
- 6.06.190 Clean & Safe District.
- 6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.
- 6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.
- 6.06.211 Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.
- 6.06.212 Clean & Safe District Exempt Property.
- 6.06.213 Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.
- 6.06.214 Clean & Safe District Square Footage of Improvements.
- 6.06.215 Pledging of Clean & Safe District License Fee Revenues.
- 6.06.216 Lighting and District Amenities Revenues and Program.
- 6.06.220 Clean & Safe District Periodic Sunset Review.
- 6.06.230 Clean & Safe District Early Termination.

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- 6.06.240 Request Annual CPI Increase to be Different than Calculated.
- 6.06.250 Lloyd District.
- 6.06.260 Lloyd District Fee Rates for Engaging in Property Management Activities.
- 6.06.270 Revisions to License Fee Year Schedule.
- 6.06.280 Lloyd District Periodic Sunset Review.
- 6.06.290 Lloyd District Early Termination.
- 6.06.300 Request That Annual Lloyd District Escalator Be Lowered.

6.06.010 License Required.

(Amended by Ordinance No. 185495, effective July 11, 2012.) Any person engaged in property management activities within a District will pay a license fee for such activities covering each license year, or if registration is made after the beginning of a license year, then for the balance of the license year. The term “license,” as used in this Chapter, will not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of property management in a District, and the revenues collected will be used to provide, through a qualified contractor, cleaning, security, crime prevention, business development, transportation, public policy, housing, and marketing and communications services, or any such services, that benefit properties in the District. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City will not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

6.06.020 Definitions.

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) Unless the context requires otherwise, the terms used in this Chapter will be defined as follows:

- A. “Assessed Value of Improvements” means, for property tax years beginning on or before July 1, 1996, the assessed value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year and, for property tax years beginning on or after July 1, 1997, the real market value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year; or, as to property assessed by the Oregon Department of Revenue, the real market value of the property where “real market value” means the minimum amount in cash which could be reasonably expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm’s length transaction during that assessment year.
- B. “Bureau” means the Revenue Bureau of the City of Portland, along with its employees and agents;

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- C.** “Business property” means real property that is not residential property and is not exempt property. If real property in the District in part is residential or exempt property and in part is neither residential nor exempt property, then “business property” is that portion of the real property that is neither residential nor exempt property, including a proportionate share of the land. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property;
- D.** “CPI-W” means the Consumer Price Index for Urban Wage Earners and Clerical Workers for Portland-Salem, OR-WA, not seasonally adjusted, as published semi-annually by the United States Bureau of Labor Statistics;
- E.** “CPI-W adjustment factor” for a license year means the fraction in which the numerator is the CPI-W HALF1 immediately preceding the commencement of that license fee year and the denominator is the CPI-W for HALF1 for 2011;
- F.** “District” means an enhanced services district as described in this Chapter;
- G.** “Elevator capacity” means the pounds of elevator capacity for elevators type PXH, PXVE, and PXE as recorded in the records of the Building Codes Division of the Oregon Department of Consumer and Business Services;
- H.** “Engaged in property management activities” means:
- 1.** Being financially responsible for a water service provided to a building or, if there is no building on property, to land within the District, in the event there is a single water service serving the property;
 - 2.** Being financially responsible for operation of a business or a residential use that exclusively occupies a building or, if there is no building on property, land within the District, in the event there is no water service serving the property;
 - 3.** Being financially primarily responsible for the indicia of management of property within the District, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a.** Being responsible for a water service provided to common areas of a building;
 - b.** Being responsible for waste disposal service provided to a building, including common areas, or, if there is no building, to land;

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- c. Being responsible for providing fire insurance for a building;
 - d. Being responsible for repair and maintenance of a building;
 - e. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a building, including common areas; and
 - f. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a building, such as alarm systems and sprinklers.
 - 4. Notwithstanding Subsections 1. through 3. of this Subsection, being an owner of property whose activities in relationship to the property consist only of activities that the owner is mandated by law to carry out will not constitute being “engaged in property management activities.”
- I. “Exempt property” means:
 - 1. Mass shelters, as defined in Chapter 33.910 of this Code;
 - 2. Property owned or being purchased by religious organizations including:
 - a. Houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, “exempt property” does not include any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this subsection; and
 - b. Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the license year; and
 - 3. Any other property in a particular District established by this Chapter that this Chapter identifies as exempt property for that District.
- J. “Licensee” means a person licensed to engage in property management activities within the District under this Chapter;

- K.** “Manager” means the Director of the Revenue Bureau or his or her designee;
- L.** “Notice” means a written document mailed by the Bureau by first class mail to the last known address of a licensee as provided to the Bureau in the latest application on file at the Bureau; or, if mailed to a person who is not a licensee, then to the last known address of the person as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Bureau in the latest general business license tax return on file at the Bureau or, if none, then to such address as may be determined following reasonable investigation;
- M.** “Person” means a natural person, sole proprietorship, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity capable of engaging in property management activities within the District;
- N.** “Qualified contractor” means a non-profit corporation or other non-profit entity established by property owners or licensees in the District for the purpose of providing services that benefit the District;
- O.** “Residential Property” means real property that is exclusively in residential use and is not exempt property. If part of real property is in residential use and part is not in residential use or is exempt property, then “residential property” is that portion of the real property that is exclusively in residential use and is not exempt property, and a proportionate share of land. Property is considered to be in residential use if the use is within a “Residential Use Category” as defined by Chapter 33.920 of this Code. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property; and
- P.** “Square feet” and “square footage,” except as otherwise expressly stated in this Chapter, means square footage as recorded in the records of the Multnomah County Office of Assessment and Taxation or, if not so recorded, as measured using the same method as used by the Multnomah County Office of Assessment and Taxation.

6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.

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1. Prior to the adoption of any rule by the Manager pursuant to this Section, a public hearing will be conducted. The Manager will give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice will include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
2. During the public hearing, the Manager will hear statements or receive written comment concerning the proposed rules. The Manager will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review may be conducted, but no additional public notice will be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules will be effective upon adoption by the Manager. All rules adopted by the Manager will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.
3. Notwithstanding Subsections 6.06.030 B.1.-2., the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

6.06.040 License.

(Amended by Ordinance No. 185495, effective July 11, 2012.) No person will engage in property management activity within the District unless such person first will have paid a license fee installment as described in Subsection 6.06.140.

6.06.050 Exemptions from License Requirements.

Persons who the city is prohibited from licensing or taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City are exempt from the license requirements imposed by this Chapter, to the extent of any such prohibition.

6.06.060 License Transfer.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. Except as provided in this Section, no license will be transferable from one person to another.

- B.** The Bureau may allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted property management activities requiring a license under this Chapter. Any transfer will be reported to the Bureau in writing or on a form provided by the Bureau and will be effective when the Bureau approves the transfer as complete. The licensee will be responsible for any license fee installments which become payable prior to the Bureau's approval; and the transferee will be responsible for any license fee installments which become payable after the Bureau's approval.

6.06.070 Contents of License.

(Repealed by Ordinance No. 185495, effective July 11, 2012.)

6.06.080 License Term.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** Each license issued under this Chapter will be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter will expire on the day prior to the beginning of the new license year. In no case will a license be valid in excess of 12 months.

6.06.090 Preparation and Notice of Fee.

(Amended by Ordinance No. 185495, effective July 11, 2012.) On or before August 1 of each year, the Bureau will make a preliminary determination of each person engaged in property management activity within the District and subject to the license fee requirement and of the amount of license fee payable by the person for the next license year. On or before August 1, the Bureau will mail to each person preliminarily determined to be engaged in property management activity within the District and subject to the license fee requirement a notice which contains the following information:

- A.** That the Bureau has determined the person is engaged in property management activity within the District that is subject to the license fee requirement;
- B.** The amount of the license fee the Bureau has determined to be payable by the person for the next license year, including the data and formula used in determining the amount;
- C.** The activities which constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.1.-3.;
- D.** The activities which do not constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.4.;

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- E.** The exemption provisions of Section 6.06.050 and the definition of exempt property as set out in Section 6.06.020 I. and any other provision of this Chapter applicable to the District;
- F.** That any appeal from the determinations of the Bureau as to the person's engagement in property management activity within the District, as to the person's being subject to the license fee requirement, or as to the amount of the license fee payable by the person for the next license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed. Appeal information from Section 6.06.100 will be included with the notice.

6.06.095 Preparation and Notice of Fee Adjustment.

(Amended by Ordinance No. 185495, effective July 11, 2012.) In cases in which the sections of this Chapter establishing a license fee formula for the District provide for a license fee adjustment, the Bureau, following City issuance of authorization to occupy improvements or any portion of improvements, will make a preliminary determination of the license fee adjustment for the balance of the license year. The Bureau will mail to the licensee a notice which contains the following information:

- A.** That the Bureau has determined that the licensee is subject to a fee adjustment;
- B.** The amount of the adjusted license fee the Bureau has determined to be payable by the licensee for the balance of the license year, including the data and formula used in determining the adjusted amount;
- C.** That any appeal from the determinations of the Bureau as to the person's being subject to a license fee adjustment, or as to the adjusted amount payable for the balance of the license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed.

Failure to receive notice as provided in this Section will not relieve a person from the obligation to pay an adjusted license fee payable under this Chapter.

6.06.100 Appeals.

(Amended by Ordinance Nos. 176955 and 185495, effective July 11, 2012.)

- A.** Persons to whom the Bureau mails a notice under Section 6.06.090 will be presumed to be engaged in property management activity within the district, to be subject to the license fee requirement, and to be liable for the amount indicated in the notice as the license fee payable by the person for the next license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.

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- B.** Persons to whom the Bureau mails a notice under Section 6.06.095 will be presumed to be subject to a license fee adjustment, and to be liable for the adjusted amount indicated in the notice as payable for the balance of the license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- C.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.090 on the following grounds:
- 1.** The person is not engaged in property management activity within the District as defined in Subsection 6.06.020 H.1.-4.;
 - 2.** The person is not subject to the license fee requirement because the person is exempt under Section 6.06.050;
 - 3.** The amount of license fee determined by the Bureau to be payable by the person for the next license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- D.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.095 on the following grounds:
- 1.** The licensee is not subject to a fee adjustment;
 - 2.** The amount of the adjusted license fee determined by the Bureau to be payable by the person for the balance of the license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- E.** The Bureau, in its discretion, may grant an appeal without audit or may audit an appeal to determine whether the appeal should be granted. The audit may include review of such evidence as the Bureau deems appropriate. If the person appeals on the ground that the data used in determining the license fee payable are incorrect, the Bureau will not be bound by the data contained in the record sources identified in the sections of this Chapter establishing the license fee formula for the District and may consider other evidence as to data, except that the Bureau will be bound by the assessed value data as recorded in the Multnomah County assessment roll, by the square footage data as recorded in the records in the Multnomah County Office of Assessment and Taxation, by the City Bureau of Development Services written documentation of authorization to occupy improvements or portions of improvements, by the City Bureau of Development Services building permit application records of the cost of physical changes, and by the City Bureau of

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Development Services building permit application records of the additional square feet of improvements, when those record sources are designated for use by a section of this Chapter establishing the license fee formula for the District. In the event the Bureau determines that an appeal should or should not be granted, in whole or in part, then the Bureau will give the appealing person written notice of the determination and the reasons, by mail or personal delivery. The Bureau's determination is final.

6.06.110 Registration for License.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** All persons required to obtain a license under this Chapter may register with the Bureau either in writing or on specific forms if provided by the Bureau. Registrations will be filed, together with the specified license fee installment if known or due at the time of registration:
 - 1.** Before the property manager engages in property management activities in the District; or
 - 2.** Prior to commencement of the new license year.
- B.** The Bureau may, for good cause, allow further time for filing registrations, except that no extension may be granted for more than 30 days.
- C.** The registration may contain a written declaration, verified by the property manager, that the statements made therein are true.
- D.** The Bureau will prepare information containing appropriate data and fee calculations and make them available at its office, on request. Failure to receive or secure a form, file a registration or to receive notice as provided in Section 6.06.090, will not relieve a person from the obligation to pay a license fee and register for a license under this Chapter.

6.06.120 Interest on Delayed Application.

(Amended by Ordinance No. 185495, effective July 11, 2012.) When the time for filing a license registration is extended at the request of the applicant, interest at the rate specified in Subsection 6.06.150 B. will be added and paid on the license fee installment or portion thereof not paid within the time originally allowed.

6.06.140 Fee Payment in Two Installments.

(Amended by Ordinance No. 185495, effective July 11, 2012.) Except as otherwise provided by Section 6.06.145, District license fees will be payable as follows:

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- A.** Except as provided in Subsection F. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in two equal installments, with the first installment due on October 1 of the license year and the second installment due on April 1 of the license year.
- B.** On or before February 15 of each license year, the Bureau will mail notice to each licensee stating the amount of the second installment payable on April 1 of the license year.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060. If the licensee has not engaged in property management activities within the District until after the beginning of the license year and a transfer has been approved, then the fee payment required will be the next installment due, provided that the property management activities within the District began no later than the billing notice of the next installment.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee shall be payable in relation to any real property which, for that license year, has been paid by another licensee.
- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:

 - 1.** The amount of any adjustment increase allocable to the portion of the license year between October 1 and March 31 will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 2.** The amount of any adjustment increase allocable to the portion of the license year between April 1 and September 30 will be due on April 1 of the license year or 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, whichever is later, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 3.** The amount of any adjustment decrease allocable to the portion of the license year between October 1 and March 31, provided that the amount previously determined to be due as of that October 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment

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amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.; and

4. The amount of any adjustment decrease allocable to the portion of the license year between April 1 and September 30, provided that the amount previously determined to be due as of that April 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

6.06.145 Fee Payment in One Installment.

(Amended by Ordinance No. 185495, effective July 11, 2012.) If a qualified contractor for a District has filed a written request approved by resolution of the City Council that the District license fee be payable in one installment, District license fees for future license fee years will be payable as follows, until such time as the City Council by resolution determines that the District license fee will be payable in two installments in accord with Section 6.06.140:

- A. Except as provided in Subsection E. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in one installment due on October 1 of the license year.
- B. Each registration for a license, will be accompanied by payment of the license fee for the license year if known.
- C. The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060.
- D. In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee will be payable in relation to any real property which, for that license year, has been included in computing the license fee payable by another licensee.
- E. In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
 1. The amount of any adjustment increase for a license year will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the

licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

2. The amount of any adjustment decrease for a license year, provided that the amount previously determined to be due has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

6.06.150 Penalty and Interest on Failure to Pay Fee.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. If a person:
 1. Fails to file a correct registration at the time required by or under this Chapter; or
 2. Fails to pay a fee installment at the time it becomes due, unless it is shown that the failure is due to reasonable cause and not due to neglect, then there will be added to the amount of a fee installment a penalty of:
 - a. 5 percent of the amount of the unpaid fee installment, but not less than \$20, if the failure is for not more than 1 month; and
 - b. Additional penalties of 5 percent of the unpaid fee installment for each additional month or fraction thereof during which the failure continues, up to a maximum of four (4) additional months.
- B. Interest will be collected on any unpaid fee installment at the rate of 10 percent simple interest per annum, computed on the balance still due at the end of each month following the date the fee installment became due. For purposes of this subsection, "unpaid fee installment" will not include penalties or interest.
- C. If a person fails to file a registration on the prescribed date, as determined with regard to any extension for filing, the Bureau may determine the fee and fee installment payable. If the Bureau determines the fee and fee installment payable, the Bureau will determine appropriate penalties and interest and will send notice to the person of the determination.
- D. The Bureau may apply payments to penalty and interest assessments before applying payments to fee installments due.

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6.06.160 Civil Penalties.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may impose a civil penalty of up to \$500 for each of the following violations of this Chapter:
 - 1.** Failure to file any registration within 90 days of the Bureau's original written notice to file;
 - 2.** Failure to pay any fee installment within 90 days of the Bureau's original written notice for payment.
- B.** The Manager may only impose a civil penalty under this section if the Bureau gives notice of the potential for assessment of civil penalties for failure to comply in the original written preliminary determination notice issued under Sections 6.06.090 and 6.06.095.
- C.** The determination of a violation and imposition of a civil penalty under this Section will be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

6.06.180 Severability.

(Amended by Ordinance No. 185495, effective July 11, 2012) If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases will not be affected but will remain in full force and effect.

6.06.190 Clean & Safe District.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Clean & Safe District is that area within the boundaries formed by NW and SW Front Avenue on the east; SW Harrison between SW Front and SW 4th; SW 4th between SW Harrison and SW Market; SW Market between SW 4th and SW 9th; SW 9th between SW Market and SW Salmon; SW Salmon between SW 9th and SW 11th; SW 11th between SW Salmon and W Burnside; W Burnside between 11th and 9th; NW 9th between W Burnside and NW Hoyt; NW Hoyt between NW 9th and NW Broadway; and the Broadway Bridge on the north; but excluding the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

- B.** Notwithstanding the exclusion set out in Subsection A. of this Section, beginning with the license year commencing October 1, 2004, the Clean & Safe District also will include the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.

(Amended by Ordinance Nos. 175840, 176776, 176955, 179000 and 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of business property in the Clean & Safe District in a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
1. \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
 2. Plus \$5.52 per 290 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
 3. Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
 4. Plus 2.5 percent of the sum of Subsections A.1. through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 50 District business properties used primarily for business activities with the highest value of improvements; and
 5. Less 2.5 percent of the sum of Subsections A.1 through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 51st to the 150th District business properties used primarily for business activities with the highest value of improvements;
 6. Plus 15 percent of the amounts determined under subsections A.1. through 5.;

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7. Plus \$.01401 (1.401 cents) per square foot of improvements and, for surface parking lots, per square foot of land square footage, as of the July 1 immediately preceding commencement of the license fee year;
8. Plus 20.03 percent of the amounts determined under Subsections A.1. through 7. which is the inflation that occurred during license years 2001 through 2011.
9. Plus the total of the amounts determined under Subsections A.1. through 7. multiplied by the CPI-W factor, for license fee years commencing on or after October 1, 2012.

B. “Value of improvements” under this Section will be measured as follows:

1. For business property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For business property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For business property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
 - a. For license fee years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Review records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date;
or

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- b. For license fee years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

 - 4. For business property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, “value of improvements” is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;

 - 5. For business property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, “value of improvements” is \$73 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a business property building, structure, or addition for the property tax assessment year beginning on that July 1, then:
- 1. For purposes of initially determining the license fee for such license year, the value of improvements, improvements square footage, and elevator capacity attributable to the business property building, structure, or addition will be deemed to be zero; and

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2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy the building, structure, or addition as to which the property tax assessment was cancelled, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be the date the Bureau of Development Services issues a written authorization to occupy all new improvements on the business property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new improvements on the property, whichever occurs first.

6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.

(Amended by Ordinance Nos. 175840, 176955 and 185495, effective July 11, 2012.)

- A. The fee established by this Chapter for management of residential property in the Clean & Safe District for a license year, other than affordable residential rental property as defined in Section 6.06.211, will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
 1. \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
 2. Plus \$5.52 per 725 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
 3. Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
 4. Plus 15 percent of the amounts determined under Subsections A.1. through 3.;

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5. Plus 20.03 percent of the amounts determined under Subsections A.1. through 4. which is the inflation that occurred during license years 2001 through 2011.
 6. Plus the total of the amounts determined under Subsections A.1. through 4. multiplied by the CPI-W adjustment factor, for license fee years commencing on or after October 1, 2012.
- B.** “Value of improvements” under this Section will be measured as follows:
1. For residential property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
 2. For residential property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
 3. For residential property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
 - a. For license years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or
 - b. For license years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the

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property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

4. For residential property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
 5. For residential property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$68 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a residential property building, structure, or addition subject to this Section, for the property tax assessment year beginning on that July 1, then:
1. For purposes of initially determining the license fee for such license year, the value of improvements, improvement square footage, and elevator capacity attributable to the building, structure, or addition will be deemed to be zero; and
 2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy new residential improvements on the property, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of

improvements will be measured as set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be date the Bureau of Development Services issues a written authorization to occupy all new residential improvements on the property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new residential improvements on the property, whichever occurs first.

6.06.211 Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of affordable residential rental property in the Clean & Safe District for a license year will be the sum of the following amounts, computed separately in relation to each such residential property within the District as to which the licensee is engaged in property management activities:
- 1.** If the licensee is a not-for-profit corporation or a government entity, \$20 multiplied by the number of affordable residential dwelling units managed by the licensee; and
 - 2.** If the licensee is other than a not-for-profit corporation, \$44 multiplied by the number of affordable residential dwelling units managed by the licensee.
- B.** For purposes of this Section, “affordable residential rental property” means single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on the July 1 immediately preceding commencement of the license year, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of that July 1. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies or other public or private organization subsidies.

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Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.

- C. For purposes of this Section, “dwelling units” means dwelling units as defined in Chapter 33.910 of this Code.

6.06.212 Clean & Safe District Exempt Property.

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) The Clean & Safe District property management license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Subsection 6.06.020 I. and also means exempt residential property. “Exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service.

6.06.213 Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.

(Amended by Ordinance No. 185495, effective July 11, 2012.) In computing Clean & Safe District property management license fees under Sections 6.06.200, 6.06.210, and 6.06.211, in relation to property within the District as to which the licensee is engaged in property management activities, where the property is a combination of any two or more of business property that is subject to Section 6.06.200, residential property that is subject to Section 6.06.210, residential property that is subject to Section 6.06.211, exempt property that is subject to Section 6.06.212, or property managed by a person generally exempt under Section 6.06.050 but where the exemption does not apply in relation to part of the property the person manages, the fee in relation to property management activities will be the sum of the following:

- A. For management of the part of the property that is business property subject to Section 6.06.200, the fee computed under Section 6.06.200 computed as though the entire property were such business property, multiplied by a fraction, the numerator of which is the square footage of business property improvements on the property subject to Section 6.06.200 and the denominator of which is the square footage of all improvements on the property;
- B. For management of the part of the property that is residential property subject to Section 6.06.210, the fee computed under Section 6.06.210 computed as though the entire property were such residential property, multiplied by a fraction, the numerator of which is the square footage of residential property improvements on the property subject to Section 6.06.210, and the denominator of which is the square footage of all improvements on the property; and

- C. For management of the part of the property that is residential property subject to Section 6.06.211, the fee computed under Section 6.06.211.
- D. If there are common area improvements in a property subject to this Section, then in computing square footage of business property improvements subject to Subsection A. of this Section and of residential property improvements subject to Subsection B. of this Section, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square footage of business property improvements subject to Subsection A. of this Section or the square footage of residential property improvements subject to Subsection B. of this Section, whichever is appropriate, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.

6.06.214 Clean & Safe District Square Footage of Improvements.

(Added by Ordinance No. 176262; Amended by Ordinance No. 185495, effective July 11, 2012.) For purposes of Sections 6.06.200, 6.06.210 and 6.06.213 only, the terms "square footage of improvements" and "improvements square footage" will not include:

- A. Surface area of surface parking lots;
- B. Landscaped area;
- C. Unenclosed sidewalk, plaza, and courtyard area;
- D. Below grade parking area (but, for parking structures that have above grade parking, will include both any at grade parking area within the parking structure and all above grade parking area within the parking structure); and
- E. Other below grade area unless improved for occupancy by employees or tenants.

6.06.215 Pledging of Clean & Safe District License Fee Revenues.

(Amended by Ordinance Nos. 176776 and 185495, effective July 11, 2012.)

- A. In addition to the uses of District revenues set out in Section 6.06.010, the City, if so requested in writing by a qualified contractor and approved by the City Council, may pledge Clean & Safe District license fee revenues as security for City debt incurred to finance the design, acquisition, construction, and installation of improvements within the District and may pledge Clean & Safe District license fee revenues to a qualified contractor or its designee in order that the contractor or designee may have revenues sufficiently ensured to enable the contractor or

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designee to incur debt to finance the design, acquisition, construction, installation, operation and maintenance of improvements within the District. Any such pledge of Clean & Safe District license fee revenues will be subject to any limitations set out in Oregon law or in the City Charter. In addition, no City pledge or combination of pledges under this Section for City payment of actual debt service or to enable the qualified contractor or its designee to make payments of actual debt service, but not including pledges to provide excess coverage for City payment of actual debt service or to enable the qualified contractor or its designee to provide excess coverage for payments of actual debt service, at any time will exceed one-third of the Clean & Safe District license fee revenues.

- B.** In making a request under Subsection A. of this Section, the qualified contractor will submit to the City a description of the improvements to be funded in whole or in part with the proceeds of the debt financing. The request also will include a description of any previously provided Clean & Safe District services proposed to be reduced or not provided due to the pledge of the District license fee revenues.
- C.** Notwithstanding Section 6.06.010, if the City pledges District license fee revenues for City debt incurred in accord with this Section, the City will retain the pledged portion of the District license fee revenues, to be used for repayment of the debt.

6.06.216 Lighting and District Amenities Revenues and Program.

(Added by Ordinance No. 176776; amended by Ordinance Nos. 179000, 185495 and 186288, effective November 15, 2013.)

- A.** As used in this Chapter, “lighting revenues” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8.
- B.** As used in this Chapter, “lighting program” means the design, acquisition, construction, installation, operation, and maintenance of all components, including but not limited to electrical connections and decorative lighting fixtures, necessary for a seasonal and decorative lighting system within portions of the District.
- C.** As used in this Chapter, “district amenities revenue” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8. in excess of amounts necessary to fund the lighting program in Subsection B. in a given year.
- D.** As used in this Chapter, “district amenities program” means the design, acquisition, construction, installation, operation, and maintenance of all components of amenities that improve the safety, function, and appearance of downtown sidewalks including but not limited to:

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1. Trash receptacles, including solar trash compactors;
 2. Co-located publication boxes.
- E. Notwithstanding Section 6.06.010, lighting revenues and district amenities revenues will be used only:
1. For the lighting program and district amenities program as set forth above, including but not limited to the pledging of such revenue as provided under Section 6.06.215;
 2. For a proportionate share of the Bureau's costs of administration of the license fee directed by the City Council to be recovered from license fee revenues, based on the ratio of lighting revenue and district amenities revenues to total District revenues; or
 3. If a qualified contractor determines that lighting revenue and district amenities revenues in a license year will exceed or have exceeded the costs and expenses of the lighting program and the district amenities program in that license year and that the excess revenues will not be needed to fund a prudent reserve or for the costs and expenses of the lighting program and district amenities program in future license years, then for distribution by the qualified contractor to the payers of the lighting revenues and district amenities revenues of that portion of the excess determined by the qualified contractor not to be so needed, in proportion to the amount paid by each payer in the license year that produced the excess.

6.06.220 Clean & Safe District Periodic Sunset Review.

(Amended by Ordinance No. 185495, effective July 11, 2012.) During 2011 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Clean & Safe District property management license fee should be terminated. Prior to the first such hearing in 2011 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Clean & Safe District licensees under this Chapter.

6.06.230 Clean & Safe District Early Termination.

(Amended by Ordinance No. 185495, effective July 11, 2012.) If the City Council, on or before March 30 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Clean & Safe District property management license fee during that year, then the license fee for the Clean & Safe District will be terminated as of September 30 of that license fee year except that the fee will continue, at a rate reduced equally proportionally

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as to each licensee, to the extent necessary to meet any City pledge obligations incurred as authorized by Section 6.06.215.

6.06.240 Request Annual CPI Increase to be Different than Calculated.

(Added by Ordinance No. 185495, effective July 11, 2012.)

- A.** The contractor's Board of Directors may recommend that the annual CPI adjustment be set to an amount other than the CPI calculation, but not less than zero for a license year.
- 1.** The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Bureau no later than June 10th. The resolution must contain the following information:
 - a.** The reason why the board is requesting the annual CPI adjustment to be set at a rate that is different than calculated;
 - b.** What the CPI adjustment amount for the license year should be; and
 - c.** The impact on the upcoming budget that will result if a different CPI adjustment is made, specifically as it relates to contract employee wages and contract service levels.
 - d.** The impact to District services.
 - 2.** The Revenue Bureau will review the information from the contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower CPI adjustment. The Revenue Bureau will make a recommendation to City Council if a different CPI adjustment is warranted for the upcoming license year.
 - 3.** City Council must approve a different CPI adjustment prior to August 1st;
 - 4.** An approved different CPI adjustment will apply to the license year that begins on October 1st.
- B.** Once one or more different CPI adjustments have been approved by City Council, the Revenue Bureau has authority to adjust the CPI component in the fee rate formulas in Subsections 6.06.200 A.9., and 6.06.210 A.6. The Revenue Bureau will document via written policy all changes to the CPI calculation as a result of

City Council approval and this policy will supersede the calculation defined in Subsection 6.06.020 E.

6.06.250 Lloyd District.

(Amended by Ordinance No. 186356, effective November 27, 2013.) The Lloyd District is that area within the boundaries formed by the Willamette River, from the Broadway Bridge to the point just south of the Oregon Convention Center at which NE Lloyd Boulevard reaches the River; NE Lloyd Boulevard, from the Willamette River to NE 16th Avenue; NE 16th Avenue curving into NE 15th Avenue, from NE Lloyd Boulevard to NE Halsey Street; NE Halsey Street, from NE 15th Avenue to NE Grand Avenue; NE Grand Avenue, from NE Halsey Street to NE Broadway; and NE Broadway, from NE Grand Avenue to the Willamette River.

6.06.260 Lloyd Business District Fee Rates for Engaging in Property Management Activities.

(Amended by Ordinance Nos. 176262, 176955, 182925, 185495 and 186356, effective November 27, 2013.)

- A.** Except as set out in Subsection B. of this Section, the fee established by this Chapter for management of business and residential property in the Lloyd District for a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
 - 1.** \$.40 (cents) per \$1,000 of assessed value of improvements for the 2010-2011 property tax assessment year;
 - 2.** Plus \$2.25 per 290 square feet of improvements as of July 1, 2010;
 - 3.** Plus \$.015 (cents) per square foot of land as of July 1, 2010.
 - 4.** Plus the total of the amounts determined under Subsections A.1. through A.3. multiplied by a 2.3 percent annual escalator for license years commencing on or after February 1, 2015.

- B.** In relation to business and residential property other than exempt residential property where physical changes to the property on or after July 1, 2010 have resulted in an increase or decrease in square footage of improvements, as compared to the square footage as of July 1, 2010, the fee established by this Chapter, for management of such property in the Lloyd District in a license year, will be as provided in this Subsection:

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1. During the period between the date the City Bureau of Development Services issues an authorization, documentable by written documentation, to occupy the improvements, or during the period between 180 days after the date the Bureau of Development Services issues such an authorization to occupy any portion of the improvements that was not occupied while the physical changes were being made, and the date of beginning of the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee otherwise payable during the period will be adjusted to the following amount, prorated based on the number of days of the period in the applicable license year:
 - a. The amount determined under Subsection A.1., plus \$.40 (cents) per \$1,000 of the cost of the physical changes, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes;
 - b. Plus the amount determined under Subsection A.2., plus \$2.25 per 290 additional square feet of improvements, resulting from the physical changes, as determined from the City Bureau of Development Services records of building permits issued authorizing or in association with the physical changes;
 - c. Plus the amount determined under Subsection A.3.
2. Beginning with the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee will be:
 - a. \$.40 (cents) per \$1,000 of assessed value of improvements for the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
 - b. Plus \$2.25 per 290 square feet of improvements, as of July 1 of the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
 - c. Plus the amount set out in Subsection A.3.;

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- d.** Plus the total of the amounts determined under Subsections B.2.a. through B.2.c. multiplied by a 2.3 percent annual escalator for the license years commencing on or after February 1, 2015.

C. In computing the fee as provided in Subsection A. or B.:

- 1.** In relation to real property within the Lloyd District as to which a licensee is engaged in property management activities, where the property in part is exempt residential property or religious organization property or,
- 2.** In relation to persons generally exempt from the license requirements of this Chapter under Section 6.06.050 but where the exemption does not apply to property management activities in relation to part of the property they manage, the fee in relation to property management activities as to such real property will be the fee computed as though management of the entire property were subject to the fee multiplied by a fraction, the numerator of which is the square footage of the area in which the licensee is engaged in property management activities subject to the fee (including land or improvements, as applicable) and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable).
- 3.** In relation to property within the District as to which there is more than one property manager for a given property, the fee for each property manager will be calculated as follows:
 - a.** Each property manager's fee will first be computed as though the property manager was subject to the fee for the entire property. That amount will then be multiplied by a fraction, the numerator of which is the square footage of the area for which the property manager is engaged in property management activities subject to the fee (including land or improvements, as applicable), and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable); and
 - b.** If there are common area improvements in a property subject to Subsection a. above, then in computing square footage of each property manager's improvements, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common are improvements by a fraction, the numerator of which is the square footage of the property improvements subject to this

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fee for each district manager, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.

- D.** Notwithstanding the amount of the fee computed under Subsections A., B., and C., of this Section, in no case will the fee payable by a licensee, in relation to all real property within the Lloyd District as to which the licensee is engaged in property management activities, exceed \$35,000 for non-residential zoned property and \$8,500 for non-exempt residential zoned property.
- E.** The Lloyd District license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Section 6.06.020 I. and also means exempt residential property. For purposes of this Section, “exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service; single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on July 1, 1997, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of July 1 of each year. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code, as in effect on January 1, 1997; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies, as in effect on January 1, 1997, or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.
- F.** For purposes of this Section only, the terms "square feet of improvements" and "square footage of improvements" will not include:
1. Surface and structured parking lot area;
 2. Landscaped area;
 3. Unenclosed sidewalk, plaza, and courtyard area; and
 4. Below grade area unless improved for occupancy by employees or tenants.

6.06.270 Revisions to License Fee Year Schedule.

(Amended by Ordinance Nos. 178073, 185495 and 186356, effective November 27, 2013.) Notwithstanding that Sections 6.06.010 through 6.06.180 are based on a license fee year of October 1 through September 30, the license fee year for the Lloyd District will be February 1 through January 31, with the first license fee year to commence February 1, 2001. Therefore, the due dates set out in Sections 6.06.010 through 6.06.180, for purposes of the Lloyd District, will be February 15 and September 15 except that the August 1 date set out in Section 6.06.090 will be January 5. Any other dates are also changed to provide at least 30 days notice before a due date and may be clarified by the Revenue Bureau in a written policy.

6.06.280 Lloyd District Periodic Sunset Review.

(Replaced by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) During 2013 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Lloyd District property management license fee should be terminated. Prior to the first such hearing in 2013 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Lloyd District licensees under this Chapter.

6.06.290 Lloyd District Early Termination.

(Added by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) If the City Council, on or before July 31 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Lloyd District property management license fee during that year, then the license fee for the Lloyd District will be terminated as of January 31 of that license fee year.

6.06.300 Request That Annual Lloyd District Escalator Be Lowered.

(Added by Ordinance No. 186356, effective November 27, 2013.)

- A. The Lloyd District contractor's Board of Directors may recommend that the annual 2.3 percent escalator adjustment be set to an amount lower than 2.3 percent for a particular license year.
 - 1. The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Bureau no later than October 10th. The resolution must contain the following information:
 - a. The reason why the board is requesting the annual escalator adjustment be set at a rate that is lower than 2.3 percent;

Chapter 6.07

**MARIJUANA AND MARIJUANA-INFUSED
PRODUCTS TAX**

(Chapter added by Ordinance No. 186857,
effective November 21, 2014.)

Sections:

- 6.07.010 Purpose.
- 6.07.020 Definitions.
- 6.07.030 Levy of Tax.
- 6.07.040 Deductions.
- 6.07.050 Seller Responsible for Payment of Tax.
- 6.07.060 Penalties and Interest.
- 6.07.070 Failure to Report and Remit Tax – Determination of Tax by Director.
- 6.07.080 Appeal.
- 6.07.090 Credits/Refunds.
- 6.07.100 Actions to Collect.
- 6.07.110 Violation Infractions.
- 6.07.120 Confidentiality.
- 6.07.130 Audit of Books, Records or Persons.
- 6.07.140 Forms and Regulations.
- 6.07.150 Invalidity.

6.07.010 Purpose.

For the purposes of PCC 6.07, every person who sells, transfers, mixes, handles or serves recreational marijuana, or recreational marijuana-infused products in the City is exercising a taxable privilege. The purpose of PCC 6.07 is to impose a tax upon the sale, transfer, mixing, handling or serving of recreational marijuana and recreational marijuana-infused products.

6.07.020 Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in PCC 6.07 have the following meanings:

- A. “Director” means the director of the Revenue Division of the Bureau of Revenue and Financial Services or his/her designee.
- B. “Gross Taxable Sales” means the total amount received in money, credits, property or other consideration from sale, transfer, mixing, handling or serving of

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recreational marijuana and recreational marijuana-infused products that is subject to the tax imposed by PCC 6.07.

- C.** “Marijuana” means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- D.** “Oregon Medical Marijuana Program” means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E.** “Person” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F.** “Purchase or Sale” means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a Seller.
- G.** “Retail Sale” means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a Seller.
- H.** “Seller” means any person who is required to be licensed or has been licensed by the state to provide, mix, handle, or serve marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.
- I.** “Tax” means either the tax payable by the Seller or the aggregate amount of taxes due from a Seller during the period for which the Seller is required to report collections under PCC 6.07.
- J.** “Taxpayer” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of PCC 6.07.

6.07.030 Levy of Tax.

- A.** Every Seller exercising the taxable privilege of selling, mixing, handling or serving recreational marijuana and recreational marijuana-infused products as defined in PCC 6.07 is subject to and must pay a tax for exercising that privilege.
- B.** The amount of tax levied is as follows:
Ten percent of the gross sale amount paid to the Seller of recreational marijuana and recreational marijuana- infused products by persons who are purchasing recreational marijuana and recreational marijuana-infused products. This tax would not apply to sales made under the provisions of the Oregon Medical Marijuana Program.

6.07.040 Deductions.

The following deductions are allowed against sales received by the Seller providing marijuana:

- A.** Refunds of sales actually returned to any purchaser;
- B.** Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a Seller.

6.07.050 Seller Responsible for Payment of Tax.

- A.** Every Seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the Revenue Division, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. The Seller may request, or the Director may establish, shorter reporting periods for any Seller if the Seller or Director deems it necessary in order to ensure collection of the tax. The Director may require further information in the return relevant to the payment of the tax. A return is not considered filed until it is actually received by the director.
- B.** At the time the return is filed, the Seller must remit to the Director the full amount of the tax collected. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the Taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

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- C.** The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.
- D.** If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to PCC 6.07 on the City's behalf until the Seller makes payment to the Director. A separate trust bank account is not required in order to comply with this provision, unless the Director determines one necessary to ensure collection of the tax.
- E.** Every Seller must keep and preserve in an accounting format established by the Director records of all sales made by the Seller and such other books or accounts as the Director may require. Every Seller must keep and preserve for a period of three years after the tax was due or paid, whichever is later, all such books, invoices and other records. The Director has the right to inspect all such records at all reasonable times.

6.07.060 Penalties and Interest.

- A.** Any Seller who fails to remit any portion of any tax imposed by PCC 6.07 within the time required must pay a penalty of 15 percent of the entire amount of the tax, in addition to the amount of the tax.
- B.** If any Seller fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, the Seller must pay a second delinquency penalty of 15 percent of the entire amount of the tax in addition to the amount of the tax and the penalty first imposed.
- C.** If the Director determines that the nonpayment of any remittance due under PCC 6.07 is due to fraud, a penalty of 25 percent of the entire amount of the tax will be added thereto in addition to the penalties stated in PCC 6.07.060 A. and PCC 6.07.060 B.
- D.** In addition to the penalties imposed, any Seller who fails to remit any tax imposed by PCC 6.07 must pay compound interest at the rate of one percent per month or

fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the remittance first became delinquent until paid.

- E.** Every penalty imposed, and any interest that accrues under the provisions of PCC 6.07.060, becomes a part of the tax required to be paid.
- F.** All sums collected, including penalty and interest, will be distributed to the City's general fund.
- G.** Penalties for certain late tax payments may be waived or reduced pursuant to policies and processes adopted by the Director. However, the Director is not required to create a penalty waiver or reduction policy. If the Director does not create a policy for waivers or reductions, no waivers or reductions are allowed.

6.07.070 Failure to Report and Remit Tax – Determination of Tax by Director.

- A.** If any Seller fails to make any report of the tax required by PCC 6.07 within the time provided in PCC 6.07, the Director will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Director procures such facts and information upon which to base the assessment of any tax imposed by PCC 6.07 and payable by any Seller, the Director will determine and assess against such Seller the tax, interest and penalties provided for by PCC 6.07.
- B.** If the Director makes a determination as outlined in PCC 6.07.070 A., the Director must give notice to the Seller of the amount assessed. The notice must be personally served on the Seller or deposited in the United States mail, postage prepaid, addressed to the Seller at the last known place of address.
- C.** The Seller may appeal the determination as provided in PCC 6.07.080. If no appeal is timely filed, the Director's determination is final and the amount assessed is immediately due and payable.

6.07.080 Appeal.

- A.** Any Seller aggrieved by any decision of the Director with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the Business License Appeals Board as created under PCC 7.02.295.
- B.** The Seller must file the appeal within 30 days of the City's serving or mailing of the determination of tax due. The Seller must file using forms provided by the City.
- C.** Upon receipt of the appeal form, the City will schedule a hearing to occur within 90 calendar days. The City will give the Seller notice of the time and date for the

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hearing no less than seven days before the hearing date. At the hearing the Business License Appeals Board will hear and consider any records and evidence presented bearing upon the Director's determination of amount due and make findings affirming, reversing or modifying the determination. The Director and the appellant may both provide written and oral testimony during the hearing. The findings of the Business License Appeal Board are final and conclusive. The City will serve the findings upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due is immediately due and payable upon the service of notice.

6.07.090 Credits/Refunds.

- A.** The City may credit to the Seller any tax, interest or penalty amount under any of the following circumstances:
 - 1.** The Seller has overpaid the correct amount of tax, interest or penalty; or
 - 2.** The Seller has paid more than once for the correct amount owed; or
 - 3.** The City has erroneously collected or received any tax, interest or penalties.
- B.** The City may not issue a credit under PCC 6.07.090 unless the Seller provides to the director a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the director. The Seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a credit.
- C.** The Director has 30 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Director will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.
- D.** If the Director determines the claim is valid, the claimant may take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the city.
- E.** In cases where a there is no future filing to claim the credit or other circumstances where a credit amount should be refunded, the claimant may petition the director to have the credit amount refunded to the claimant.
- F.** The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Director acknowledges the claim's validity.

- G.** The Director may, upon request of the claimant or the Revenue Division, extend the deadlines to file a refund/credit claim or review a refund/credit claim by up to 60 additional days for good cause.

6.07.100 Actions to Collect.

Any tax required to be paid by any Seller under the provisions of PCC 6.07 is a debt owed by the Seller to the city. Any tax collected by a Seller that has not been paid to the City is a debt owed by the Seller to the City. Any person owing money to the City under the provisions of PCC 6.07 is liable to an action brought in the name of the City of Portland for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees.

6.07.110 Violation Infractions.

- A.** All violations of PCC 6.07 are also subject to civil penalties of up to \$2,000 per occurrence. It is a violation of PCC 6.07 for any Seller or other person to:
1. Fail or refuse to comply as required herein;
 2. Fail or refuse to furnish any return required to be made;
 3. Fail or refuse to permit inspection of records;
 4. Fail or refuse to furnish a supplemental return or other data required by the director;
 5. Render a false or fraudulent return or claim; or
 6. Fail, refuse or neglect to remit the tax to the City by the due date.
- B.** The remedies provided by PCC 6.07 are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- C.** The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

6.07.120 Confidentiality.

Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted

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or disclosed to the City under the terms of PCC 6.07. Nothing in PCC 6.07.120 prohibits any of the following:

- A.** The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B.** The disclosure of general statistics in a form which would not reveal an individual Seller's financial information; or
- C.** Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amounts due the city under PCC 6.07; or
- D.** The disclosure of information to a collection agency in order to collect any delinquent tax amount; or
- E.** The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).
- F.** The Revenue Division may also disclose and give access to information described in PCC 6.07.120 to:
 - 1.** The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Revenue Division deems disclosure or access necessary for the performance of the duties of advising or representing the Revenue Division, including but not limited to instituting legal actions on unpaid accounts.
 - 2.** Other employees, agents and officials of the City, to the extent the Revenue Division deems disclosure or access necessary for such employees, agents or officials to:
 - a.** Aid in any legal collection effort on unpaid accounts,
 - b.** Perform their duties under contracts or agreements between the Revenue Division and any other department, bureau, agency or subdivision of the City relating to the administration of PCC 6.07, or
 - c.** Aid in determining whether a Revenue Division account is in compliance with all city, state and federal laws or policies.

6.07.130 Audit of Books, Records or Persons.

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of Seller's state and federal income tax return, bearing upon the matter of the Seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the court to require that the Taxpayer or a representative of the Taxpayer attend a hearing or produce any such books, accounts and records for examination.

6.07.140 Forms and Regulations.

- A. The Director is authorized to prescribe forms and promulgate rules, policies and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:
 - 1. A form of report on sales and purchases to be supplied to all Sellers;
 - 2. The records that Sellers providing, mixing, serving, or handling marijuana and marijuana-infused products must keep concerning the tax imposed by PCC 6.07.

6.07.150 Invalidity.

If any section, clause, phrase, sentence or part of this Chapter shall for any reason be adjudged unconstitutional, invalid or unenforceable, it shall only void that part, clause, phrase or section so declared and the remainder shall remain in full force and effect.

8.40.140 Additional Regulations.

The Health Officer may require any building used for storing food, food products, or other goods, wares, and merchandise, or in which foods, or food products, foods, wares, merchandise, or other material which rats might eat shall be stored to be provided with rat traps. The traps shall be baited and inspected, smoked, rebaited and set in an approved manner. Any person who shall have caught a rat shall inform the sanitary division of the Bureau of Health and keep such rat until disposed of under direction of the Health Officer, if he shall have been instructed by the officer so to do.

Chapter 8.44

INSECT CONTROL

Sections:

- 8.44.010 Created-Duties and Powers.
- 8.44.020 Interference with Officers.
- 8.44.030 Brush to be Removed - Nuisance - Abatement - Lien.

8.44.010 Created - Duties and Powers.

The Bureau of Insect Control and the position of Insect Abatement Supervisor are hereby recreated and reaffirmed. The Bureau shall have in its charge the controlling of all nuisances created by earwigs, elm leaf beetles, mosquitoes and all other injurious insects affecting premises, buildings, trees, or shrubs within the corporate limits of the City. Earwigs, elm tree beetles, mosquitoes and other injurious and harmful insects are hereby declared to be a nuisance.

The Bureau of Insect Control shall be administered by and be under the direct supervision of the Insect Abatement Supervisor, subject to the overall supervision of the City Health Officer. The duties of the Insect Abatement Supervisor shall be to supervise the eradication of earwigs, elm leaf beetles, mosquitoes, and other injurious insects affecting premises, buildings, trees or shrubs within the City. To that end the Insect Abatement Supervisor or his assistants or employees in the Bureau of Insect Control shall to the full extent permitted by law, have power and authority to enter into and upon any premises in the City for the purpose of inspecting the same to determine the presence of earwigs, elm leaf beetles, mosquitoes, and all other injurious insects, whether they are on the premises or in the buildings, trees, or shrubs thereon. If it shall be determined from inspection that any nuisances exist on any such premises in any buildings, on any trees or shrubs, or in any other places within the City, such Insect Abatement Supervisor shall, either directly or through his assistants or employees in the Bureau of Insect Control, take immediate action to abate the same in such manner as may be deemed proper to accomplish such

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purpose. The Insect Abatement Supervisor shall have power and authority to confer with and receive gratuitous service and advice from persons trained in eradicating injurious insects. The Bureau of Insect Control shall have power and authority to use such means, methods, materials, liquids, or poisons as shall be determined necessary to carry out the eradication of the said nuisances, or to use any other scientific and lawful means of eradication or control of such nuisance.

8.44.020 Interference with Officers.

It is unlawful for any person to hinder or interfere with or prevent the Insect Abatement Supervisor or his assistants, or any employees in the Bureau of Insect Control, from performing their duties as herein defined, or knowingly to do or perform any act or thing which will destroy or impair the efficiency of any device or means used by the Bureau of Insect Control for the destruction, prevention, or control of nuisances.

8.44.030 Brush to be Removed - Nuisance - Abatement - Lien.

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.)
The owner, his agent, or the person in possession of any lot, tract or parcel of land so situated that it lies within 19 feet elevation above sea level, or which is flooded by the overflow from the Willamette River when at an 18 foot river level or stage, or so situated that during certain periods of the year water accumulates thereon, which facilitates the breeding of mosquitoes or other noxious insects, shall cut and remove, and keep cut and removed therefrom, all brush and undergrowth which may hamper or prevent the free spread of oil on such water. Any pruning or removal of trees shall be subject to the applicable requirements of Title 11. Nothing herein contained shall be considered to apply to bushes, trees, shrubbery and/or other vegetation grown for food, fuel, ornament or commercial purpose, or for the production of food, fuel, ornament or commerce, provided that the health and convenience of the public is not endangered by the maintenance of such growth or vegetation. Upon failure to keep such brush cut and removed, the owner, his agent, or the person in possession of such land, shall be subject to the penalties provided by this Code.

The existence of such brush or undergrowth upon such land is hereby declared to be a public nuisance. If such nuisance be found to exist a notice shall be posted as provided in Title 29, Property Maintenance Regulations. If such nuisance is not abated within the time provided by the notice so posted the Bureau of Insect Control shall abate such nuisance and charges for such abatement shall be made against the property and entered in the lien docket as there provided. The owner of any lot, tract, or parcel of land may notify the Bureau of Insect Control in writing that he desires the City to remove such nuisance and agrees to pay the reasonable and necessary expense thereof including 10 percent for overhead and with such notice deposit \$5 as a guaranty for such payment.

**TITLE 11
TREES**

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- 11.05.010 Purpose.
- 11.05.020 Official Name.
- 11.05.030 Authority.
- 11.05.040 Where This Title Applies.
- 11.05.050 Other City, Regional, State and Federal Regulations.
- 11.05.100 Severability.
- 11.05.110 Liability.

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(Title 11 added by Ordinance No. 184522;
Amended by Ordinance Nos. 185448, 185654 and 186053,
effective January 1, 2015.)

Chapter 11.05

LEGAL FRAMEWORK AND RELATIONSHIPS

Sections:

- 11.05.010 Purpose.
- 11.05.020 Official Name.
- 11.05.030 Authority.
- 11.05.040 Where This Title Applies.
- 11.05.050 Other City, Regional, State and Federal Regulations.
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- 11.05.110 Liability.

11.05.010 Purpose.

- A.** The Tree Code is one of the implementation measures of the Urban Forest Plan. Together with education and other initiatives, these regulations protect the health, safety, and general welfare of the citizens of Portland and are consistent with other plans and policies of the City. In so doing, the appearance of the City is enhanced and important ecological, cultural, and economic resources are protected for the benefit of the City's residents and visitors.
- B.** The chapters within this Title address trees in both development and non-development situations and seek to enhance the quality of the urban forest and optimize the benefits that trees provide. Desired tree benefits include:
 - 1.** Providing oxygen and capturing air pollutants and carbon dioxide;
 - 2.** Maintaining slope stability and preventing erosion;
 - 3.** Filtering stormwater and reducing stormwater runoff;
 - 4.** Reducing energy demand and urban heat island through shading of buildings and impervious areas;
 - 5.** Providing visual screening and buffering from wind, storms and noise;

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6. Sustaining habitat for birds and other wildlife;
7. Providing a source of food for wildlife and people;
8. Maintaining property values and the beauty, character and natural heritage of the City; and
9. Meeting the multi-purposed objectives of the Urban Forest Plan, including reaching and sustaining canopy targets for various urban land environments.

11.05.020 Official Name.

The official name of this Title is "Title 11 Trees" and it may be referred to as "Title 11" or the "Tree Code".

11.05.030 Authority.

The regulations of this Title are adopted under the City's police power to regulate to protect the public health, safety and welfare.

Pursuant to Section 2-104 of the City Charter, the City Council confers its non-legislative functions as described herein to the City Forester and Director of the Bureau of Development Services to administer and enforce this Title.

11.05.040 Where This Title Applies.

- A. In City of Portland. This Title applies to all trees within the City of Portland.
- B. County Urban Pocket Areas. Trees in the "County Urban Pocket Areas" are subject to only some of the regulations of this Title. The County Urban Pocket Areas are areas outside the City of Portland where the Portland Zoning Code and other Portland regulations are administered.
 1. Trees in the County Urban Pocket Areas are subject to the regulations of:
 - a. Chapter 11.05 Legal Frameworks and Relationships
 - b. Chapter 11.10 Administration of this Title
 - c. Chapter 11.15 Funds and Contributions
 - d. Chapter 11.80 Definitions and Measurements
 2. Trees in the County Urban Pocket Areas are exempt from the regulations of:

- a. Chapter 11.20 Urban Forestry Program
 - b. Chapter 11.30 Tree Permit Procedures
 - c. Chapter 11.40 Tree Permit Requirements (No Associated Development)
 - d. Chapter 11.45 Programmatic Tree Permits
- 3. Trees in the County Urban Pocket Areas are subject to some of the regulations of the following chapters. Each of these chapters specifies which sections apply to the County Urban Pocket Areas:
 - a. Chapter 11.50 Trees in Development Situations
 - b. Chapter 11.60 Technical Specifications
 - c. Chapter 11.70 Enforcement
- C. State or Federal jurisdiction. Trees within public rights-of-way that are managed by the State of Oregon are exempt from the regulations of this Title. Trees located on lands or within utility corridor easements that are owned by State or Federal agencies are also exempt from the regulations in this Title. However, these trees may be subject to other City regulations or Intergovernmental Agreements. Furthermore, the City retains summary abatement authority for nuisances posing an immediate threat to public safety.
- D. Trees in containers. Trees placed in above-ground containers are exempt from the requirements of this Title.

11.05.050 Other City, Regional, State and Federal Regulations.

- A. Relationship to Title 33 Planning and Zoning.
 - 1. Generally. The regulations of Title 33 shall be met in addition to the regulations of this Title, unless otherwise specified in a condition of land use approval;
 - 2. Conditions of approval. Conditions of approval attached to a land use review shall be met unless they have expired as specified in Title 33 Planning and Zoning.

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- B.** Relationship to other City, Regional, State and Federal regulations.
1. Compliance required. In addition to the requirements of the this Title and Title 33 Planning and Zoning, tree removal and planting actions shall comply with all other City, regional, state, and federal regulations, including the Clean Water Act, Endangered Species Act, and Migratory Bird Treaty Act. Compliance with Title 11 does not in any way imply, either directly or indirectly, compliance with any other law. Where the provisions of this Title conflict with those set forth in other regulations under the City Code or ordinance, the more restrictive requirement will prevail. When both provisions are equally restrictive, the most recently adopted requirement will prevail, except in matters affecting public safety.
 2. References to other regulations. References in the tree code to other City, regional, state, or federal regulations do not constitute a complete list of such regulations. These references do not imply any responsibility by the City for enforcement of regional, state or federal regulations.
 3. Current versions and citations. All references to other City, regional, state or federal regulations in the Tree Code refer to the most current version and citation for those regulations, unless specifically indicated otherwise. Where the referenced regulations have been repealed, requirements to comply with those regulations are no longer in effect. Where the citation for the referenced regulation has been renumbered, the regulation continues to apply.
 4. City guidelines and policy documents. City, Street, or Private Trees may be subject to policy, design, or other guidance documents adopted in compliance with City Code. In these cases, the City Forester shall adhere to these documents insofar as they do not conflict with the requirements of this Title. In cases of such conflict, the City Forester may require an alternative that is consistent with this Title and that reasonably satisfies the overall objectives of the policy or guidance document.

11.05.100 Severability.

If any provision of this Title, or its application to any person or circumstance, is held to be unconstitutional, unlawful or invalid as applied, the remainder of this Title, shall not be affected, and shall continue, insofar as possible, in full force and effect. In the case where a provision is held to be unconstitutional, unlawful or invalid as applied, its application to other persons or in other circumstances, shall not be affected, and shall continue, insofar as possible, in full force and effect. To that end, the provisions of this Title are declared to be severable.

11.05.110 Liability.

- A.** Nothing in this Title will be deemed to impose any liability upon any member of City Council or the City or any of its officers or employees.
- B.** Every property owner shall be liable 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 or upon such private property in a safe condition so as not to be hazardous to public travel.
- C.** 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 this Title.

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CHAPTER 11.10

ADMINISTRATION OF THIS TITLE

Sections:

- 11.10.010 Code Administration and Duties Performed.
- 11.10.020 Determining What Regulations Apply.
- 11.10.030 General Rules for Reading and Applying the Code Language.
- 11.10.040 Amendments to this Title.
- 11.10.050 Interagency and Intergovernmental Agreements.
- 11.10.060 Performance Guarantees.
- 11.10.070 Fees.

11.10.010 Code Administration and Duties Performed.

This Title is primarily implemented by two City officials; the City Forester and the Director of the Bureau of Development Services (BDS Director). The Responsible Engineer has a role as described below in the resolution of infrastructure conflicts within the public streets and city-owned easements. The roles for the Urban Forestry Commission and Appeals Board include major urban forest policy direction and hearing appeals of tree removal permits, as described in Chapter 11.20. The Code Hearings Officer adjudicates enforcement cases.

The City Forester and BDS Director are authorized to adopt, amend and repeal administrative rules, consistent with the provisions of this Title, pertaining to matters within the authority or responsibility of the City Forester or BDS Director under the provisions of this Title. No such rule shall be effective or binding on any person until it is filed for inclusion in the City Auditor's Portland Policy Documents repository in accordance with the provisions of Chapter 1.07 of this Code. If any person feels aggrieved by any such administrative rule, 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, unless the petitioner requests a later hearing. Until and unless amended or repealed by the Council, any administrative rule made under this Section shall be in full force and effect.

- A.** City Forester. The City Forester shall be an arborist. The City Forester is responsible for:
 - 1.** Administering the tree permit program for City, Street, and Private Trees per Chapter 11.40 and Programmatic Permits per Chapter 11.45;

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2. Reviewing development permits for compliance with City and Street Tree preservation and protection and Street Tree planting requirements per Chapter 11.50;
3. Processing violations of this Title as stated in Chapter 11.70;
4. Managing the Urban Forestry Program by:
 - a. Preparing and submitting the annual budget request for the operation of the Parks and Recreation Forestry Division to the Director of the Bureau of Parks and Recreation; and
 - b. Providing tree maintenance or supervisory services including cutting, pruning, spraying, planting and tree removal on city managed property required by or performed by the Bureau of Parks and Recreation subject to the annual budget. Bureaus may also employ normal procedures to have such services provided by private contractors; and
5. Preserving and enhancing the urban forest by:
 - a. Developing and periodically updating specifications for planting, pruning, removing and maintaining trees in accordance with proper arboricultural practices;
 - b. Developing lists of recommended trees for streets as well as recommended trees for other specific objectives;
 - c. Coordinating with the UFC and City bureaus, the development, monitoring, and reporting on implementation of the Urban Forest Plan described in Chapter 11.20; and
 - d. Providing staff services and carrying out the other responsibilities applicable to the UFC including:
 - (1) Preparing a monthly report on the Urban Forestry Program's activities for the Urban Forestry Commission's (UFC) review;
 - (2) Reviewing and identifying for the UFC budget proposals, programs, and projects that could substantially affect trees or the urban forest; and

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- (3)** Analyzing potential activities for consideration in the development of the UFC's annual work plan and retreat.

- B.** BDS Director. In addition to duties specified in other City Titles, the BDS Director is responsible for:
- 1.** Reviewing development permits for compliance with tree preservation, protection and planting requirements per Chapter 11.50;
 - 2.** Processing violations of this Title as stated in Chapter 11.70; and
 - 3.** Processing violations affecting trees when the violation is of a requirement of this Title and Title 33, Planning and Zoning. In such cases, the BDS Director may also consult with the City Forester.
- C.** Responsible Engineer. The Responsible Engineer in consultation with the City Forester is responsible for:
- 1.** Reviewing tentative planting proposals in public streets for the purpose of protecting existing utilities and sewer and water lines;
 - 2.** Applying standards for planting, care, and protection of trees through development projects, including public works, and capital improvements;
 - 3.** Planting, care, and management of trees in center medians and greenstreet facilities; and
 - 4.** Identifying for the City Forester city programs and capital projects or significant budget proposals that would substantially affect trees or the urban forest and that warrant UFC involvement or review.
- D.** Urban Forestry Commission (UFC). The roles and functions of the Urban Forestry Commission are specified in Chapter 11.20.
- E.** Urban Forestry Appeals Board. The roles and composition of the Appeals Board are specified in Chapter 11.20.
- F.** Code Hearings Officer. The City's Code Hearings Officer is responsible for hearing abatement cases and providing review of enforcement cases related to this Title, following the procedures in Title 22, Hearings Officer.

11.10.020 Determining What Regulations Apply.

- A.** Determine whether the proposed activity will require a development permit.
 - 1.** If the proposal will require a development permit, the regulations of Chapter 11.50 apply to the proposal. Chapter 11.50 will also direct readers to other regulations relevant to the proposal.
 - 2.** If the proposal will not require a development permit, the regulations of Chapters 11.30 and 11.40 apply to the proposal. Chapter 11.40 will also direct readers to other regulations relevant to the proposal.
 - 3.** The regulations of those chapters are specific to City, Street, and Private Trees as defined in Chapter 11.80, Definitions and Measurements.
- B.** For regulations pertaining to Heritage Trees, refer to Chapter 11.20.

11.10.030 General Rules For Reading and Applying the Code Language.

- A.** Reading and applying the code. When a conflict arises as a result of a particular tree situation spanning multiple chapters, the more specific provisions take precedence. When the conflict cannot be resolved by the more specific provision, the requirement that results in retaining the existing tree will prevail, except in cases where the public safety is jeopardized.
- B.** Terms.
 - 1.** Defining words. Words used in this Title have their dictionary meaning unless they are defined in Chapter 11.80, Definitions and Measurements. Words listed in the Definitions chapter have the specific meaning stated, unless the context clearly indicates another meaning.
 - 2.** Tenses and usage.
 - a.** Words used in the singular include the plural. The reverse is also true.
 - b.** Words used in the present tense include the future tense. The reverse is also true.
 - c.** The words "shall," "will," and "may not" are mandatory.
 - d.** "May" is permissive.

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- e. "Prohibited" means that a particular activity is in violation of this Title.
 - f. When used with numbers, "At least x," "Up to x," "Not more than x" and "a maximum of x" all include x.
3. Conjunctions. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:
- a. "And" indicates that all connected items or provisions apply;
 - b. "Either...or" indicates that the connected items or provisions apply singly, but not in combination.
4. Lists. Lists of items that state "including the following," "such as" or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

11.10.040 Amendments to this Title.

- A. General.
 - 1. Substantive amendments to this Title or amendments necessary to ensure conformance with other City Titles may be prepared by any bureau but will be coordinated by the Bureau charged with those responsibilities in the Title in consultation with the Bureaus of Planning and Sustainability, Parks and Recreation, Development Services, Environmental Services, Transportation and Water.
 - 2. Technical corrections and matters of simple clarification may be prepared and approved by the Auditor or City Attorney.
- B. Urban Forestry Commission (UFC). The UFC shall hold at least one public hearing for proposed amendments to this Title before making a recommendation on such an amendment. A hearing is not required for technical corrections or amendments needed to ensure conformance with other City Titles.
- C. Planning and Sustainability Commission (PSC). The PSC may provide input on the proposed amendments to the UFC. The PSC shall hold a public hearing for any proposed substantive amendments to Chapter 11.50 Trees In Development Situations, Chapter 11.60 Technical Specifications, or Chapter 11.70 Enforcement.

A hearing is not required for technical corrections or amendments needed to ensure conformance with other City Titles.

D. Notification Requirements.

1. UFC or PSC Hearing. Notice of any public hearing held by the UFC or PSC to consider a proposed substantive amendment to this Title shall be mailed to Metro, the Oregon Department of Transportation, all recognized organizations, affected bureaus and interested persons who have requested such notice. Notice shall also be published in a recognized newspaper and mailed at least 30 days prior to the hearing.
2. The Urban Forestry Commission shall additionally be notified of any amendment needed to ensure conformance with other City titles or technical corrections a minimum of 14 days prior to a final decision.
3. City Council Hearing. Notice of the hearing shall be mailed to those who testified at the UFC hearing, either in person or in writing, or those who requested such notice. If hearings were not held by the UFC or PSC, notice shall be mailed to all affected bureaus and persons who have requested such notice. Notice shall be published in a recognized newspaper and mailed at least 14 days prior to the hearing.
4. The notifications required by this Section shall be the responsibility of the Bureau coordinating the amendment or technical correction.

E. City Council. The City Council shall hold at least one public hearing on all amendments that are not considered technical. City Council makes the final decision on amendments, after considering the recommendations of the UFC and PSC and after hearing testimony from the public.

F. Declaring an emergency. City Council may declare an emergency in accordance with the City Charter and amend this Title and associated Administrative Rules without following the process set out in this Section.

11.10.050 Interagency and Intergovernmental Agreements.

The City Forester or BDS Director in the course of their duties in implementing this Title may enter into agreements with other bureaus or public agencies. These interagency and intergovernmental agreements may allow the BDS Director or City Forester to delegate powers granted within this Title to or provide services to other bureaus or public agencies, subject to the requirements outlined in the agreement. Such agreements may not grant or delegate powers or authority not already assigned to the City Forester or BDS Director. Neither the BDS Director nor the City Forester may enter into any agreement under this

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Section that requires expenditure of City funds, unless such funds have been appropriated by the Council through the budget process.

11.10.060 Performance Guarantees.

- A. Applicability. The City Forester or BDS Director may require performance guarantees when an owner, applicant, or responsible person defers a planting requirement, as an assurance for performance path root protection methods, or when a violation has occurred and there is uncertainty regarding the extent of a particular tree injury.
- B. Types of guarantees. Guarantees may be in the form of a performance bond payable to the City in cash, by certified check, time certificate of deposit, irrevocable letter of credit, or other form acceptable to the City. Indemnity agreements may be used by other governmental agencies. Guarantees shall be accompanied by a contract. The form of the guarantee and contract shall be approved by the City Attorney. The City Forester and BDS Director are each authorized to accept and sign the contract for the City, and to accept the guarantee.
- C. Amount of guarantee. The amount of the performance guarantee shall be equal to at least 110 percent of the estimated cost of performance as described below. The owner, applicant or responsible party shall provide written estimates by three contractors with their names and addresses. The estimates shall include as separate items all materials, labor, and other costs of the required action.
 1. Planting deferral. When tree planting is deferred, the cost of performance is equivalent to the payment in lieu for any trees to be planted and maintained for a 2 year period.
 2. Alternate root protection method assurance. If assurances are required for alternate root protection methods, the cost of performance is the estimated cost for removing the tree, plus an equivalent payment in lieu for planting to meet the tree standards in Chapter 11.50 Trees in Development Situations.
 3. Violation remedy. Should an injury result to a protected tree, and where the City Forester determines that the tree may still be viable, the property owner or responsible party may submit a performance guarantee in lieu of providing for an arborist treatment regimen or removing the tree in accordance with the provisions in Chapter 11.70. If assurances are allowed in these cases, the cost of performance is the estimated cost for removing the tree, plus an equivalent payment in lieu for replacing the tree based on mitigating at an inch for inch equivalent.

- D.** Completion. An inspection and approval of the action or improvement covered by the performance guarantee is required before the performance guarantee is returned. The inspection will be conducted by the appropriate City bureau that holds the guarantee. If the action or improvement is not completed satisfactorily within the stated time limits, the City may have the necessary action or improvement completed and seek reimbursement for the work from the performance guarantee. Any remaining funds will be returned to the owner, applicant, or responsible party.

11.10.070 Fees.

- A.** Generally. The City Council may establish and amend by ordinance permit, inspection, review, enforcement, in-lieu of planting or preservation, appeal and other fees as necessary to sustain the development permit, tree permit, and other Development Service or Urban Forestry programs. All fees, charges, civil penalties, and fines established by authority of this Title will be listed in the Portland Policy Documents.
- B.** Fees in lieu of planting or preserving trees. Where allowed by other provisions of this Title, a fee may be paid into the Tree Planting and Preservation Fund in lieu of planting or preserving trees. The fee per tree is the entire cost of establishing a new tree in accordance with standards described by the City Forester. The cost includes materials and labor necessary to plant the tree, and to maintain it for 2 years. The fee will be reviewed annually and, if necessary, adjusted to reflect current costs. See Section 11.15.010 for more information on the Tree Planting and Preservation Fund.

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CHAPTER 11.15

FUNDS AND CONTRIBUTIONS

Sections:

- 11.15.010 Tree Planting and Preservation Fund.
- 11.15.020 Urban Forestry Fund.
- 11.15.030 Charitable Contributions.
- 11.15.040 Annual Report.

11.15.010 Tree Planting and Preservation Fund.

- A.** Purpose. The purpose of the Tree Planting and Preservation Fund is to facilitate tree planting, to ensure mitigation or tree replacement when tree preservation or tree density standards are not met on a particular site, and to advance the City's goals for the urban forest and equitable distribution of tree-related benefits across the City.
- B.** Expenditures. Money in the Tree Planting and Preservation Fund may be used only as follows:
 - 1.** To plant trees on public or private property, including streets, in the same watershed as the site from which the funds were collected. Planting trees includes the cost of materials and labor necessary to install and establish a tree for a 2 year period;
 - 2.** To purchase conservation easements for the perpetual retention of trees and tree canopy. Such conservation easements shall allow the City to replace trees that are removed when they die or become dangerous; and
 - 3.** To acquire land to permanently protect existing trees or groves.
- C.** Contributions. Contributions to the Tree Planting and Preservation Fund may occur through a number of means, including:
 - 1.** Payment made in lieu of tree replacement as part of a tree permit issued as stated in Chapter 11.40;

2. Payment made in lieu of preservation or planting where site or street characteristics or construction requirements make it infeasible to meet the requirements of Chapter 11.50;
 3. Payment of restoration fees for enforcement actions for Private Trees; and
 4. Voluntary contributions. The funds shall be used within the watershed of the contributor's choosing.
- D.** Administration of the Tree Planting and Preservation Fund. The Tree Planting and Preservation Fund is administered by the City Forester, maintained in a dedicated separate account, and is independent of the general fund. Any balance in the Tree Planting and Preservation Fund will be carried forward into subsequent fiscal years.

11.15.020 Urban Forestry Fund.

- A.** Purpose. The purpose of the Urban Forestry Fund is to replace Street or City Trees illegally removed or damaged, to enhance the urban forest through the planting of new Street or City Trees, and to increase public awareness of trees, tree care, and values of the urban forest.
- B.** Expenditures. Money in the Urban Forestry Fund may be used as follows:
1. To replace, establish, and maintain Street or City Trees illegally removed or damaged;
 2. To plant, establish and maintain Street or City Trees where, in the judgment of the Forester, they will enhance the values of the Urban Forest;
 3. To provide education, outreach and technical assistance to the community; and
 4. Other Forestry-related actions or programs, as determined by the City Forester.
- C.** Contributions. Contributions to the Urban Forestry Fund may occur through a number of means as established by the City Forester, including:
1. Payment of restoration fees, civil penalties, or civil remedies resulting from City or Street Tree enforcement actions; and
 2. Voluntary contributions

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- D.** Administration of Urban Forestry Fund. The Urban Forestry Fund is administered by the City Forester, maintained in a dedicated separate account, and is independent of the general fund. Any balance in the Urban Forestry Fund will be carried forward into subsequent fiscal years.

11.15.030 Charitable Contributions.

The City Forester may accept, on behalf of the City, gifts and contributions which are specifically designated for the purpose of planting or maintaining trees within the City. Gifts may include: nursery stock and planting supplies, vehicles, tools, pro bono consultation, education and outreach services, and real property for the purposes of open space and tree planting or preservation. Contributions may also be made to the Tree Planting and Preservation Fund or Urban Forestry Fund as described in this Chapter. Nothing in this Section obligates the City Forester to accept such gifts when the City Forester determines it is not in the best interests of the City to do so.

11.15.040 Annual Report.

The City Forester will provide an annual report to the Urban Forestry Commission and City Council at the end of each fiscal year. The report will include any charitable contributions received, as well as fund revenues collected and spent and the end balance in each fund. The report should also include recommendations for future expenditures of the funds and means to optimize those expenditures in the upcoming fiscal year.

- A.** Tree Planting and Preservation Fund. The report will include a general inventory by watershed of the funds collected and number and types of trees planted or area protected through preservation easements or acquisition.
- B.** The Urban Forestry Fund. The report will include an accounting of revenues collected and expenditures.

CHAPTER 11.20

URBAN FORESTRY PROGRAM

Sections:

- 11.20.010 Purpose.
- 11.20.020 The Urban Forestry Commission.
- 11.20.030 The Urban Forestry Appeals Board.
- 11.20.040 Technical Assistance.
- 11.20.050 The Urban Forest Plan.
- 11.20.060 Heritage Trees.

11.20.010 Purpose.

The field of 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 establish policies, goals and objectives, and implementing actions, and 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 urban system that includes neighborhoods and watersheds within the City, wildlife habitats, outdoor recreation opportunities, landscape design, green infrastructure, air filtering and greenhouse gas capture, recycling of municipal vegetative wastes and tree care in general.

11.20.020 The Urban Forestry Commission.

- A.** Membership. The Urban Forestry Commission consists of eleven members who have demonstrated an interest in the protection and enhancement of the urban forest, appointed by the Mayor in consultation with the Commissioner of Parks and Recreation and confirmed by the City Council. Women and multi-cultural groups shall be represented. At least three members shall have experience and expertise in arboriculture, landscape architecture or urban forestry. One member shall be on the board of a non-profit organization that has a demonstrated direct interest in the urban forest, who is not a City employee. The remaining seven members, insofar as possible, shall represent diverse geographic areas, interests, and expertise of the community.
- B.** Terms. Members will serve without compensation for terms of 4 years and may be reappointed for one additional consecutive term. After serving two consecutive

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terms, at least 1 year shall elapse before a member may again be reappointed to the Commission. Notwithstanding the limitations of this Section, a member of the Commission will continue to serve until his or her replacement is appointed.

- C.** Rules of order. The Urban Forestry Commission will elect its own chair and adopt such rules of procedure as it deems necessary to the conduct of its duties. Unless otherwise stated in the rule, all rules are effective upon adoption by the Commission and shall be filed in the office of the City Forester and in the Portland Policy Documents repository described in Chapter 1.07.
- D.** Meetings. The Commission will meet at least ten times per year and may meet more often.
- E.** Duties. The Commission is responsible for carrying out the following duties:
 - 1.** Providing assistance in the development, periodic reviews, and updates to the Urban Forest Plan, and submitting said plan updates to the City Council for approval.
 - 2.** Reviewing and providing input on plans, policies, and projects developed pursuant to other City Code provisions which contain elements or which affect matters related to urban forestry and other matters to ensure that the policies of the Urban Forest Plan are fully considered.
 - 3.** Advising the City Forester, the Director and Commissioner-in-Charge of the Bureau of Parks and Recreation, and Citizen's Budget Advisory Committee on the preparation and contents of the annual Forestry Division budget request.
 - 4.** Considering and making recommendations to the City Council pertaining to:
 - a.** Proposed amendments to this Title;
 - b.** Heritage Tree nominations; and
 - c.** Other City bureau budget proposals that may substantially affect programs relating to trees and the urban forest.
 - 5.** Preparation of an annual report which specifically addresses the relations with and concerns of the various City bureaus and other matters brought forward by the City Forester. The report will include an evaluation of the

opportunities and barriers to effective management of the urban forest, and assessment of progress of these issues identified in prior annual reports.

11.20.030 The Urban Forestry Appeals Board.

- A.** Membership. The Urban Forestry Appeals Board consists of five members representing diverse interests of the Urban Forestry Commission, selected by a majority of the Commission. Members will serve without compensation for terms not to exceed their membership in the general Commission and may be reappointed.
- B.** Rules of order. The Urban Forestry Appeals Board may elect its own chair and propose rules of procedure as it deems necessary to the conduct of its duties. The Commission will consider and adopt such rules upon majority vote. All rules become effective upon adoption by the Commission and shall be filed in the Portland Policy Documents repository described in Chapter 1.07.
- C.** Meetings. The Appeals Board will meet as required to respond and to hear appeals within the time allotted to appeals as described in this Title. Appeal hearings are open to the public.
- D.** Duties. The Appeals Board is responsible for reviewing and deciding appeals of tree permit decisions as authorized in this Title.

11.20.040 Technical Assistance.

When requested by the Urban Forestry Commission and Commissioner of Parks and Recreation, 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 City Forester will present a list of qualified professionals to the Urban Forestry Commission for its review and selection. A member of the professional review panel may not serve if the member has a conflict of interest.

11.20.050 The Urban Forest Plan.

- A.** Purpose. The Urban Forest Plan (the Plan) establishes a comprehensive framework of goals, policies, and actions to guide City management activities and decisions over the short and long term. The plan will be implemented through the individual and collective works of the City Forester and other City bureaus, agencies, citizens, organizations and other groups.
- B.** Roles. The City Forester, in consultation with the Urban Forestry Commission and City bureaus, is responsible for coordinating the development, update, and

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implementation of the Urban Forest Plan. Working groups made up of representatives of those bureaus and groups who contribute to the management of the City's urban forest will be formed to develop citywide action plans to implement the Plan, and to monitor and report on progress of those actions.

- C. Updates. The Plan will periodically, and at least every 10 years, be reviewed and updated to respond to changes in the condition of the urban forest, changes in city policy or changes to applicable regulatory mandates.

11.20.060 Heritage Trees.

- A. Generally. Heritage Trees are trees that because of their age, size, type, historical association or horticultural value, are of special importance to the City.
- B. Nuisance trees. Trees may not be designated as Heritage Trees if, on the date they would be designated, the tree species is on the Nuisance Plant List.
- C. Private trees. Trees on private property may not be designated as Heritage Trees without the consent of the property owner; however, the consent of a property owner will bind all successors, heirs, and assigns. When a Private Tree is designated as a Heritage Tree, the owner shall record the designation on the property deed, noting on such deed that the tree is subject to the regulations of this Chapter.
- D. Designation. The Urban Forestry Commission (UFC) makes a recommendation to City Council as to whether a tree should be designated as a Heritage Tree. A recommendation to designate a tree shall be supported by at least six members of the UFC. City Council may designate a tree if it finds that the tree's health, aerial space, and open ground area for the root system have been certified as sufficient by an arborist.
- E. Removal of designation. The Urban Forestry Commission (UFC) makes a recommendation to City Council as to whether the Heritage Tree designation should be removed from a tree. A recommendation to remove the designation shall be supported by at least six members of the UFC. City Council may remove the designation if it finds that the designation is no longer appropriate.
- F. Heritage Tree removal. Heritage Trees may be removed only with the consent of the UFC, except as provided in Subsection I., below. The UFC shall hold a public hearing on a request to remove a Heritage Tree. Consent to remove the tree shall be supported by at least six members of the UFC.
- G. List and plaques. The City Forester maintains a list of the City's designated Heritage Trees. The City Forester may place a plaque on or near Heritage Trees.

- H.** Maintenance and Protection. The City Forester maintains Heritage Trees located on streets and on property owned or managed by the City. Heritage trees on private property shall be maintained by the property owner. It is unlawful for any person without prior written authorization from the City Forester to remove, prune, or injure any Heritage Tree. The City Forester shall report to the Urban Forestry Commission any such authorization granted.
- I.** Emergencies.
- 1.** If the City Forester determines that a Heritage Tree is dangerous and is a threat to public safety, the City Forester may order the tree to be removed without prior consent from the UFC.
 - 2.** In an emergency, when the City Forester is unavailable, pruning only what is necessary to abate an immediate danger may be performed without authorization by the City Forester. Any additional work shall be performed under the provisions of this Section.

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CHAPTER 11.30

TREE PERMIT PROCEDURES

Sections:

- 11.30.010 Purpose.
- 11.30.020 Description of Tree Permits.
- 11.30.030 Applications.
- 11.30.040 Procedure for Type A Permits.
- 11.30.050 Procedure for Type B Permits.
- 11.30.100 Regulations That Apply After Permit Approval.

11.30.010 Purpose.

This Chapter establishes application requirements and procedures for all tree permits required by this Title to ensure that the legal rights of individual property owners and the public are protected. Tree permits are generally required for specific tree related activity when not associated with development.

11.30.020 Description of Tree Permits.

- A.** Generally. Tree permits are required for tree-related activities not associated with:
 - 1.** Heritage Trees (see Chapter 11.20);
 - 2.** Programmatic Permits (see Chapter 11.45); or
 - 3.** Tree plans or activities that require a development permit (see Chapter 11.50).
- B.** Types of Permits.

There are two types of tree permits, A and B. This Chapter sets out the procedures for each permit type, including when public notice and opportunity for public appeal are required. Applications for activities subject to both a Type A and Type B permit will be processed as a Type B permit. The type of permit may be modified during the course of the review when the City Forester finds that the standards or review factors are not met or when the approved scope of the tree activity is changed. For example, a Type A tree permit application to remove a dangerous tree may be modified to a Type B removal request when the City Forester finds the tree is not dangerous. Conversely, the City Forester may modify a Type B request to

remove a Street Tree by granting a Type A pruning permit instead of allowing the removal. The standards and review factors for granting Type A or B permits are in Chapter 11.40.

Table 30-1 summarizes the public notice and appeal procedures applicable to a Type A or Type B permit.

**Table 30-1
Public Notice and Appeal requirements for City, Street and Private Trees**

Permit Type	Proposal	City/Street or Private Tree	Public Notice/ Public May Appeal [1]
A	Any Type A request	City/Street Private	No
B	Up to four healthy < 20” diameter nuisance and non-nuisance species trees	City/Street	No
	≥ 20” diameter, healthy nuisance or non-nuisance species tree	City/Street	Yes
	More than four healthy ≥ 12" diameter nuisance and non-nuisance species trees	City/Street	
	≥ 20” diameter, healthy non-nuisance species tree [2]	Private	
	More than four healthy ≥12” diameter non-nuisance species trees	Private	

Note [1] The applicant may appeal any Type A or B permit decision.

Note [2] No public notice or opportunity for public appeal is required for removal of one healthy non-nuisance species tree >20” diameter per lot per calendar year in any residential zone.

11.30.030 Applications.

A. Applications for Tree Permits shall:

1. Be made in writing or electronically upon forms furnished by the City;

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2. Be legible, accurate, and contain sufficient information in order to evaluate the request; and
 3. Be accompanied by the correct fee.
- B.** A separate application is required for each site, but each application may address multiple trees and multiple types of activities, such as planting, pruning, or removal.
- C.** Marking trees to be removed. Applicants for permits for tree removal shall mark each tree proposed for removal by tying or attaching yellow tagging tape around the trunk of the tree at 4.5 feet above ground level.
- D.** Consent to site access. By submitting an application for a tree permit, the owner and applicant agrees that authorized City representatives may enter the site during business hours for the purpose of conducting inspections related to the tree permit request.
- E.** Authority. An applicant will be authorized to apply for the Tree Permit, as described below:
 1. City Trees. For City Trees, only the Bureau that owns the site may submit an application. Where the City is managing trees on lands not owned by the City, the Bureau assigned to manage or care for trees, the owner or the agent authorized to represent the property owner may submit the application.
 2. Street Trees. The applicant shall be the owner of the adjacent property or be authorized by the owner of the adjacent property where the Street Tree will be planted, pruned or removed. Exceptions to this requirement include:
 - a. The Bureau of Environmental Services shall act as applicant for permits for Street Trees in greenstreet facilities.
 - b. The Bureau of Transportation shall act as applicant for permits for Street Trees in center medians.
 - c. The City Forester may plant, prune or remove Street Trees without obtaining the authorization of the adjacent property owner.
 - d. Public agencies operating under the conditions of a Programmatic Tree Permit are not required to obtain the adjacent owner's consent for tree-related work on streets.

3. Private Trees. The applicant shall be the owner of property where the tree is located or be authorized by the owner. For trees that straddle property lines, the owners of all properties where the tree is located shall authorize the application. For commonly held tracts such as open space or private street tracts, the application shall be submitted by the agent or parties authorized to represent the shared ownership interest in the tract. It is the applicant's responsibility to obtain the appropriate consent for tree permit applications.
4. City, Street and Private Trees within easements, or addressed by deed restrictions or other agreements. Any person having or asserting the right to remove trees under the terms of an easement, deed restriction or other agreement shall comply with the provisions of this Title. An easement holder, beneficiary of a deed restriction, or other person seeking to remove a tree on the property of another under an agreement is authorized to apply for permits or approvals required by this Title. The owner of a servient tenement, the grantor of a deed restriction or other person who by agreement has authorized another to possess, occupy or use property owned by the person is authorized to apply for permits or approvals required by this Title. The presence of an easement, deed restriction or other agreement does not change the type of tree. A tree remains either a City Tree, a Street Tree or a Private Tree.

11.30.040 Procedure for Type A Permits.

Type A permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure tree replacement. Type A permits are reviewed administratively by the City Forester. There is no public notice, and only the applicant may appeal the decision.

A. Application.

1. Generally. Applications for a Type A Tree Permit shall meet the requirements of Section 11.30.030, Applications.
2. Additional information required.
 - a. If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.
 - b. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.

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- c. If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

B. Decision by the City Forester.

1. The City Forester's decision shall be based on an evaluation of the facts and applicable standards and review factors in Chapter 11.40.
2. The City Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards. Type A permits may be self issued for Street Tree pruning. The applicant must agree that such pruning will be conducted in accordance with proper arboricultural practices. Self-issued permits are not subject to Subsection B.4. and may not be appealed.
3. Any work done under a permit shall be performed in strict accordance with the terms and provisions of this Title and conditions of approval of the permit.
4. The City Forester shall notify the applicant of the decision in writing.
5. If the applicant does not file a timely appeal as specified in Subsection C., below, the decision is final.

C. Appeal. The applicant may appeal the City Forester's decision on a tree permit. Appeals shall be:

1. Filed with the City Forester on forms prescribed by the City;
2. Filed within 14 days from the date on the City Forester's decision; and
3. Specifically identify how the City Forester erred in applying the standards or review factors.

D. Appeal process.

1. Scheduling the appeal hearing. The appeal hearing will be scheduled within 45 days of the City Forester's decision. However, the applicant may request the hearing at a later time.

2. Notice. Notice of the appeal hearing will be sent to the applicant at least 14 days before the hearing.
 3. Hearing.
 - a. Appeals are heard by the Urban Forestry Appeals Board (Appeals Board).
 - b. The Appeals Board will consider the application against the applicable standards or review factors, taking into consideration information provided by the applicant, appellant and City staff, and any observations made by members of the Appeals Board if they visit the site.
- E. Appeals Board Decision.**
1. The Appeals Board may affirm or reverse the City Forester's decision.
 2. The Appeals Board will give due deference to the professional judgment of the City Forester, and will reverse or remand the City Forester's decision only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the City Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.
 3. The appeal decision of the Urban Forestry Appeals Board is final and may not be appealed to another review body within the City.

11.30.050 Procedure for Type B Permits.

Type B permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety or significant undue impacts on neighborhood character, and to ensure that the impacts of tree removal are mitigated. Type B permits are reviewed administratively by the City Forester, and the decision may be appealed to the Urban Forestry Appeals Board by the applicant and any person adversely affected or aggrieved by the decision.

- A. Application.**
1. Generally. Application for a Type B Tree Permit shall meet the requirements of Section 11.30.030, Applications.
 2. Additional information required.

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- a. If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.
- b. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.
- c. If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

B. Decision by the City Forester.

1. The City Forester's decision shall be based on an evaluation of the facts and applicable standards and review factors in Chapter 11.40.
2. The City Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.
3. Any work done under a permit shall be performed in strict accordance with the terms and provisions of this Title and conditions of approval of the permit.
4. If the application is denied, the City Forester shall notify the applicant of the decision in writing.
5. If the application is tentatively approved, and public notice is required per Table 30-1, the City Forester shall send notice of the pending approval to the applicant and the neighborhood association. The applicant shall post a copy of the notice on the site in a location clearly visible from the street nearest the tree.
6. If no appeal is filed within a timely manner as specified in Subsection C., below, the decision is final. The City Forester shall notify the applicant that the decision is final.

C. Appeal. The applicant may appeal the City Forester's decision. In addition, when public notice is required per Table 30-1, the neighborhood association or any other person may also appeal the decision. Appeals shall be:

1. Filed with the City Forester on forms prescribed by the City;

2. Filed within 14 days from the date of the City Forester's decision; and
3. Specifically identify how the City Forester erred in applying the standards or review factors.

D. Appeal process.

1. Scheduling of the appeal hearing. The appeal hearing will be scheduled within 45 days of the City Forester's decision. However, for good cause shown by any party, the Appeals Board may extend the hearing deadline.
2. Notice. Notice of the appeal hearing will be sent to the applicant, the appellant, and the neighborhood association at least 14 days before the hearing. The applicant shall post a copy of the appeal hearing notice on the site in a location clearly visible from the street nearest the tree.
3. Hearing.
 - a. Appeals are heard by the Urban Forestry Appeals Board (Appeals Board).
 - b. The Appeals Board will consider the application against the applicable standards or review factors, taking into consideration information provided by the applicant, appellant, and City staff, or observations made by members of the Appeals Board if they visit the site.
 - c. Additional testimony and evidence may be introduced at the hearing, and the Appeals Board may delay its decision to provide adequate time for other parties to respond.
 - d. If additional hearings are scheduled, the Appeals Board may, at its discretion, choose to not allow new evidence after the initial hearing.

E. Appeals Board Decision.

1. The Appeals Board may affirm or reverse the City Forester's decision, or remand the decision to the City Forester to determine appropriate mitigation.
2. The Appeals Board will give due deference to the professional judgment of the City Forester, and will reverse or remand the City Forester's decision

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only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the City Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.

3. The appeal decision of the Urban Forestry Appeals Board is final and may not be appealed to another review body within the City.

11.30.100 Regulations That Apply After Permit Approval.

- A. Posting tree removal permits. Permits for tree removal shall be posted while the approved tree removal work is underway. The permit shall be posted in a location visible to pedestrians and motorists.
- B. Certifying compliance with replacement requirements. Applicants shall certify that they have complied with the tree replacement and any other requirements or conditions stipulated on a permit, as applicable.
- C. Permit expiration. Tree Permits expire 90 days from the date of issuance, unless a specific expiration date has been added to the permit by the City Forester or Urban Forestry Appeals Board. The reviewing authority may require a performance guarantee as described in Section 11.10.060, when replacement planting is allowed to be deferred beyond the permit expiration date.
- D. Permit suspension or revocation. The City Forester may suspend or revoke a tree permit. The permit holder shall be notified of the suspension or revocation in writing. Permits may be suspended or revoked when:
 1. The permit is issued in error;
 2. The permit is issued on the basis of incorrect information supplied by the owner or applicant;
 3. The permit is issued in violation of any of the provisions of City code or an approved land use decision; or
 4. The applicant, owner, or contractor listed on a permit is the subject of a pending violation of this Title for the site where the work is proposed or occurring. In such cases, the permit may be suspended until the alleged violation has been resolved.

CHAPTER 11.40

TREE PERMIT REQUIREMENTS
(NO ASSOCIATED DEVELOPMENT)

Sections:

- 11.40.010 Purpose.
- 11.40.020 When a Tree Permit is Required.
- 11.40.030 Exemptions.
- 11.40.040 City and Street Tree Permit Standards and Review Factors.
- 11.40.050 Private Tree Permit Standards and Review Factors.
- 11.40.060 Tree Replacement Requirements.

11.40.010 Purpose.

The purpose of this Chapter is to manage, conserve and enhance the urban forest when development activity is neither proposed nor occurring. The provisions of this Chapter encourage preservation of high quality trees, large trees, and groves; regulate pruning and planting on City-owned and managed sites and streets to protect public safety and public infrastructure; and ensure replacement for trees that are removed. The permitting procedures that are required to implement these provisions are intended to not only enforce maintenance, removal and preservation requirements but also to educate property owners about the intrinsic urban benefits of trees as well as the principles of tree care.

11.40.020 When a Tree Permit is Required.

A tree permit is required for all trees in the City of Portland as further described below, unless the activity is exempt from the requirements of this Chapter as specified in Section 11.40.030.

- A. Street Trees. Street trees of any size are regulated by this Chapter unless otherwise specified in Table 40-1 or 40-2.
- B. City Trees. City trees 3 or more inches in diameter are regulated by this Chapter unless otherwise specified in Table 40-1.
- C. Private Trees. Private trees 12 or more inches in diameter are regulated by this Chapter unless otherwise specified in Table 40-1. Trees required to be preserved by a condition of a land use review may be subject to other requirements.
- D. Emergency pruning or removal. Emergency pruning or removal of trees is regulated by this Chapter as follows:

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1. If an emergency exists because the condition or location of a tree presents such a clear and present danger to structures or the public that there is insufficient time to obtain a tree permit, the hazardous portion of the tree may be removed without first obtaining a required tree permit.
 2. In the course of performing unexpected or emergency road, sewer or water maintenance activities, representatives of the Responsible Engineer may trim, prune or remove a tree as required to perform the immediate work without first obtaining a required tree permit. If such activities occur during normal business hours, these representatives shall first attempt to contact the City Forester to determine if technical assistance can be made immediately available. If such assistance is not immediately available, then the pruning or removal may occur in accordance with proper arboricultural practices.
 3. Any person who prunes or removes a tree under the provisions of this Subsection shall, within 7 days of such action, apply for a Type A tree permit. The application shall include photographs or other documentation to prove that an emergency existed. The City Forester will evaluate the information to determine whether an emergency existed. Failure to submit an application or provide information documenting the emergency nature of the event may be pursued as a violation per Chapter 11.70.
- E.** State, Federal and court orders. Trees that must be removed or pruned by an order of a court, or of a State or Federal agency are not subject to the public notice and appeal procedures of Chapter 11.30 and approval standards and review factors of this Chapter. However, a tree permit is required and the tree replacement requirements of this Chapter shall be met.
- F.** Hazardous Material Cleanup Orders. Hazardous material cleanup orders, are not subject to the permit procedures of this Title; however, a person removing a regulated tree pursuant to a Hazardous Material Cleanup Order must comply with the tree replacement requirements of this Chapter.
- G.** Trees on levees. Trees on levees that have been identified by a public Drainage District as violating federal regulations or requirements are subject to the requirements of this Chapter for a Type A permit for removal of trees. Required replacement trees shall be placed outside the critical cross section area of the levee, and may be placed on any property in the same watershed that is owned by the applicant; or on property for which the applicant possesses a legal instrument approved by the City, such as an easement, deed restriction, or interagency agreement, sufficient to carry out and ensure success of the replacement.

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**Table 40-1
Tree Removal in Overlay Zones and Plan Districts [1]**

Overlay Zone or Plan District	T11 Tree Size	Title 11 tree permits for removing[2]	T33 Tree Size	Title 33 Zoning Code review for removing
Environmental conservation and protection overlay zones “c” “p” See: 33.430.080	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Non-native non-nuisance trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees • Trees projecting into a City-designated view corridor 	Street all City all Private all	<ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table
Greenway overlay zones “n” “q” “g” “i” “r” See: 33.440.320	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • Nuisance species trees • Dangerous trees • Trees landward of the greenway setback in “g” “i” “r” overlays 	Street all City all Private all	<ul style="list-style-type: none"> • Native Trees • Non-native non-nuisance trees • Dead or dying trees • Trees not meeting the listed situations when located within or riverward of the greenway setback in “g” “i” “r” overlays • Trees not meeting the listed situations when located in “n” “q” overlays
Pleasant Valley Natural Resources Overlay Zone “v” See: 33.465.080	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Non-native non-nuisance trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees 	Street all City all Private all	<ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table
Scenic Resource Overlay “s” Only applies to trees in Scenic Corridors that are within the minimum street setback or the first 20 feet from the street lot line where no street setback exists. See: 33.480.040 B.2.g.	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • All Street Trees • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Dead, Dying, or Dangerous trees • Trees associated with the repair and maintenance of water, sewer or storm water lines • Trees within 20 feet of a public safety RF Transmission Facility • Any Private or City trees <12" provided that replanting is met in accordance with 33.248.030 [3] 	Street n/a City ≥ 6" Private ≥ 6"	<ul style="list-style-type: none"> • Trees within the street setback or first 20 feet from the street lot line that do not meet the applicable Title 11 situations listed in this table
<p>Note [1] If a site is in more than one overlay zone or Plan District, the regulations for both areas apply. [2] All Plan Districts and overlay zones require tree replacement, or as allowed by the City Forester. [3] Minimum planting is required to meet zoning code requirements.</p>				

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Table 40-1 (Continued) [1]				
Overlay Zone or Plan District	T11 Tree Size	Title 11 tree permits for removing[2]	T33 Tree Size	Title 33 Zoning Code review for removing
<p>Cascade Station/Portland International Center Plan District See: 33.508.340</p> <p>Only applies to trees located in a "c" or "p" overlay</p>	<p>Street all City ≥ 3" Private ≥ 6"</p>	<ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Non-native non-nuisance trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees • Trees projecting into a City-designated view corridor 	<p>Street all City all Private all</p>	<ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table
<p>Columbia South Shore Plan District See: 33.515.262 & 33.515.274</p> <p>Only applies to trees located in a "c" or "p" overlay</p>	<p>Street all City ≥ 3" Private ≥ 6"</p>	<ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees 	<p>Street all City all Private all</p>	<ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table • Healthy non-native non-nuisance trees that do not meet the applicable Title 11 situations listed in this table
<p>Johnson Creek Basin Plan District 33.537.125</p> <ul style="list-style-type: none"> • Only applies to trees: • Within 20 feet of the Springwater Corridor lot line; • On a site with any portion in the special flood hazard area; and/or • On a site with any portion in the South Subdistrict. 	<p>Street all City ≥ 3" Private ≥ 6"</p>	<ul style="list-style-type: none"> • All Street Trees • Nuisance species trees • Trees within 10 feet of buildings, attached structures, or right-of-way improvements • Dead, Dying, or Dangerous trees • Trees associated with the repair and maintenance of water, sewer or storm water lines • Any other 6" to 12" tree provided that at least two trees are planted. [3] Trees removed within 20 feet of the Springwater Corridor must be replaced within 20 feet of the corridor 	<p>Street n/a City ≥ 6" Private ≥ 6"</p>	<ul style="list-style-type: none"> • Trees within 20 feet of the Springwater Corridor lot line; on a site with any portion in the special flood hazard area; and/or on a site with any portion in the South Subdistrict that do not meet the applicable Title 11 situations listed in this table
<p>Note [1] If a site is in more than one overlay zone or Plan District, the regulations for both areas apply. [2] All Plan Districts and overlay zones require tree replacement, or as allowed by the City Forester. [3] Minimum planting is required to meet zoning code requirements.</p>				

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Table 40-1 (Continued) [1]				
Overlay Zone or Plan District	T11 Tree Size	Title 11 tree permits for removing [2]	T33 Tree Size	Title 33 Zoning Code review for removing
Portland International Airport Plan District See: 33.565.540 Applies only to trees located in a "c" or "p" overlay	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Non-native non-nuisance trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees. This does not apply in landscaped areas of golf courses • Trees projecting into a City-designated view corridor 	Street all City all Private all	<ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table
Rocky Butte Plan District See: 33.570.040	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • All Street Trees • Nuisance species trees • Trees within 10 feet of buildings, attached structures, or right-of-way improvements • Dead, Dying, or Dangerous trees • Trees associated with the repair and maintenance of water, sewer or storm water lines • Any other 6" to 12" diameter tree provided that at least two trees are planted [3] 	Street n/a City ≥ 6" Private ≥ 6"	Trees that do not meet the applicable Title 11 situations listed in this table
South Auditorium Plan District See: 33.580.130	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • Dead, Dying, or Dangerous trees provided at least one tree is planted in the same general location or in accordance with the adopted landscaping plan 	Street all City ≥ 6" Private ≥ 6"	Trees that do not meet the applicable Title 11 situations listed in this table
Note [1] If a site is in more than one overlay zone or Plan District, the regulations for both areas apply. [2] All Plan Districts and overlay zones require tree replacement, or as allowed by the City Forester. [3] Minimum planting is required to meet zoning code requirements.				

11.40.030 Exemptions.

The following are exempt from the requirements of this Chapter:

- A.** Heritage Trees. Heritage Trees are addressed in Chapter 11.20:
- B.** Trees outside City Limits. Trees that are outside the City Limits, including "County Urban Pocket Areas."

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- C.** Programmatic permits. Activities carried out by public agencies operating under a programmatic permit per Chapter 11.45.
- D.** Tree Removal in association with development permits addressed through Chapter 11.50, Trees in Development Situations.
- E.** Agricultural use. Trees on lots that are part of an allowed farm or forest operation, including plant nurseries, when such removal is a customary and necessary activity for the associated agricultural use as provided for in Title 33, Planning and Zoning. Timber harvesting is subject to Oregon Department of Forestry requirements, ORS Chapter 527, and OAR Divisions 600-665.
- F.** Work done by the City Forester and City Forestry crews involving City and Street Trees. However, the City Forester shall keep records of the location and number of City and Street Trees planted, pruned, and removed.

11.40.040 City and Street Tree Permit Standards and Review Factors.

Type A and B permit applications for tree related work affecting City or Street Trees shall be reviewed using the following applicable review factors and standards in accordance with the application procedures set forth in Chapter 11.30.

**Table 40-2
Summary of Permit Requirements for City and Street Trees**

Activity	Permit Type	Tree Replacement [1] (See Section 11.40.060)	Public Notice / Public May Appeal
No Permit is required for: - pruning branches or roots <1/4" - removing City Trees <3" in diameter; - removing street trees that are sucker shoots, self-sown trees < 1/4"; or - other activities that are exempt from the requirements of this Chapter (see 11.40.030).			
Planting trees Pruning branches or roots larger than 1/4" Other activities as described in 11.40.040 A.3	A	n/a	No
Removal of any regulated tree that is: - dead, dying, or dangerous	A	tree for tree	No
Removing up to 4 healthy trees per site, or abutting right of way per year as follows:			
- less than 3" in diameter	A[2]	tree for tree	No
- 3 to <12" in diameter	B	tree for tree	No
- 12 to <20" in diameter	B	tree for tree	No
- 20" and larger in diameter	B	inch for inch	Yes
Removing more than 4 healthy trees per site, or abutting right of way per year as follows:			
- less than 3" in diameter	A [2]	tree for tree	No
- 3 to <12" in diameter	B	tree for tree	No
- > 12" in diameter	B	inch for inch	Yes
- 20" and larger in diameter	B	inch for inch	Yes

[1] "Tree for Tree" means one tree is required to be planted for each tree removed, "inch for inch" means the City Forester may require up to an equivalent number of inches be planted for the total diameter inches of the tree being removed.

[2] Applies to all Street Trees, in addition to any other City Trees planted as part of a landscaping or mitigation requirement, including trees planted to replace trees removed under a previous tree permit.

A. Standards and Review Factors for Type A Permits for City and Street Trees.

1. Planting. Planting shall meet the specifications in Chapter 11.60 and the following:

- a. Street Trees.** If the City Forester determines that a proposed Street Tree planting is suitable for the space available, and that the species of the tree is appropriate for the location, then the City Forester will grant the permit.

The Responsible Engineer may require the City Forester to submit planting proposals in streets for review for the purpose of protecting existing utilities and sewer branches, and to ensure that the proposed trees are not likely to obstruct the visibility of drivers, cyclists or pedestrians.

- b. City Trees.** If the City Forester determines that a proposed planting on City property is of a species of tree appropriate for the site and that the applicant has the written consent of the City bureau to whom

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responsibility for the property has been assigned, the City Forester will grant the permit.

2. Pruning or root cutting. The City Forester will grant a permit for pruning or root cutting of branches or roots 1/4 inch or larger if the applicant demonstrates to the City Forester's satisfaction that the pruning or root cutting will be performed in accordance with proper arboricultural practices, and that it will not adversely impact the health or structural integrity of the tree.
3. Other activities. A permit is required to attach permanent objects (e.g. lights, signs, or artwork) to a tree or its supports (e.g. guides, wires, stakes), or for any other type of activity the City Forester determines has the potential to harm a City or Street Tree. In reviewing these requests, the City Forester may impose limitations on the method, location, or duration of such activities.
4. Removal. Trees shall be replaced as indicated in Table 40-2. The City Forester will grant a permit to remove a tree if the City Forester determines that the proposed removal is exempt or allowed by Title 33, Planning and Zoning; and meets at least one of the following:
 - a. Dead trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life.
 - b. Dying trees. 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 or is imminently likely to become a danger or die. The City Forester may apply a condition of approval to the permit to require specific disposal methods for infected wood.
 - c. Dangerous trees. The City Forester will evaluate the removal request by first evaluating practicable alternatives to the removal. If the City Forester finds either that the cost of the alternatives significantly exceeds the value of the tree, or that such alternatives will not substantially alleviate the dangerous condition, the City Forester will grant the permit.

- B.** Standards and Review Factors for Type B Permits for City and Street Trees. Because Type B permits for City and Street Trees are required only for removal; the standards and review factors of this Subsection are specific to tree removal.
- 1.** Standards. The City Forester shall determine that the following standards are met before granting a Type B permit:
 - a.** For trees located in one of the overlay zones or plan districts identified in Table 40-1, the proposed removal is exempt or allowed by Title 33, Planning and Zoning;
 - b.** The tree is not required to be preserved by a condition of a land use review, provision of this Title or the Zoning Code, or as part of a required stormwater facility;
 - c.** Trees removed shall be replaced as specified in Table 40-2.
 - 2.** Review Factors. The City, in the absence of extraordinary circumstances, will not permit the removal of a healthy, functioning Street Tree. Maintenance or replacements of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning Street Trees are fact-specific, and are made on a case-by-case basis by the City Forester. In determining whether extraordinary circumstances exist that warrant removal of a healthy tree, the City Forester will consider:
 - a.** Whether the species of tree is appropriate for its location, and whether it is a nuisance species tree;
 - b.** Whether the tree's crown, stem or root growth habit has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
 - c.** Whether the maintenance of the tree creates an unreasonable burden for the property owner; and
 - d.** The impact of removal and replanting on the neighborhood streetscape and any adopted historic or other design guidelines.

11.40.050 Private Tree Permit Standards and Review Factors.

Type A and B permit applications for tree related work affecting Private Trees shall be reviewed using the following applicable review factors and standards in accordance with the application procedures set forth in Chapter 11.30.

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**Table 40-3
Summary of Permit Requirements for Private Trees**

Activity	Permit Type	Tree Replacement[1] (See Section 11.40.060)	Public Notice / Public May Appeal
No permit is required for: - planting trees - pruning trees outside of the environmental protection (p), environmental conservation (c), or Pleasant Valley Natural Resource (v) overlay zones; - removal of trees smaller than the sizes regulated by this chapter (see 11.40.020 B.); or - other activities that are exempt from the requirements of this chapter (see 11.40.030)			
Pruning native trees in c, p, or v overlay zones	A	n/a	No
Removal of any tree that is: - dead, dying, or dangerous - a nuisance species identified in the Portland Plant List - located within 10 feet of building or attached structure	A	tree for tree	No
Removing up to 4 healthy non-nuisance species trees per site per year as follows:			
- Smaller than 20" diameter	A	tree for tree	No
- 20" diameter and larger	B	inch for inch	Yes[2]
Removing more than 4 healthy non-nuisance species trees per site per year as follows:			
12" diameter and larger	B	inch for inch	Yes

[1] "Tree for Tree" means one tree is required to be planted for each tree removed, "inch for inch" means the City Forester may require up to an equivalent number of inches be planted for the total diameter inches of the tree being removed.

[2] No public notice or opportunity for public appeal is required for removal of one healthy tree > 20" diameter per lot per year in any residential zone.

A. Standards and Review Factors for Type A Permits for Private Trees.

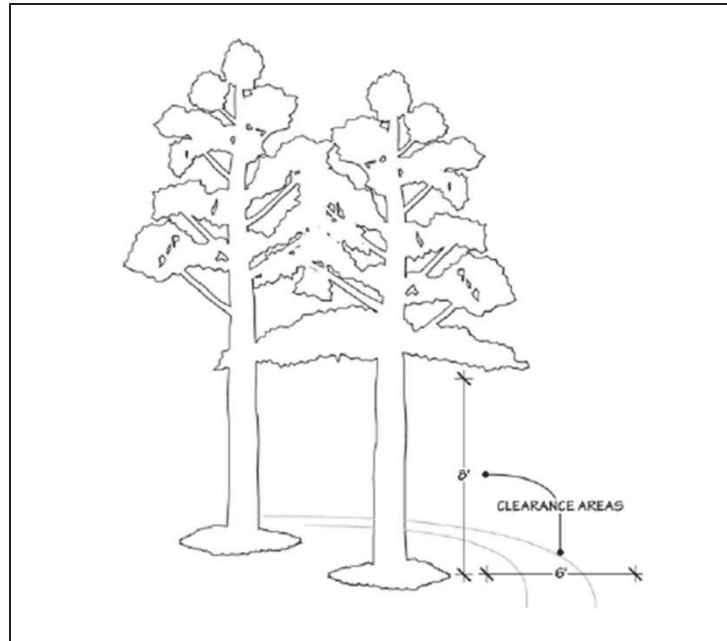
1. Pruning. A pruning permit is required only if the tree is a native tree in the Environmental (c, p) or Pleasant Valley Natural Resource (v) Overlay Zones.

a. Exceptions. A permit is not required for pruning trees in the following situations:

- (1)** Pruning trees located within 10 feet of a building or attached structure;
- (2)** Pruning coniferous trees that are within 30 feet of structures, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map;
- (3)** Pruning to abate an immediate danger;

- (4) Pruning for trail maintenance when not exceeding a height of 8 feet and a width of 6 feet as shown in Figure 40-1; or

**Figure 40-1
Trail Vegetation Pruning and Maintenance Area**



- (5) Crown maintenance and crown reduction of trees within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District that project above or will, upon maturity project above the height limit delineated by the "h" overlay zone or are identified as attracting wildlife species of concern related to air traffic safety.
- b.** Standards. The City Forester will grant a Type A Permit for pruning if the applicant demonstrates to the City Forester's satisfaction that the pruning will meet the following:
- (1) Pruning is limited to 5 native trees per calendar year per 10,000 square feet of site area;
 - (2) An arborist shall prepare and submit a pruning plan and supervise or conduct the work. The pruning plan shall describe the nature and extent of the proposed pruning as

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necessary to ensure proper arboricultural practices are followed; and

- (3)** Additional pruning may be allowed if the applicable criteria are met through an environmental review or natural resource review per Title 33, Planning and Zoning.
- 2.** Removal. Trees shall be replaced as indicated in Table 40-3. The City Forester will grant a permit to remove a tree if the City Forester determines that the proposed removal is exempt or allowed by Title 33, Planning and Zoning; and meets at least one of the following:

 - a.** Dead trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life.
 - b.** Dying trees. 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 or is imminently likely to become a danger or die. The City Forester may apply a condition of approval to the permit to require specific disposal methods for infected wood.
 - c.** Dangerous trees. The City Forester may evaluate the removal request by first evaluating practicable alternatives to the removal. If the City Forester finds either that the cost of the alternatives significantly exceeds the value of the tree, or that such alternatives will not substantially alleviate the dangerous condition, the City Forester will grant the permit.
 - d.** Nuisance species trees. The tree is listed on the "Nuisance Plant List".
 - e.** Trees within 10 feet of a building or attached structure. The trunk of the tree at its base is located completely or partially within 10 horizontal feet of the wall of a building or attached structure.
 - f.** Healthy trees. Up to 4 healthy trees may be removed per site per calendar year if each tree meets the following:

 - (1)** Each tree is less than 20 inches in diameter;

- (2) None of the trees are Heritage Trees; and
- (3) None of the trees are required to be preserved by a condition of a land use review, provision of this Title or the Zoning Code, or as part of a required stormwater facility;

B. Standards and Review Factors for Type B Permits for Private Trees. Because Type B permits for Private Trees are required only for removal; the standards and review factors of this Subsection are specific to tree removal.

- 1. Standards. The City Forester shall determine that the following standards are met before granting a Type B permit:
 - a. For trees located in one of the overlay zones or plan districts identified in Table 40-1, the proposed removal is exempt or allowed by Title 33, Planning and Zoning;
 - b. The tree is not required to be preserved by a condition of a land use review, or provision of this Title or the Zoning Code; and
 - c. Trees removed shall be replaced as specified in Table 40-3.
- 2. Review Factors. The City encourages retention of healthy Private Trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. In making these decisions, the City Forester will consider:
 - a. Whether there are practical alternatives that meet the owner's objectives without removing the tree;
 - b. Whether the species of tree is appropriate for its location;
 - c. Whether the tree's crown, stem, or root growth habit has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees; and
 - d. Whether the removal will significantly affect public safety or neighborhood character based on the following:

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- (1) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;
- (2) The visibility of the trees from public streets and accessways;
- (3) The cumulative impacts of current and prior tree removals in the area; and
- (4) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

11.40.060 Tree Replacement Requirements.

Generally, the City Forester will require replacement of trees removed under a Tree Permit as specified in Subsection A. However, the City Forester may instead allow payment into the Tree Planting and Preservation Fund as specified in Subsection B., or may waive or reduce the replacement requirement as specified in Subsection C.

A. Tree replacement specifications

1. **Quantity.** Specific tree replacement requirements are shown in Tables 40-2 and 40-3. Where the requirement specifies "up to inch for inch" replacement, the City Forester will determine the appropriate number of new trees that are required based on the total number of diameter inches of the trees removed. The replacement requirement will compensate for the lost functions of trees removed, and ensure the application meets the applicable standards and review factors.
2. **Planting.** Size, species, location, timing of planting, and on-going maintenance of replacement trees shall be in accordance with the technical specifications in Chapter 11.60.

B. Payment into Tree Planting and Preservation Fund. When the City Forester determines that there is insufficient or unsuitable area to accommodate some or all of the replacement trees within the street planting area or site, the City Forester may require payment into the Tree Planting and Preservation Fund instead of requiring replacement trees. Payment is based on the adopted fee schedule.

C. Waivers. The City Forester may waive or reduce the replacement requirement when the City Forester determines:

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1. The abutting right-of-way and site already meet the tree density standards of Chapter 11.50; or
2. That the full mitigation required by this Chapter would impose an unreasonable burden on the applicant.

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CHAPTER 11.45

PROGRAMMATIC TREE PERMITS

Sections:

- 11.45.010 Purpose.
- 11.45.020 Application Requirements.
- 11.45.030 Procedures.
- 11.45.040 Review Factors.
- 11.45.050 Permit Specifications.

11.45.010 Purpose.

Programmatic Permits may be issued by the City Forester for routine public facility or utility operation, repair and replacement, on-going maintenance programs, and for resource enhancement programs managed by a public agency. The purpose of a Programmatic Permit is to eliminate the need for individual tree removal, pruning or planting permits for ongoing activities that cover a wide geographic area and may include City, Street, and Private Trees. Programmatic permits are not subject to the standards, review factors, or general procedures of the Type A or B permits, but are instead evaluated to prevent cumulative adverse impacts of the activities and ensure that on balance the activities will meet the goals and objectives of the Urban Forest Plan in a reasonable time period. Tree preservation, protection, removal, and planting when associated with a development permit are subject to the procedures found in Chapter 11.50 and not these tree permit requirements.

11.45.020 Application Requirements.

- A. Applications for Programmatic Tree Permits shall:
 - 1. Be made in writing or electronically upon forms furnished by the City;
 - 2. Be legible, accurate, and contain sufficient information in order to evaluate the request; and
 - 3. Be accompanied by the correct fee.
- B. Authority. Programmatic Permits may only be obtained by Public Agencies and Utilities as defined in this Title. Consultation on applicability is encouraged prior to application submittal.

11.45.030 Procedures.

- A.** Requesting Additional Information.
 - 1.** If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.
 - 2.** The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.
 - 3.** If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

- B.** Notice. When the City Forester determines that the application contains sufficient information, the City Forester shall mail notice by US mail or electronically to all recognized organizations within the geographic area affected by the permit request. The notice shall announce the permit application and provide instructions for obtaining additional information, providing comments or to request notification of the City Forester's decision.

In addition to the public notice, the City Forester will provide a summary of pending and approved Programmatic Permits to the Urban Forestry Commission.

- C.** Decision. The City Forester shall take action to approve, approve with conditions, or deny a Programmatic Permit request within 90 days of determining an application contains sufficient information. The decision will be based on an evaluation of the request against the applicable review factors in Section 11.45.040.

- D.** Permit limitations.
 - 1.** Time Limits. The City Forester may approve a Programmatic Permit for a period of up to 5 years. An annual report from the applicant to the City Forester on activity conducted under the permit is required.
 - 2.** Tree Size Limits.
 - a.** The programmatic permit will not allow the removal of healthy non-nuisance species trees 6 or more inches in diameter, except as provided in Subsection D.2.b., below.

- A.** The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement of Chapter 11.05, considering the applicants proposed performance measures, proposed tree planting and other proposed means to improve the overall health of the urban forest.
- B.** The applicant's proposed outreach and notification program, if warranted, will adequately and in a timely manner alert neighboring residents, businesses and the City prior to conducting work authorized under the programmatic permit.

11.45.050 Permit Specifications.

Approved permits shall include the following specifications. The City Forester may modify these specifications during the permit period in order to respond to concerns, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing and provided an opportunity to appeal the change in accordance with Section 11.45.030, above:

- A.** Duration of permit;
- B.** Geographic area covered by the permit;
- C.** Permitted activities and any restrictions on the method, number, type, location or timing of activities;
- D.** Procedures and thresholds for informing neighboring residents, businesses and the City of upcoming permitted activities; and
- E.** Monitoring, performance tracking and reporting requirements. The City Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur.

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CHAPTER 11.50

TREES IN DEVELOPMENT SITUATIONS

Sections:

- 11.50.010 Purpose.
- 11.50.020 When a Tree Plan is Required.
- 11.50.030 Development Impact Area Option for Large Sites and Streets.
- 11.50.040 Tree Preservation Standards.
- 11.50.050 On-Site Tree Density Standards.
- 11.50.060 Street Tree Planting Standards.
- 11.50.070 Tree Plan Submittal Requirements.
- 11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.

11.50.010 Purpose.

The regulations of this Chapter support and complement other City development requirements, with a focus on achieving baseline tree preservation and total tree capacity on a site, considering the anticipated use and level of development. This Chapter regulates the removal, protection and planting of trees through the development process to encourage development, where practicable, to incorporate existing trees, particularly high quality or larger trees and groves, into the site design, to retain sufficient space to plant new trees, and to ensure suitable tree replacement when trees are removed. It is the intent of these provisions to lessen the impact of tree removal and to ensure mitigation when tree preservation standards are not met.

11.50.020 When a Tree Plan is Required.

A tree plan is required in conjunction with all development permits, unless the site or activity is exempt from Section 11.50.040 Tree Preservation Standards; Section 11.50.050 On-Site Tree Density Standards; and Section 11.50.060 Street Tree Planting Standards. If multiple development permits are required for a development proposal, including demolitions and subsequent construction, the same Tree Plan shall be included with each permit. For tree removal when no development permit is required or following completion of the development permit, see Chapter 11.40.

11.50.030 Development Impact Area Option For Large Sites and Streets.

Where development is proposed on a site larger than one acre or where work is occurring in the street and is not associated with an adjacent development site, the applicant may choose to establish a development impact area. For sites using the development impact area option, tree preservation requirements shall be based on the trees within the development

impact area and tree density will be based on meeting Option B as applied only to the area within the development impact area. Trees may be planted to meet tree density requirement elsewhere on the site.

11.50.040 Tree Preservation Standards.

A. Where these regulations apply.

1. Except when exempted by Subsection B., below, this Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations:
 - a. On sites. Development activities with ground disturbance where there are Private Trees 12 or more inches in diameter and/or City Trees 6 or more inches in diameter and the site:
 - (1) is 5,000 square feet or larger in area; and
 - (2) has existing or proposed building coverage less than 85 percent.
 - b. In streets. Development activities with ground disturbance where there are Street Trees 3 or more inches in diameter.
2. Any Heritage Trees and trees required to be preserved through a land use condition of approval or tree preservation plan cannot be removed using the provisions in this Chapter, but may be counted toward the tree preservation requirements of this Section.

B. Exemptions. The following are exempt from the tree preservation standards of this Section:

1. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.
2. Trees that are dead, dying, dangerous, or a nuisance species, as documented in a Tree Plan per Subsection 11.50.070 B. These are subtracted from the total number of trees to be addressed by the standards.
3. Trees exempted from this standard by a land use decision.
4. Tree preservation requirements approved in a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.

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- C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030.
1. Private Trees.
 - a. Retention. An applicant shall preserve and protect at least 1/3 of the trees 12 inches and larger in diameter located completely or partially on the development site.
Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (*Quercus garryana*), Pacific Madrone (*Arbutus menziesii*), Pacific Yew (*Taxus brevifolia*), Ponderosa Pine (*Pinus ponderosa*), or Western Flowering Dogwood (*Cornus nuttallii*) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.
 - b. Mitigation. For each tree removed below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required equivalent to the cost of two trees. See Section 11.15.010.
 2. City and Street Trees.
 - a. Retention. For development on City owned or managed sites, new public streets, or improvements to existing streets, applicants are required to consult with the City Forester at the preliminary project design phase if City or Street Tree removal is likely to occur to complete the project. The purpose of this consultation is to identify potential impacts and opportunities to retain existing trees, as well as any measures required to protect trees on site, on adjacent sites, or in the street.
 - b. Mitigation. Any required mitigation specified below shall occur on the site, in the street planter strip, or in the same watershed either by planting or a payment into the Tree Planting and Preservation Fund. The City Forester may reduce or waive the following mitigation requirements.
 - (1) Approved Street Tree removal in conjunction with improvements to partially or fully unimproved streets. Each tree at least 12 inches in diameter that is allowed to be removed shall be replaced with at least one tree. Trees

planted to meet Street Tree Planting Standards will be credited toward meeting this requirement.

- (2) Any other Street or City Tree allowed to be removed that is 6 or more inches in diameter shall be replaced with at least one tree in addition to trees required to meet required tree density or Street Tree planting standards.

11.50.050 On-Site Tree Density Standards.

A. Where these Regulations Apply. This Section applies to sites within the City of Portland and the County Urban Pocket Areas. Unless exempted in Subsection 11.50.050 B., the following are subject to the On-Site Tree Density Standards:

1. New Development;
2. Exterior alterations to existing development;
3. Additions in excess of 200 square feet to single dwelling development.

B. Exemptions.

1. The following development activities are exempt from the on-site tree density standards:
 - a. Additions or exterior alterations to existing development with a project valuation less than the non-conforming upgrade threshold noted in Title 33, Planning and Zoning.
 - b. A specific condition of land use review approval exempts the site from these density standards;
 - c. The site is within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.
 - d. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.
 - e. Work conducted under Demolition, Site Development, or Zoning Permits.

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2. Sites with the following primary uses are exempt from the on-site tree density standards:
 - a. Railroad Yards;
 - b. Waste Related;
 - c. Agriculture;
 - d. Aviation and Surface Passenger Terminals;
 - e. Detention Facilities;
 - f. Mining;
 - g. Radio Frequency Transmission Facilities; or
 - h. Rail Lines and Utility Corridors;

C. On-Site Tree Density Requirement. Planting on sites shall meet City specifications and standards in Chapter 11.60 and the following:

1. **Required Tree Area.** The required tree area is based on the size of the site and the type and size of proposed and existing development as shown in Table 50-1. Applicants may choose Option A or Option B for calculating required tree area except only Option A may be used to apply standards to a "Development Impact Area".

Table 50-1 Determining Required Tree Area

Development Type	Option A	Option B
One and Two Family Residential	40 percent of site or development impact area	Site area minus building coverage of existing and proposed development
Multi Dwelling Residential	20 percent of site or development impact area	
Commercial/Office/Retail/Mixed Use	15 percent of site or development impact area	
Industrial	10 percent of site or development impact area	
Institutional	25 percent of site or development impact area	
Other	25 percent of site or development impact area	

2. **Required Tree Density.** The required tree area shall be planted with some combination of large, medium or small canopy trees at the following rates:

**Table 50-2
Number of Required Trees and Minimum Planting Area**

Canopy size category (at maturity)	Number of trees required per size of tree area	Min. required planting area per tree (min. dimension)
Large	1 per 1,000 s.f.	150 s.f. (10' x 10')
Medium	1 per 500 s.f.	75 s.f. (5' x 5')
Small	1 per 300 s.f.	50 s.f. (3' x 3')

Refer to Chapter 11.60, Technical Specifications, to calculate tree canopy size categories. When the canopy size category of the tree species is not or cannot be determined, the tree will be considered a small canopy tree.

3. Tree Density Credits

- a.** Trees planted on site to meet any required stormwater or other landscaping requirement may be counted toward the On-site tree density requirements.
- b.** Trees that are retained and protected, including trees preserved per Section 11.50.040, may be credited as follows:
 - (1)** Trees between 1.5 and less than 6 inches in diameter count as one small canopy size tree.
 - (2)** Trees 6 or more inches in diameter count as one medium canopy size tree for each full increment of 6 diameter inches.
- c.** Payment in lieu of planting. The applicant may pay a fee to the Tree Planting and Preservation Fund per Section 11.15.010 equivalent to the cost of planting and establishing one 1.5-inch caliper tree. The fee per tree shall be credited at a rate of one medium canopy size tree.
- d.** On sites less than or equal to 3,000 square feet, healthy non-nuisance species trees planted or retained in the street planting strip may be credited as described in this Subsection.

11.50.060 Street Tree Planting Standards.

- A.** Where these Regulations Apply.

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1. This Section applies to projects within or fronting on any City-owned or - managed streets.
 2. For alterations where the project value is more than \$25,000, the cost of required Street Tree improvements is limited to 10 percent of the value of the proposed development.
- B.** Exemptions. The following are exempt from the Street Tree planting standards of this Section:
1. Development activities associated with the following:
 - a. Additions, alterations, repair or new construction where the project value is less than \$25,000;
 - b. Activity that is limited to the street, and does not modify or create sidewalks, tree wells, or tree planting areas; or
 - c. Demolition Permits.
 2. Where physical constraints preclude meeting the Street Tree planting requirement because:
 - a. Existing above or below grade utilities prevent planting Street Trees; or
 - b. The design of the street will not accommodate Street Tree planting because the planting strip is less than 3 feet wide, there is not a planting strip, or there is insufficient space to add tree wells.
- C.** Street Tree Planting Requirement.
Any proposed change in width in a public street right-of-way or any other proposed street improvement, including the development of new public streets, shall include areas for tree and landscape planting where practical. Utility connections and specifications for planting such areas shall be integrated into the site plan. Specific locations and species will be determined by the Responsible Engineer and City Forester. Planting in public streets shall meet the specifications in Chapter 11.60 and the following:
1. One Street Tree shall be planted or retained for each full increment of 25 linear feet per side of street frontage. When the required number of trees cannot be planted, a fee in lieu of planting may be required. For City

projects, required trees that cannot be planted within the improvement area may be planted elsewhere in the same watershed, instead of paying a fee in lieu of planting.

2. For projects affecting 200 linear feet of frontage or more, the applicant shall consult on the design of such improvements with the City Forester early in the project design phase to identify opportunities to integrate existing trees and maximize new Street Tree planting considering the planter width, the location of existing and proposed utilities, and visibility requirements.
3. When new streets are being created in association with a land division, Street Tree planting may be deferred until the completion of the building permit on each new lot, subject to City Forester approval.

11.50.070 Tree Plan Submittal Requirements.

A tree plan submittal shall include the following information. The tree plan information may be combined with other relevant plan sheets. The submittal shall include:

- A. Site Plan Requirements. The site plan shall include the following information with sufficient detail to show that the proposal complies with this Title.
 1. Existing improvements;
 2. Proposed alterations including structures, impervious area, grading, and utilities;
 3. Existing trees:
 - a. Trees on the site. Indicate the location and the diameter size of:
 - (1) Any Heritage Trees and trees required to be preserved as part of a condition of land use approval. These shall be clearly labeled.
 - (2) All trees completely or partially on the site that are at least 6 inches in diameter.
 - (3) Trees smaller than 6 inches in diameter shall be shown when proposed to be retained for tree density credit. On City-owned or –managed sites, the City Forester may require smaller size trees be shown. Applicants using the development impact area option as described in Section 11.50.030, need only identify the trees

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on the site inside and 25 feet beyond the edge of the development impact area.

b. Trees in the street. For the street area adjacent to the development site or development impact area, indicate the location and the diameter size of:

(1) Any Heritage Trees and trees required to be preserved as part of a condition of land use approval

(2) All trees within the adjacent street that are at least 3 inches in diameter.

Applicants using the development impact area option within the street when not associated with development of an adjacent site as described in Section 11.50.030, shall identify trees 3 or more inches in diameter inside and 15 feet beyond the edge of the development impact area. When the 15 foot distance extends onto property outside the street, provide estimates of tree size and location for trees 6 or more inches in diameter on these properties. For City projects, the City Forester or project arborist may determine which trees on adjacent properties shall be identified per this Subsection.

4. Proposed tree activity:

a. Indicate trees to be retained and proposed tree protection measures meeting the specifications in Chapter 11.60. Trees that are retained but are not protected in accordance with the protection requirements in Chapter 11.60 may not be used to meet preservation or density standards.

b. Indicate trees to be removed. It is the applicant's responsibility to obtain the appropriate consent from the adjacent property owner for tree removal when the tree is only partially on the site.

c. Show location, species, planting size and number of trees proposed to be planted. Trees to be planted shall meet the specifications in Chapter 11.60.

B. Narrative requirements.

1. If alternative tree protection measures are proposed, documentation addressing the requirements in Section 11.60.030, Tree Protection Specifications, shall be included.
2. If a tree is to be exempted from tree preservation standards based on poor tree health or condition, supporting documentation from an arborist shall be included.
3. If a tree is to be exempted from tree preservation standards based on it being listed on the Nuisance Plants List, supporting documentation from a landscape professional or an arborist shall be included.

11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.

- A. When changes are necessary to an approved Tree Plan and the changes will not affect compliance with any applicable conditions of a land use review, the change may be reviewed as a revision to the approved development permit. Any proposed revisions to the Tree Plan will be approved upon demonstrating the applicable tree preservation and density standards are met. When development activity has already commenced on the site and the applicant is proposing to retain alternate trees not previously shown to be protected, an arborist report will be required that documents the alternate tree is healthy and has not been injured by the development activity.
- B. Emergency Tree Pruning or Removal. Emergency pruning or removal of trees is regulated by this Chapter as follows:
 1. If an emergency exists because the condition or location of a tree presents such a clear and present danger to structures or the public that there is insufficient time to obtain a tree permit, the hazardous portion of the tree may be removed without first obtaining a revision to an approved tree plan.
 2. Any person who removes a tree under the provisions of this Section shall, within 7 days of such action, apply for a revision to the approved tree plan. The application shall include photographs or other documentation to prove that an emergency existed. The BDS Director will evaluate the information to determine whether an emergency existed. Failure to submit an application or provide information documenting the emergency nature of the event may be pursued as a violation per Chapter 11.70.

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CHAPTER 11.60

TECHNICAL SPECIFICATIONS

Sections:

- 11.60.010 Where These Regulations Apply.
- 11.60.020 Tree Planting Specifications.
- 11.60.030 Tree Protection Specifications.
- 11.60.040 Tree Pruning and Root Cutting Specifications.
- 11.60.050 Tree Removal Specifications.
- 11.60.060 Tree Maintenance Specifications and Responsibilities.

11.60.010 Where These Regulations Apply.

- A. City of Portland. This Chapter applies to all regulated trees within the City of Portland.
- B. County Urban Pocket Areas. Trees in the County Urban Pocket Areas are subject to all regulations of this Chapter except Section 11.60.060, Tree Maintenance Specifications.

11.60.020 Tree Planting Specifications.

The following specifications apply to trees planted to meet a requirement of this Title. These specifications may be combined with other requirements as necessary to ensure trees are properly selected, spaced, and sized.

- A. Prohibited Locations.
 - 1. In the South Waterfront Plan district area, planting trees is not allowed between the riverfront trail and the river at major or minor viewpoints as designated in Title 33 Planning and Zoning.
 - 2. In the Columbia South Shore Well Field Wellhead Protection Area as designated in Title 21, planting trees over the top of polyethylene geomembrane liners installed to meet the requirements of the Columbia South Shore Well Field Wellhead Protection Manual is prohibited.
 - 3. Trees may not be planted on or within 25 feet south of the toe of the Marine Drive levee slope.

B. Planting size. In general, the following represent the minimum tree planting size standard; however, the City Forester may allow smaller or require larger trees to suit the site conditions.

1. Broadleaf trees. Broadleaf trees shall meet the minimum caliper size as determined by the development type listed in Table 60-1:

Table 60-1 Broadleaf Tree Size Requirements

Development Type	Tree Size	
	On Site	Street
One and Two Family Residential	1.5"	1.5"
Multi Dwelling Residential	1.5"	2"
All others	1.5"	2.5"

2. Coniferous trees. Conifer trees shall be a minimum of 5 feet in height.
3. Native tree exception. The minimum planting size for native broadleaf trees may be reduced to ½" caliper on sites when planted in an environmental (c, p), greenway (n, q, or greenway setback and riverward portion of g, i, and r overlay zones), or Pleasant Valley Natural Resource (v) overlay zone. When planting Garry Oak, Pacific Madrone, or native conifers in these areas, the minimum planting size may be reduced to a 3 to 5-gallon container size. For Street Trees in these areas, the City Forester may approve a smaller planting size for native species.

C. Canopy size category. Tree canopy types are categorized as small, medium, or large based on the estimated canopy size at maturity. The "Portland Tree and Landscaping Manual" suggested plant lists include the size categories recognized for many trees. To determine the size category of a tree not listed in the "Portland Tree and Landscaping Manual", the applicant shall provide an objective source of information about the tree's mature height, crown spread, and growth rate. This information can come from published sources, internet sources, or nursery information such as cut sheets.

The canopy size category is calculated according to the following formulas, which incorporate the estimated height and crown spread of a mature specimen and the tree species' growth rate:

1. Small trees have a canopy factor of less than 40, Medium trees have a canopy factor from 40 to 90, and Large trees have a canopy factor greater than 90;
2. Canopy factor = (Mature height of tree) x (Mature canopy spread) x (Growth rate factor) x 0.01;

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3. The growth rate factor is 3 for fast-growing trees, 2 for medium-growing trees, and 1 for slow-growing trees.

D. Species requirements.

1. Species diversity. If there are fewer than 8 required trees, they may all be the same species. If there are between 8 and 24 required trees, no more than 40 percent can be of one species. If there are more than 24 required trees, no more than 24 percent can be of one species. This standard applies only to the trees being planted, not to existing trees.
For Street Trees, the City Forester may make an exception to this requirement in order to fulfill or complement an adopted street or landscape plan.
2. Nuisance species. Trees listed in the "Nuisance Plants List" are prohibited for proposed planting or required replacement.
3. Native species. Any trees required to be planted in environmental (c, p), greenway (n, q, or greenway setback and riverward portion of g, i, and r overlay zones), scenic corridors (s), or Pleasant Valley Natural Resource (v) overlay zones shall be native species. Refer to the "Portland Plant List" for information on appropriate native species for the specific site conditions. Planting activities shall be conducted with hand tools, and may not disturb other native vegetation.
In streets, the City Forester may make an exception to allow planting of non-native Street Trees in these areas when the proposed species of tree will not likely displace native species, and the soil conditions, available growing space, or other site constraints make planting a native tree species infeasible.
4. Adopted guidelines. The City Forester will require species that do not conflict with the requirements of this Section and, to the extent practical, are consistent with characteristics set forth in applicable historic design or other adopted guidelines.
5. Street Tree species. Street Tree species shall conform to the City Forester's "Recommended List of Street Trees". The City Forester may approve or require an alternate or unlisted species when the alternate species is an appropriate and viable selection and is consistent with applicable objectives of an adopted area-specific tree plan or guidelines.

E. Installation and establishment.

1. Installation. All required trees shall be planted in-ground, except when in raised planters that are used to meet Bureau of Environmental Services stormwater management requirements. Plant materials shall be installed to current nursery industry standards and proper arboricultural practices. Plant materials shall be properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement.
2. Timing. All trees required or approved to be planted by this Title shall be planted or payment in lieu of planting made prior to the expiration of the permit or City's final acceptance of the project, as applicable. However, it is encouraged that planting occur during the wet months or as per City Forester recommendations. Planting of trees may be deferred between May 1 and September 30 upon filing a performance guarantee as provided in Section 11.10.060 or other assurance deemed acceptable by the City Forester or BDS Director as applicable.
3. Maintenance. Maintenance of required trees including meeting the maintenance specifications in this Chapter is the ongoing responsibility of the property owner. Trees that die shall be replaced in kind. The cost of the tree and maintenance is the responsibility of the property owner.

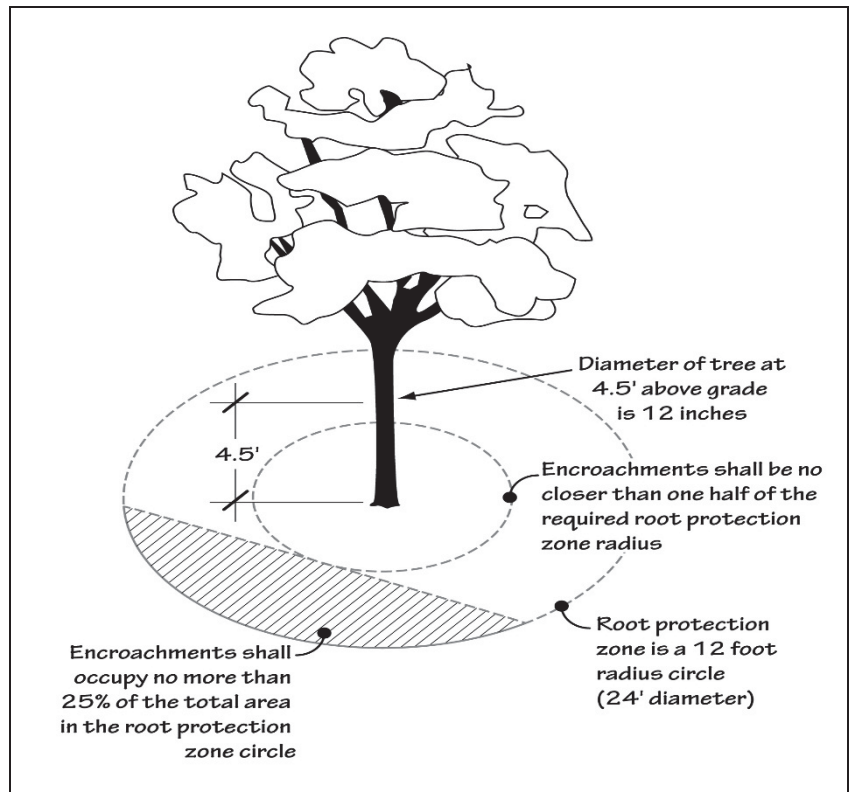
11.60.030 Tree Protection Specifications.

- A. Intent. Tree protection during development helps to reduce the negative impacts of construction. The tree protection regulations keep the foliage crown, branch structure and trunk clear from direct contact and injury by equipment, materials or disturbances; preserve roots and soil in an intact and non-compacted state; and visibly identify the root protection zone in which no soil disturbance is permitted and other activities are restricted. Maintaining these protections through development will lessen undesirable consequences that may result from uninformed or careless acts, preserve both trees and property values, and reduce risks associated with damaged or destabilized trees.
- B. Applicability. These standards apply to any tree that is required to be retained on site or in the street during a development activity. Proposed tree protection shall meet the requirements of Subsection C., below, except that the City Forester may approve or require alternate protection methods for Street or City Trees.
- C. Protection methods. The Tree Plan shall show that trees retained are adequately protected during construction using one of the methods described below:
 1. Prescriptive Path.

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- a.** A root protection zone is established as follows:
- (1)** For trees on the development site - a minimum of 1 foot radius (measured horizontally away from the face of the tree trunk) for each inch of tree diameter (see Subsection 11.80.020 C., Measurements):
 - (2)** Street Trees – the City Forester may prescribe greater or lesser protection than required for on-site trees.
 - (3)** Encroachments into the root protection zone are allowed provided:
 - (a)** the area of all encroachments is less than 25 percent of the total root protection zone area; and
 - (b)** no encroachment is closer than 1/2 the required radius distance (see Figure 60-1);

Figure 60-1 Permissible RPZ Encroachments



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from the arborist documenting the inspections and verifying the viability of the trees prior to the City's final inspection;

- e. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used shall be submitted;
- f. The arborist shall sign the tree preservation and protection plan and include contact information.

The BDS Director may require the proposed tree protection method to be peer reviewed for adequacy; reject the proposal if deemed insufficient to meet Subsection C.2.b, above; or require a performance guarantee per Section 11.10.060 in order to ensure the protection methods are properly implemented.

- 3. Additional information. The City may request additional information regarding the proposed development, including construction management approaches, if the proposed development and tree protection appear to conflict. The purpose of this provision is to ensure that logistical considerations are adequately addressed in order to prevent the need for changes to the tree protection measures during the construction process.

D. Changes to tree protection. Changes to the tree protection measures during the course of the development may be approved as a revision to a permit provided that the change is not the result of an unauthorized encroachment into a root protection zone, and the applicant demonstrates that the tree protection standards of this Section continue to be met. When an unauthorized encroachment has occurred, the city may pursue an enforcement action or other remedy per Chapter 11.70.

E. Tree protection inspections. The City Forester or BDS Director may conduct inspections during the course of project activity to determine compliance with this Title and confirm that tree protection zones are being maintained and root protection methods are effective. No person may refuse entry or access to a permitted development site to any authorized representative of the City who provides proper credentials and requests entry for the purpose of conducting a Tree Protection inspection. In addition, no person may obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

11.60.040 Tree Pruning and Root Cutting Specifications.

Pruning or root cutting shall be in accord with proper arboricultural practices, using clean and sharp tools. No tree may be excessively pruned or topped as defined in this Title.

11.60.050 Tree Removal Specifications.

Trees shall be removed in a manner that will not jeopardize the public safety or damage structures including utility lines or services, or adjacent trees. In most cases, trees shall be entirely removed. Where appropriate, standing dead trees, or snags, may be left by cutting them to a height that will not threaten a target such as people or structures. Fire safety and preventing harmful pests should also be considered. However, well situated snags can function as important wildlife habitat providing nesting sites and a food source for foraging birds.

- A.** Completion. To prevent the creation of hazards from partially removed trees, once work has commenced to remove a tree, this work shall be completed in a timely manner. A tree will be considered completely removed when reduced to a stump no taller than 4.5 feet. The City Forester may grant an exception to this specification to allow snag creation. For Street Tree removals, the City Forester may direct that the stump be ground out up to 18 inches below grade.

- B.** Disposal of wood and woody debris.
 - 1.** City and Street Trees. Disposal, use, or reuse of wood and woody debris from City or Street Trees is at the sole discretion of the City Forester including specific disposal methods for infected wood. Cost for disposal is the responsibility of the property owner (or adjoining property owner for Street Trees). If the City Forester determines that the cost of storage or sale of the wood is not commercially feasible, the City Forester may give such surplus wood to the adjoining property owner or other group as the City Forester may so designate. Unless the City Forester has given the wood to a group, organization, or individual, it is unlawful for any person to possess or dispose of any wood from any City or Street Tree.

 - 2.** Private Trees. Disposal, use, or reuse of wood and woody debris from Private Trees is at the property owner's discretion, provided storage of wood does not constitute a public health or safety nuisance. In environmental (c, p), or Pleasant Valley Natural Resource (v) overlay zone, large woody debris may be required to remain or portions of trees left standing as snags. If the City Forester has determined that the tree is affected by a pathogen or insect infestation that will likely adversely impact surrounding trees, all portions of the tree shall be removed from the site and properly disposed at the property owner's expense.

11.60.060 Tree Maintenance Specifications and Responsibilities.

The following specifications apply to all trees in the city. The purpose of these provisions is to protect the health, safety and welfare of the public, safeguard public infrastructure assets, and ensure the continued health of the urban forest.

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A. General.

1. Permits required. Any person pruning, removing, or conducting any other work on any Street Tree or City Tree and any person removing any regulated Private Tree in order to comply with the requirements of this Section, shall first obtain a Type A tree permit in accordance with the provisions of Chapter 11.30. The application fee may be waived when the City forester has directed the work to be done.
2. Responsibilities.
 - a. Property owner. It is the duty of every owner of property to maintain trees located on the property or on the adjacent street planting area in accordance with this Section. Further, the owner shall be responsible for all costs associated with such maintenance, removal and any tree replacement, if required.
 - b. Bureau of Transportation. For trees located in center medians, the Bureau of Transportation is responsible for the requirements of this Section.
 - c. Bureau of Environmental Services. For trees located in green street facilities as described in Title 17, the Bureau of Environmental Services is responsible for the requirements in this Section.
3. City Forester authority for tree maintenance. The City Forester may or may direct others to prune, remove or treat to control insects and disease for any trees in the streets, parks, other City owned or managed properties, or private properties if the City Forester determines that controlling insect infestations, disease or dangerous conditions is needed to maintain the public health, safety or health of the urban forest.
4. Available remedies. In addition to specific remedies cited in this Section, any infractions or violations of these requirements may additionally be corrected or enforced per the provisions in Chapter 11.70.

B. Dead, Dying and Dangerous Trees.

1. All trees which are determined by the City Forester or a private arborist to be dead, dying, or dangerous as defined in this Title are required to be removed to safeguard people or property. The City may require a replacement tree at the property owner's expense.

2. Conflicting determinations. In the case where there are conflicts in the determinations from a private arborist or arborists, the City Forester shall make the final determination.
3. Exceptions. A dead or dying tree that is being maintained as a snag, or does not otherwise result in a public nuisance as described in this Section or Chapter 29.20, Property Nuisances, may remain provided it is not deemed dangerous.

C. Dutch Elm Disease prevention and eradication.

1. Infected elms and elmwood. All species and varieties of elm trees (genus *Ulmus*) infected with the fungus known as Dutch elm disease (*Ophiostoma ulmi* or *Ophiostoma novo-ulmi*) as determined by laboratory analysis are declared to be a public nuisance. It is the duty of any owner of a lot or parcel where infected elmwood is present to promptly remove any such elm tree or dead elmwood under the supervision and direction of the City Forester.
2. Pruning restrictions. Pruning any species or varieties of elm trees between April 15 and October 15 is prohibited. This prohibition may be waived by the City Forester when such pruning is necessary to remove hazard limbs, provide the clearances otherwise required by this Section or for other causes as deemed necessary by the City Forester. In cases where the City Forester has allowed pruning to occur during the pruning prohibition period, the responsible party shall properly dispose of removed elm wood within 24 hours.
3. Authority to inspect. The City Forester is hereby authorized to enter upon any lot or parcel during business hours for the purposes of inspecting any elm tree or dead elmwood situated thereon, obtaining specimens for the purpose of laboratory analysis or to determine whether such tree because it is dead or substantially dead may serve as a breeding place for the European or native elm bark beetle (genus *Scolytus*). If the City Forester determines that the tree serves such purpose, the City Forester may declare the elm tree or dead elmwood a public nuisance.
4. Determination and action. If, based on analysis of specimens removed from any elm tree, it is determined that such tree is infected, or the City Forester determines that any dead or substantially dead elm trees or dead elmwood may harbor the elm bark beetle, the City Forester will serve a written notice requiring the property owner or responsible party to remove, destroy and properly dispose of such trees or dead Elmwood located on the property or

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on the adjacent street planting area. If the property owner or responsible party fails, neglects or refuses to remove and destroy, or properly dispose of, such elm tree or dead elmwood within 15 days after service of such notice, the City Forester may abate the nuisance as provided in Chapter 11.70.

- D.** Clearances. The property owner or responsible party is required to prune or remove, if necessary, any tree located on the property or on the abutting street planting area when said trees are not maintained to meet the branch clearances as set forth below:
1. Sidewalk clearance. Branches of trees extending over sidewalks may not be less than 7½ feet above the sidewalk.
 2. Roadway clearance. Branches of trees extending into any public or private roadway may not be less than 11 feet above the pavement. Moreover, on any street designated as a Regional Trafficway, Major City Traffic Street, District Collector, or a one-way street where parking has been prohibited, branches shall be trimmed to a height of 14 feet above the crown of the street.
 3. Overhead powerline clearance. Branches of any tree may not interfere with any light, pole, or overhead powerline used in connection with or as a part of the City or Public Utility system. In addition to the authority granted to the City to prune or direct property owners to prune trees in violation of this Section, a Public Utility operating pursuant to an approved Programmatic Permit may also prune any tree which interferes with the safe operation of the utility system.
- E.** Visibility. The owner or responsible party shall keep trees located on the property or on the adjacent street planting area from completely or partially obstructing visibility as follows:
1. Visibility of traffic control devices such as directional and informational signs as defined by the Manual of Uniform Traffic Control Devices;
 2. Visibility for drivers, bicyclists, or pedestrians; or
 3. In any way that presents an unreasonable hazard to the travelling public.
- F.** Sidewalks and curbs.
1. Obstructions. The owner or responsible party shall keep the sidewalk adjacent to the owner's property clear of branches, leaves, flowers, fruit or

other organic matter that may obstruct or render the passage of persons unsafe.

2. Repairs. When the curb or sidewalk, or both, abutting any property become damaged or in a state of disrepair because of a tree maintained by the property owner, the repair of the curb or sidewalk, or both, will be treated as other curb or sidewalk repairs in accordance with the provisions of Title 17. The removal of any tree or portion thereof, as the Responsible Engineer in consultation with the City Forester may determine necessary, will be granted through the appropriate tree permit. The City may require alternative construction methods be used in order to retain the tree. If the tree is removed, the City Forester may require that the removed tree be replaced in accordance with the required permit.

G. Public waterlines, storm sewers and sanitary sewers.

1. Damage from Roots. Whenever the Responsible Engineer finds that roots of any tree have entered any sewer, drain or waterline in the street or City-owned easement, and are stopping, restricting, retarding the flow of sewage or drainage, or causing waterline leakage or believes that removal of the tree is necessary to reasonably prevent future root entry into the sewage, drainage, or water facility, the Responsible Engineer may refer the condition to the City Forester.
2. Remedies. In addition to the remedies described in Chapter 11.70, the City Forester may remedy the violation by directing the property owner or responsible party to prune the roots or remove the tree. If the City Forester believes that the required amount of root pruning will irreparably damage or destroy the tree, the City Forester will notify the owner and require removal and replacement of the tree. Nothing in this Subsection will be construed to limit the Responsible Engineer's authority to separately invoke abatement proceedings.

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CHAPTER 11.70

ENFORCEMENT

Sections:

- 11.70.010 Purpose.
- 11.70.020 Where These Regulations Apply.
- 11.70.030 Violations.
- 11.70.040 Enforcement Authority.
- 11.70.050 Prohibited Actions.
- 11.70.060 Inspections and Evidence.
- 11.70.070 Notice and Order.
- 11.70.080 Correcting Violations of this Title.
- 11.70.090 Enforcement Actions.
- 11.70.100 Nuisance Abatement.
- 11.70.110 Summary Abatement.
- 11.70.120 Administrative Review.
- 11.70.130 Appeals to the Code Hearings Officer.
- 11.70.140 Further Appeals.
- 11.70.150 Waivers.

11.70.010 Purpose.

This Chapter establishes an enforcement system to prohibit illegal tree activity in order to further the City's goals for optimizing and enhancing the urban forest. The primary focus of this system is to seek corrective action and restoration before seeking more punitive measures. Nevertheless, penalties are necessary to ensure that it does not become less costly to violate the Title than to abide by its requirements. The enforcement actions prescribed herein are established to be effective deterrents for egregious or willing misconduct and are intended to escalate for the severity or repeated nature of the violation.

11.70.020 Where These Regulations Apply.

- A.** City of Portland. This Chapter applies to all trees within the City of Portland.
- B.** County Urban Pocket Areas. Trees in the County Urban Pocket Areas are subject to all regulations of this Chapter except Subsections 11.70.050 A. through C. and E. through G. (some Subsections of Prohibited Actions); 11.70.060 B. (a Subsection of Inspections and Evidence); and 11.70.080 C. (a Subsection of Correcting Violations of This Title).

11.70.030 Violations.

- A.** Each specific incident and each day of non-compliance for the following may be considered a separate violation of Title 11:
 - 1. Any failure, refusal or neglect to comply with any provision of this Title;
 - 2. Allowing or causing a tree-related condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
 - 3. Causing or allowing any prohibited actions as cited in this Chapter to occur.

- B.** The following constitute violations of Title 33 Planning and Zoning and not Title 11:
 - 1. Overlay Zones and Plan Districts. Removal of any tree in Overlay Zones or Plan Districts when the removal is not exempt or allowed by Title 33 Planning and Zoning or has not been otherwise authorized through an applicable development permit or land use review.
 - 2. Conditions of land use reviews. Unauthorized removal of a tree required to be protected as a condition of a land use review while a condition of approval is in effect.

11.70.040 Enforcement Authority.

The City Forester and BDS Director are hereby authorized to enforce this Title utilizing Title 3 adopted remedies and any of the remedies prescribed in this Title. Enforcement responsibilities are summarized in Table 70-1.

When violations occur that involve trees in overlay zones and plan district areas, the City Forester and BDS Director will consult and coordinate their enforcement action to the degree possible in order to avoid the issuance of multiple or conflicting orders.

When violations of the tree maintenance specifications of Section 11.60.060 affect public infrastructure or jeopardize the travelling public, the Responsible Engineer is authorized to invoke summary abatement to correct the violation. In cases where multiple violations of City code exist on a property, the City Forester, BDS Director, and Responsible Engineer are authorized, but not required, to delegate enforcement authority of this Title to another Bureau to facilitate a coordinated remedy and single agency responsible for obtaining compliance.

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Table 70-1 Summary of Enforcement Authority

	Heritage Trees	City/Street Trees	Private Trees	Overlay Zones and Plan Districts	
				City/Street Trees	Private Trees
Development permit[1,2,3] (Ch. 11.50)	BDS/CF	BDS/CF	BDS	BDS/CF	BDS
Tree Permit, no development[4] (Ch. 11.40)	CF	CF	CF	CF/BDS	CF/BDS
Maintenance violations[4] (Ch. 11.70)	CF	CF	CF/BDS	CF/BDS	CF/BDS

CF = City Forester BDS = BDS Director

- Note [1] For sites in County Urban Pocket Areas, enforcement applies only to on-site trees, and is done by BDS.
 [2] Trees specifically required to be preserved by condition of land use approval that have been removed or damaged will be enforced by the BDS Director through Title 33 Planning and Zoning.
 [3] The BDS Director is the lead enforcement authority for violations of development permits issued by BDS. The BDS Director may consult with the City Forester when Heritage, City, or Street Trees are involved. The City Forester is the lead enforcement authority for violations during development not covered under a BDS permit.
 [4] The City Forester is the lead enforcement authority when no development is occurring. The City Forester may consult with the BDS Director when the provisions of Titles 29 or 33 are also violated.

11.70.050 Prohibited Actions.

Any of the following actions constitute violations of this Title and may be declared a nuisance for the purposes of correcting or abating the unlawful action.

- A.** Failure to properly maintain trees. It is unlawful for any person to fail to comply with any of the tree maintenance specifications set forth in Section 11.60.060.
- B.** Conducting regulated activities without a tree permit. It is unlawful for any person to plant, place, prune, alter, remove, destroy, cut, break or injure any tree without first obtaining a tree permit for said action, except as provided in this Title.
- C.** Non-compliance with terms and conditions of a tree permit. It is unlawful for any person to violate the conditions or time limits imposed upon any tree permit.
- D.** Non-compliance with terms and conditions of a development permit. It is unlawful to fail to adhere to the requirements of a development permit for tree preservation, protection or planting.

- E.** Topping and excessive pruning. It is unlawful for any person to top or excessively prune any tree. Trees shall be allowed to grow in their natural form. A tree that has been topped or excessively pruned may be considered "removed" for the purposes of establishing penalties and any replacement requirements. The City may also require the property owner or responsible party to treat the tree as described in Section 11.70.080.
- F.** Attachments to trees. It is unlawful to attach or keep attached to any City or Street Tree, any signs, ropes, wires, chains or other devices whatsoever, when such devices are determined to threaten the viability of the tree or are likely to create a hazard. Any attachments to City or Street Trees are subject to obtaining a tree permit from the City Forester, as stated in Chapter 11.40.
- G.** Interference with tree grates and tree guards. It is unlawful for any person to damage, interfere or otherwise misuse any tree grate or guard set for the protection of any Street Tree, City tree, or Heritage tree. Removal of such devices may only occur as authorized by the City Forester.
- H.** Failure to install or maintain protection measures. It is unlawful for any person to fail to install required tree protection measures prior to commencing any development activity subject to Chapter 11.50. Furthermore, it is unlawful for such person to move any required protection measures, neglect or fail to maintain such measures throughout the development activity, or allow any restricted activity or disturbance to occur within the protection area without prior City approval.
- I.** Removal or failure to maintain required trees. It is unlawful for any person to fail to maintain in a healthy condition, trees required to be planted by virtue of a tree permit or development permit, including landscape trees and trees necessary to meet tree density standards. Any such trees that die shall be replaced.

11.70.060 Inspections and Evidence.

- A.** The City may conduct inspections whenever it is necessary to enforce any provisions of this Title, to determine compliance with this Title or whenever the City has reasonable cause to believe there exists any violation of this Title. Inspections shall occur during business hours. If the responsible party is at the site when the inspection is occurring, the BDS Director, City Forester, or other authorized representative shall first present proper credentials to the responsible party and request entry. If such entry is thereupon refused, the BDS Director or City Forester shall have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.

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- B.** If any tree is removed without a tree removal permit, a violation will be determined by measuring the circumference of the stump at the ground to establish the diameter size of the tree. For purposes of this Subsection, the diameter size of the tree is the circumference divided by 3.14.
- C.** In cases where a tree stump has been removed, the BDS Director or City Forester may use photographs of the tree including the city's most current aerial images to determine if a violation has occurred. For aerial photographs, when the associated canopy measures 1,600 square feet at the edge of the dripline, this may be considered prima facie evidence of a violation of this Chapter. Nothing in this Subsection will be construed to limit the introduction of other photographic evidence before the Code Hearings Officer.
- D.** When there is insufficient evidence to demonstrate whether a removed tree was a nuisance or native tree species, the tree will be considered as a non-native, non-
nuisance tree.
- E.** Tree removal, topping, or other injury caused by natural causes or weather will not be deemed a violation of this Title, provided there is no other clear evidence to suggest that the tree was deliberately removed or injured.

11.70.070 Notice and Order.

- A.** Notification required. Except in the case of summary abatement or immediate danger, if the BDS Director or City Forester finds one or more violations of the provisions of this Title on a property or adjacent street, the BDS Director or City Forester shall notify the property owner to prune, remove or take any other action as necessary to correct the violations. Notification to the property owner will be accomplished by mailing a notice to the owner, at the owner's address as recorded in the county assessment and taxation records for the property. The notice may be sent via either first class or certified mail. Notice to the property owner may also be accomplished by posting notice on the property. Additional notice to the responsible party, if different than the owner, may also be provided at the City's discretion.
- B.** Content of the notice. The notice shall include:

 - 1.** The date of posting (if notice was posted at the property);
 - 2.** The street address or a description sufficient for identification of the property;

3. A statement that one or more violations of this Title exist at the property with a general description of the violations;
 4. Disclosure that penalties, charges, and liens may result from a failure to remedy the violations;
 5. Specification of a response period during which the property may be brought into compliance with this Title before penalties, charges or liens will be assessed; and
 6. Disclosure that the owner's right to request an administrative review to appeal the findings of the notice of violation and a description of the time limits for requesting an administrative review as set forth in this Chapter.
- C. Compliance inspections and penalties. Once a notice has been mailed, the owner will be responsible for all enforcement penalties associated with the property, as described in this Chapter, until the violations are corrected and the City has been so notified. Except in the case of summary abatement, whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the City.
- D. Time limits. The BDS Director or City Forester shall set time limits in which the violations of this Title are to be corrected. Failure to comply with the time limits may be considered a separate violation of this Title.
- E. Information filed with County Recorder. If the City finds violations of this Title on any property, the City may record with the County Recorder information regarding City code violations and possible liens on the property.

11.70.080 Correcting Violations of this Title.

- A. General. The following list of remedies gives the City Forester and BDS Director broad discretion in applying a reasonable and effective means to restore a tree or site where trees have been illegally removed or damaged. The rights and remedies 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 including the enforcement actions described in Section 11.70.090. The City Forester or BDS Director may adopt administrative rules to establish priorities and guidelines for the following remedies.
- B. Standard remedies. Standard remedies are intended to address a wide variety of violations of this Title. Additional remedies specific to City and Street Trees, and trees in development situations are described in Subsections C. and D. When the

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City determines that a violation of this Title has occurred, any or all of the standard remedies described in this Subsection, and any applicable additional remedies described in this Section may be required depending on the severity and extent of the violation.

1. **Minor Infractions.** For minor infractions that do not result in damage to a tree, the City will first seek to correct the violation without penalties. These infractions may include failing to prune or remove a tree in violation of Chapter 11.60, failing to install or maintain tree protection when prohibited activities have not occurred within the root protection zone, or failing to plant a tree as required by a development permit or condition of granting a tree removal permit.
2. **Treatment.** For trees that are damaged but were not removed and where the City Forester concurs that the tree may still be viable, the violation will not be considered an "illegal tree removal" provided:
 - a. The property owner or responsible party contracts for the services of an arborist to assess the damage and prescribe a treatment regimen;
 - b. The property owner or responsible party enters into a contract with his/her arborist to complete the treatment regimen. The treatment and associated monitoring period shall be at least 1 year, but may be longer; and
 - c. The arborist shall provide the City with updates on the services performed, when they were performed, and the status of the tree's condition at intervals determined by the original treatment regimen. If the tree dies at any time during the treatment and monitoring period, the property owner or responsible party shall remove and replace the tree subject to the tree replacement requirements described in Subsection B.3.
 - d. In lieu of the treatment regimen and monitoring period described above, the City Forester may instead accept a performance guarantee per Chapter 11.10. The performance guarantee shall be sufficient to cover the cost of removing the tree plus the cost of tree replacement as described in Subsection B.3. When the property owner or responsible party selects this option, death of the tree within the 3 year timeframe may be deemed prima facie evidence that the damage was the sole cause of the tree's death.

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- 3.** Tree Replacement and Payment in Lieu. The City may require replacement for any trees removed illegally. The City may require greater than tree-for-tree replacement, but may not require greater than inch-for-inch replacement. The amount of replacement trees will be determined by the volume of removed tree canopy. For each tree that the City positively determines was dead, dying, or dangerous, the replacement will be limited to one tree. The responsible party shall enter into a replanting and maintenance plan agreement approved by the City. When the responsible party is unable to accommodate the required replacement planting on the site or adjacent street, the balance of required inches may be paid as a fee in lieu of planting to the Tree Planting and Preservation Fund.
 - 4.** Tree Permit Violation Review. The City may require any person who cuts, removes, or damages any tree without a permit as required by this Title or is in non-compliance with any term, condition, limitation or requirement of a tree permit or Tree Plan, to submit an application for a Tree Permit Violation Review. Trees removed in violation of Title 33 Planning and Zoning requirements may also be processed in accordance with the enforcement provisions of that Title.
Tree Permit Violation Applications are processed as Type B permits, and are subject to public notice but not the public appeal procedures of Chapter 11.30. The purpose of this review is to establish appropriate replacement requirements and notify interested parties. Failure to abide by the conditions of the approval will be treated as a repeat offense.
- C.** Additional remedies for City and Street Trees. In addition to the remedies provided by any other provision of this Chapter, when the City Forester determines that a violation of this Title has occurred involving a City Tree or Street Tree, the City Forester may seek additional remedies as described below.
- 1.** Restoration Fees. The City may require any person to pay into the City's Urban Forestry Fund a restoration fee for the damaged or removed tree according to the City's adopted fee schedule. The restoration fee may be doubled if any of the following apply:

 - a.** The person has been convicted of a previous violation of this Title;
 - b.** The tree is a Heritage tree; or
 - c.** The tree was subject to the protection requirements of a Tree Plan.
 - 2.** Civil Remedies. The City will have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing

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damage to any City tree or Street Tree in violation of this Title. In any such action, the measure of damages is the actual replacement value of the damaged or destroyed trees as well as any other consequential damage to other public facilities within the street.

- D.** Additional remedies for Private Trees Subject to a Tree Plan. In addition to the remedies provided by any other provision of this Chapter or other Titles, when the BDS Director determines that a violation of this Title has occurred involving a Private Tree shown to be protected on a Tree Plan, the BDS Director may require the property owner or responsible party to correct the violation using any of the following remedies.
- 1.** Tree Protection Re-inspection Fee. When an inspection of a site subject to development under an approved Tree Plan finds that tree protection measures have not been installed as required or are not properly maintained, the City may issue a correction notice and require the responsible party to pay a Tree Protection Re-inspection Fee. Payment of the fee is required prior to final inspection.
 - 2.** Tree Plan Revision. For tree removal or injury which results in removal, and where the tree was not required to be preserved by virtue of a land use approval, the BDS Director may require the applicant to prepare a revision to the approved plans and demonstrate conformance with the applicable tree preservation and tree density standards in Chapter 11.50, including any additional tree planting, payments, or preservation of alternate trees.

11.70.090 Enforcement Actions.

- A.** General. The following list of enforcement actions gives the City Forester and BDS Director additional means to obtain compliance with the requirements of this Title. The rights and remedies 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. The City Forester or BDS Director may adopt administrative rules to establish priorities and guidelines for the following enforcement actions.
- B.** Standard enforcement actions. Standard enforcement actions may be invoked for general violations of this Title, including conducting tree activities without a required tree permit. In addition to these standard actions, the City Forester may take additional actions for City and Street Tree violations as described in Subsection C.

- 1.** Civil penalties. The City Forester or BDS Director may issue a complaint to any person who cuts, removes, prunes or harms any tree without a permit as required by this Title or is otherwise in non-compliance with any term, condition, limitation or requirement of an approval granted under this Title, and require payment of a civil penalty up to \$1,000 per day. Each tree constitutes a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit or tree plan may also constitute a separate violation.
- 2.** Initiating a proceeding before the Code Hearings Officer. The City Forester and BDS Director are each authorized to initiate proceedings before the Code Hearings Officer, as stated in the procedures in Title 22 Hearings Officer, to enforce the provisions of this Section when the responsible person fails to respond to the City Forester or BDS Director's complaint as described in Subsection B.1, above. The Hearings Officer may order any party to:

 - a.** Abate or remove any nuisance;
 - b.** Install any equipment or plant trees necessary to achieve compliance;
 - c.** Pay to the City of Portland a civil penalty of up to \$1,000 per day. In determining the amount of any civil penalty to be assessed, the Code Hearings Officer will consider the following:

 - (1)** The nature and extent of the property owner or responsible party's involvement in the violation;
 - (2)** The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
 - (3)** Whether the violation was isolated and temporary, or repeated and continuing;
 - (4)** The magnitude and seriousness of the violation;
 - (5)** The City's cost of investigation and remedying the violation;
 - (6)** Any other applicable facts bearing on the nature and seriousness of the violation.

- (2) A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - (3) The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- b. The amount of the monthly enforcement penalty shall be charged as set forth in the Enforcement Fee and Penalty Schedule as approved by the City Council.
- c. Properties in violation for 3 months from the initial notice of violation will be assessed an enforcement penalty that is twice the amount as listed in the Enforcement Fee and Penalty Schedule as approved by the City Council.
- d. Whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the Director. Upon receipt of such notice, the Director will promptly schedule an inspection of the property and notify the owner if any violations remain uncorrected.
- e. Once monthly enforcement penalties begin, they will continue until all violations listed in the first or any subsequent notice of violation have been corrected, inspected and approved.
- f. When a property meets the conditions for charging an enforcement penalty as described in this Section, the Director will file a statement with the City Auditor that identifies the property, the amount of the monthly penalty, and the date from which the charges are to begin. The Auditor will then:
 - (1) Notify the property owner of the assessment of enforcement penalties;
 - (2) Record a property lien in the Docket of City Liens;
 - (3) Bill the property owner monthly for the full amount of enforcement penalties owing, plus additional charges to cover administrative costs of the City Auditor; and
 - (4) Maintain lien records until the lien and all associated interest, penalties, and costs are paid in full; and the BDS

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Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

- C. Additional Enforcement Actions for City and Street Tree Violations. The City Forester may impose the following additional actions for City or Street Tree violations.
 - 1. Criminal penalties. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may seek Criminal Penalties in any court of competent jurisdiction. The court may require that any responsible party violating any provision of this Title will, upon conviction, be fined a sum not exceeding \$1,000 or will be imprisoned for a term not exceeding 6 months.
 - 2. 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 Title.

11.70.100 Nuisance Abatement.

- A. Abatement. If, within the time limit set by the City in the notice of violation, any nuisance described in the notice has not been removed and abated, or cause shown, as specified in Sections 11.70.100 through .130 of this Title, why such nuisance should not be removed or abated, or where summary abatement is authorized, the BDS Director or City Forester may cause the nuisance to be removed and abated, including disposal in an approved manner.
- B. Warrants. The BDS Director or City Forester may request any Circuit Court judge to issue a nuisance abatement warrant whenever entry onto private property is necessary to remove and abate any nuisance, or whenever the BDS Director or City Forester has reasonable cause to believe that there exists upon any property any violation as described in Section 11.70.030 above.
- C. Grounds for issuance of nuisance abatement warrants; affidavit.
 - 1. Affidavit. A nuisance abatement warrant will be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal and abatement of the nuisance, the property to be entered, the basis upon which cause exists to remove or abate the nuisance,

and a statement of the general types and estimated quantity of the items to be removed or conditions abated.

2. Cause. Cause will be deemed to exist if reasonable legislative or administrative standards for removing and abating nuisances are satisfied with respect to any property, or if there is cause to believe that a nuisance violation exists, as defined in this Title, with respect to the designated property.

D. Procedure for issuance of a nuisance abatement warrant.

1. Examination. Before issuing a nuisance abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the removal and abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the judge will issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant will contain a direction that it be executed during business hours, or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police assistance. In issuing a nuisance abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and remove and abate the nuisance.
4. Return. A nuisance abatement warrant shall be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this Subsection, the warrant unless executed is void.

11.70.110 Summary Abatement.

- A. When summary abatement is authorized by this Title, the decision regarding whether or not to use summary abatement will be at the City's discretion. In the case of summary abatement, notice to the owner or occupant of the property prior to abatement is not required.

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- B.** Following summary abatement, the BDS Director or City Forester, as applicable, shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a Notice of Summary Abatement shall be mailed to the property owner. The notice shall include:
1. The date the nuisance on the property was abated;
 2. The street address or description sufficient to identify the property;
 3. A statement of the violations of Title 11 that existed at the property and were summarily abated;
 4. Disclosure that penalties, charges and liens will result from the summary abatement; and
 5. Disclosure of the owner's right to appeal the findings of the notice as set forth in this Chapter.

11.70.120 Administrative Review.

- A.** Whenever a property owner or responsible party has been given a notice as required by this Chapter and has been directed to make any correction or to perform any act and the owner or responsible party believes the finding of the notice was in error, the owner or responsible party may have the notice reviewed by the BDS Director or City Forester, as applicable. If a review is sought, the owner or responsible party shall submit a written request to the City within 15 days of the date of the notice. Such review will be conducted by the BDS Director or City Forester, as applicable. The owner or responsible party requesting such review will be given the opportunity to present evidence. Following the review, the BDS Director or City Forester, as applicable will issue a written determination.
- B.** Nothing in this Section limits the authority of either the BDS Director or City Forester to initiate a proceeding under Title 22 Hearings Officer.

11.70.130 Appeals to the Code Hearings Officer.

A determination issued as stated in Section 11.70.120 may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

11.70.140 Further Appeals.

All appeals from the Code Hearings Officer's determination in accordance with Section 11.70.130 will be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010 - 34.100.

11.70.150 Waivers.

The BDS Director or City Forester may grant an exception when the enforcement of the requirements of this Title would cause undue hardship to the owner or occupants of the affected property, or whenever the BDS Director or City Forester deems it necessary in order to accomplish the purpose of this Title.

- A.** To carry out the intent of this Section the BDS Director and City Forester shall establish written policies in the form of waivers to explain the exceptions available to property owners. Waivers will include the following information:
 - 1.** An explanation of the purpose of the waiver and a list of the requirements the owner shall meet in order to qualify for the waiver;
 - 2.** An explanation of the period of time during which the waiver will be in effect;
 - 3.** A list of the actions the owner shall perform to fulfill their responsibilities to maintain the waiver and to prevent the waiver from being cancelled.
- B.** The owner shall apply for a waiver in writing. This Section may not be construed so as to evade the provisions of Title 22 Hearings Officer.

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CHAPTER 11.80

DEFINITIONS AND MEASUREMENTS

Sections:

- 11.80.010 Defining Words.
11.80.020 Definitions and Measurements.

11.80.010 Defining Words.

Words used in the tree code have their normal dictionary meaning unless they are listed in Section 11.80.020 below. Words listed in Section 11.80.020 have the specific meaning stated, unless the context clearly indicates another meaning.

11.80.020 Definitions and Measurements.

- A.** Information about the use of terms in the tree code is contained in Section 11.10.030.
- B.** The definition of words with specific meaning in the tree code are as follows:
- 1.** "Appeals Board" is the Urban Forestry Appeals Board. The duties and composition are in Section 11.20.030.
 - 2.** "Arboriculture" refers to the horticultural focus on the study and care of trees and other woody plants.
 - 3.** "Arborist" means a professional listed as a certified arborist by the International Society of Arboriculture or a consulting arborist registered with the American Society of Consulting Arborists.
 - 4.** "BDS Director" is the Director of the Bureau of Development Services or the BDS Director's designee. The duties of the BDS Director are in Section 11.10.010.
 - 5.** "Building Coverage" has the same meaning as in Title 33 Planning and Zoning.
 - 6.** "Business Hours" means 7:30 am to 5 pm, during working days.

7. "City" is the City of Portland.
8. "City Forester" is the Manager of Urban Forestry, or the Manager's designee. The duties of the City Forester are in Section 11.10.010.
9. "Commission" means the Urban Forestry Commission, also referred to as the UFC. The duties and composition are in Section 11.20.020.
10. "County Urban Pocket Areas" refers to properties within unincorporated Multnomah County that are subject to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities Between the City of Portland and Multnomah County.
11. "Diameter" refers to the cross-sectional size expressed in inches of a tree measured 4.5 feet above the ground. See Subsection 11.80.020 C., Measurements.
12. "Days" means calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays as identified in Human Resources Administrative Rule 6.02.
13. "Development Impact Area" is the area on a site affected by proposed site improvements, including buildings, structures, parking and loading areas, landscaping, and paved or graveled areas. The development impact area also refers to areas devoted to storage of materials, or construction activities such as grading, filling, trenching, or other excavation necessary to install utilities or access.
14. "Development Permit" refers to permits issued by the City such as building permits, zoning permits, site development permits, public works permits and capital improvement projects.
15. Development Types:
 - a. "Single Dwelling" refers to a house, attached house, or manufactured home with or without an accessory dwelling unit located on its own lot or parcel as those terms are defined in Title 33 Planning and Zoning
 - b. "One and Two Family Residential" refers to a house, attached house, duplex, attached duplex, or manufactured home on one lot or parcel as those terms are defined in Title 33 Planning and Zoning

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- c. "Multi-Dwelling Residential" refers to more than two dwelling units on a single lot or parcel, as well as Group Living, and Single Room Occupancy housing as defined in Title 33 Planning and Zoning.
 - d. "Commercial/Office/Retail/Mixed Use" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning: The uses are: Household Living, Commercial Parking, Quick Vehicle Servicing, Office, Retail Sales And Service, Self-Service Storage and Vehicle Repair.
 - e. "Industrial" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Industrial Service, Manufacturing And Production, Warehouse And Freight Movement and Wholesale Sales.
 - f. "Institutional" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Colleges, Community Service, Daycare, Medical Centers, Parks and Open Areas, Religious Institutions and Schools.
 - g. "Other" means development that includes one or more of the following primary uses referred to in Title 33 Planning and Zoning. The uses are: Commercial Outdoor Recreation, Major Event Entertainment and Basic Utilities.
16. "Injury" means a wound inflicted upon a tree resulting from any activity, including trenching, excavating, altering the grade, smothering within the root protection zone of a tree, bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action leading to the death or permanent damage to tree health including the following:
- a. "Disturbance" is the various activities from construction or development that may damage trees.
 - b. "Excessive Pruning" is removing in excess, one-fourth (25 percent) or greater, of the functioning leaf, stem or root area in a single growing season. Exceptions are when clearance from overhead utilities or public improvements is required or to abate a hazardous condition or other public nuisance. Excessive pruning does not

include normal pruning that follows ANSI standards, see "Proper Arboricultural Practices," and "Pruning"

- c.** "Removal" is felling, cutting or removing 50 percent or more of the crown, trunk or root system of a tree, resulting in the loss of aesthetic or physiological viability, or any procedure in which the natural result will lead to the death of the tree, including girdling, poisoning, topping or drowning the tree.
 - d.** "Smothering" is the result of compaction or compression of the soil particles or texture that may result from the movement of heavy machinery and trucks, storage of construction materials, structures, paving, or any other means that creates an upper layer that is impermeable within the root protection zone.
 - e.** "Topping" means the inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not include acceptable pruning practices as described in the American National Standards Institute (ANSI) "A-300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material. Topping is considered "removal".
- 17.** "Land Use Review" is a procedure for a specific use or development required under Title 33 Planning and Zoning.
- 18.** "Nuisance Plant List" is a list within the "Portland Plant List" that identifies nuisance trees and plants.
- 19.** "Overlay Zones and Plan Districts" refer to any of the following overlay zones or plan districts as shown on the Official Zoning Map, unless the specific regulation states otherwise:
 - a.** Environmental Overlays shown on the Official Zoning Map with a "c" or "p".
 - b.** Pleasant Valley Natural Resource Overlay, shown on the Official Zoning Map with a "v".

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- c. Willamette River Greenway Overlay Zones, as applied to the Natural "n", or Water Quality "q", overlays and only within or riverward of the greenway setback portion of the Recreational "r", General "g" and Industrial "i" overlays, as designated on the Official Zoning Map.
 - d. Scenic Resources Overlay, for trees located within scenic corridors, shown on the Official Zoning Map with an "s".
 - e. Aircraft Landing Zone, for trees located within the aircraft landing zone, shown on the Official Zoning Map with an "h".
 - f. Johnson Creek Basin Plan District, only applied to the South subdistrict, to areas within the special flood hazard area, and to sites that abut the Springwater Corridor.
 - g. Rocky Butte Plan District.
 - h. South Auditorium Plan District.
20. "Person" includes any individual, property owner, firm, association, corporation, agency, entity, or organization of any kind.
21. "Proper Arboricultural Practices" refers to the methods employed during tree planting or cutting or removing any part of the branching structure of a plant in the crown, trunk or root areas in accordance the most recent edition of the American National Standards Institute (ANSI) "A-300 Standards" and published "Best Management Practices" of the International Society of Arboriculture.
22. "Pruning" is the removal or reduction of parts of a tree that are not requisite to growth or production, are no longer visually pleasing, or are injurious to the health or development of the tree.
23. "Public Agency" means any public agency or public utility as defined in ORS 757.005, or drainage district as defined in ORS 174.116.
24. "Recognized Organization" is a neighborhood, community, business, or industrial association, or organization recognized or listed by the Office of Neighborhood Involvement (ONI). Recognized organization also includes the ONI district offices.

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25. "Responsible Engineer" for the Bureau of Transportation this shall be the City Engineer, for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau. Each Responsible Engineer may delegate their authority and duties to another employee in the same bureau. The duties are as prescribed in Section 11.10.010.
26. "Responsible Party" is a person in control of property in fee ownership or tenancy where a tree is located or property adjacent to a Street Tree. The responsible party may include the owner or owners, lessees, tenants, occupants or other persons in charge. In cases of violations, the responsible party may also include the person, partnership, or corporation who violated the provisions of this Title.
27. "Site" has the same meaning as in Title 33 Planning and Zoning.
28. "Street" has the same meaning in Section 9-101 of the City Charter.
29. "Treatment" is the application of therapeutic remedies or corrections to site conditions when injury to trees has occurred to improve the chances of long term viability. Generally these measures should occur only under the direction of an arborist. Treatment measures include compensatory or corrective pruning, fertilization, inoculation, soil fracturing, grade restoration and supplemental irrigation.
30. "Tree Area" is the amount of area on a development site that is used to calculate the required number of trees to be planted to meet tree density standards.
31. "Tree Plan" is a site plan showing trees to be preserved and protected, planted, or removed. Specific requirements for Tree Plans are in Chapter 11.50.
32. Tree Related Terms:
 - a. "City Tree" is a tree within City limits that is on property owned or managed by the City. A tree that straddles a property line between private property and City-owned or -managed property is a Private Tree, shared by the City and adjacent property owner. A tree on a property line between City-owned or managed property and the street is a Street Tree.

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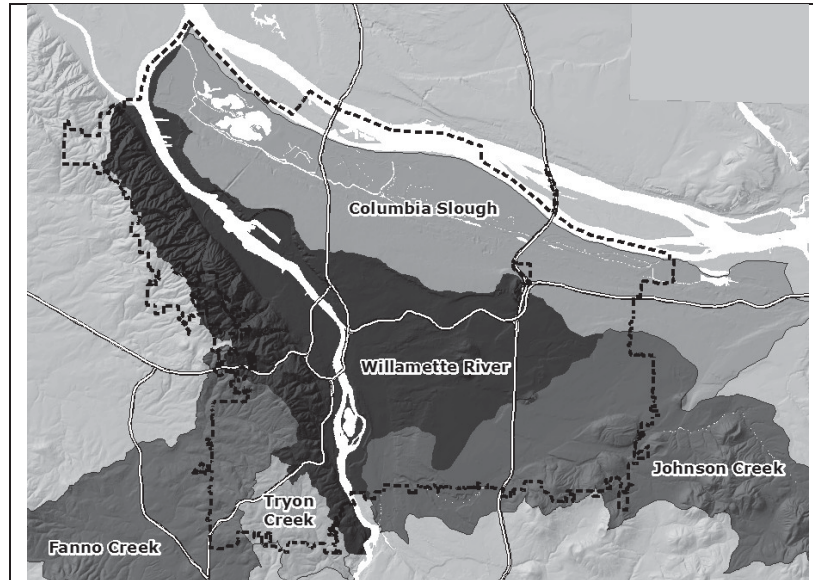
- b.** "Dangerous Tree" is one where the condition of the tree presents a foreseeable danger of inflicting damage that cannot be alleviated by treatment or pruning. A tree may be dangerous because it is likely to injure people or damage vehicles, structures, or development, such as sidewalks or utilities.
- c.** "Dead Tree" is a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life as determined by an arborist.
- d.** "Dying Tree" is a tree 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 or is imminently likely to become a danger or die.
- e.** "Heritage Tree" is a tree designated as a Historic Landmark Tree, a Historic Tree, or a Heritage Tree.
- f.** "Native Tree" is a tree listed on the "Portland Plant List" as native to the Willamette Valley.
- g.** "Non-Native Non-Nuisance Tree" is a tree that is not identified on the Portland Plant List as a native species or a nuisance tree.
- h.** "Nuisance Tree" is a tree of a species listed on the "Nuisance Plant List".
- i.** "Protected Tree" is a tree that shall be retained and protected because of a condition of approval on a land use review, a tree plan, or because it is a Heritage Tree.
- j.** "Private Tree" is a tree on property that is not owned or managed by the City. A tree that straddles a property line between private property and City-owned or –managed property is a Private Tree, shared by the City and adjacent property owner. A tree that straddles a private property line and the street is a Street Tree.
- k.** "Street Tree" means any tree growing in or upon any city managed street. In some cases, property lines lie several feet behind the sidewalk or edge of road pavement. Where a street is not fully improved with curbs or sidewalks but is paved, a tree may be considered a Street Tree if it is located within 15 feet of the edge of

pavement, unless a survey by a licensed surveyor or property boundaries can clearly establish otherwise. For completely unimproved streets, the actual property line will be used to demarcate between Private Trees and Street Trees. A tree that straddles a private property line and the street is a Street Tree.

- l.** "Tree Grove" is a group of six or more native trees at least 12 inches in diameter, or Oregon white oak trees or Pacific madrone trees that are at least 6 inches in diameter and that form a generally continuous canopy, or are spaced as appropriate for that species or species assemblage. Groves are generally non-linear. Other trees and understory vegetation located within the grove are considered part of the grove and are counted as part of the canopy area. A tree grove may be identified by a qualified professional, such as an arborist or environmental scientist, based on the types, configuration, or functions of a grouping of trees. Functions include structural support and wind protection for the trees within the grove, microclimate and shade, and habitat such as nesting, foraging, and cover for birds and other wildlife.
- 33.** "Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service and other telecommunications, sewage disposal and treatment, and other operations for public service. It does not include transportation service, railroad operations, or service otherwise licensed under City Code
- 34.** "Watershed" means one of the areas as shown in Figure 80-1 and further defined by the Bureau of Environmental Services. For the purposes of establishing planting within a specific watershed as part of this Title, watersheds end at the City limits and the following also apply:
 - a.** Columbia Slough – sites on Hayden Island are included in this watershed
 - b.** Willamette River – sites in Northwest Portland that are west of the Willamette River watershed are included in this watershed
 - c.** Fanno Creek/Tryon Creek – these two watersheds are managed as a single watershed unit
 - d.** Johnson Creek – all sites within the Johnson Creek watershed

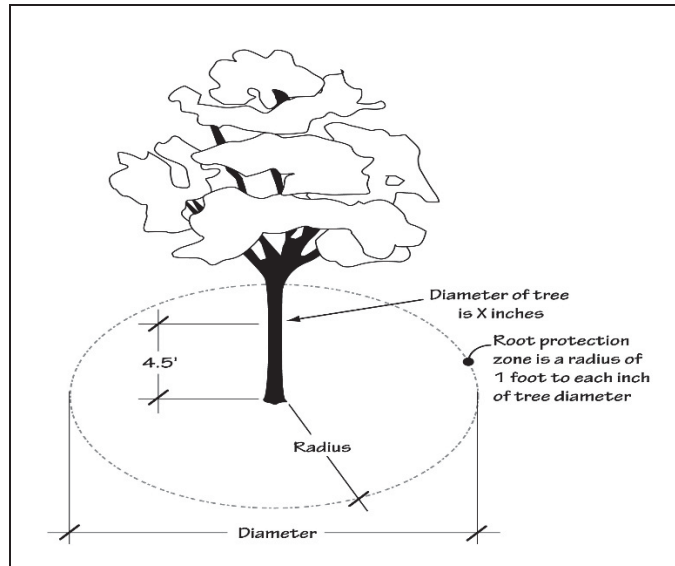
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Figure 80-1 Watershed Boundaries



- C. Measurements. For the purposes of establishing distances and other types of required measurements, the following methods are applied.
1. Root Protection Zone (Prescriptive Path). To determine the required root protection zone, measure the size of the tree to be protected. For each diameter inch of the tree, measure one foot away from the tree to establish the radius of the circle surrounding the tree. Each 1 inch diameter of tree requires 1 foot radius for the root protection zone. See Figure 80-2.

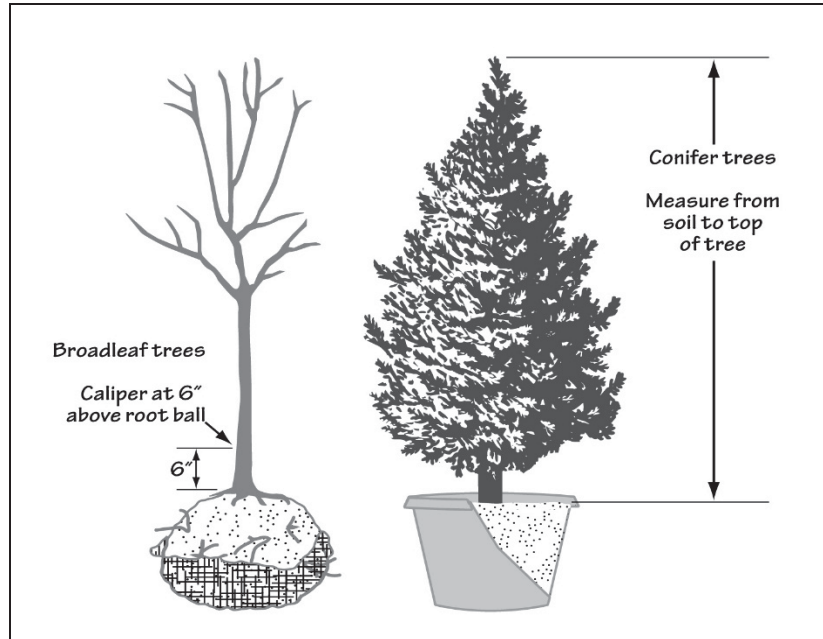
Figure 80-2 Root Protection Zone



2. Tree Location. A tree's location for purposes of establishing the applicable requirements of this Title is determined by the trunk at the point where it meets the ground. Surface roots extending from the trunk are not used to determine the tree's location.
3. Measuring Tree Size
 - a. New trees. New trees are measured in caliper inches, which is the diameter of the trunk 6 inches above the soil or root ball for bare root trees. For coniferous trees, tree height is used. See Figure 80-3.

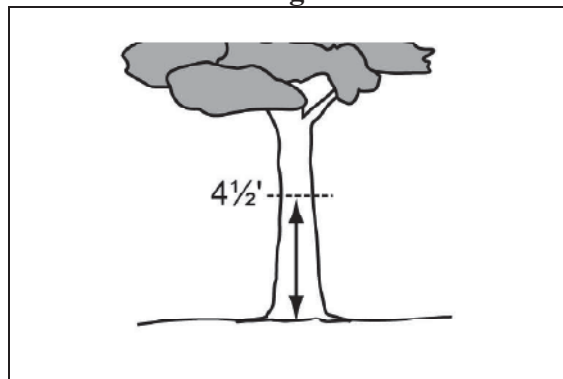
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Figure 80-3 Measuring Tree Size for New Trees



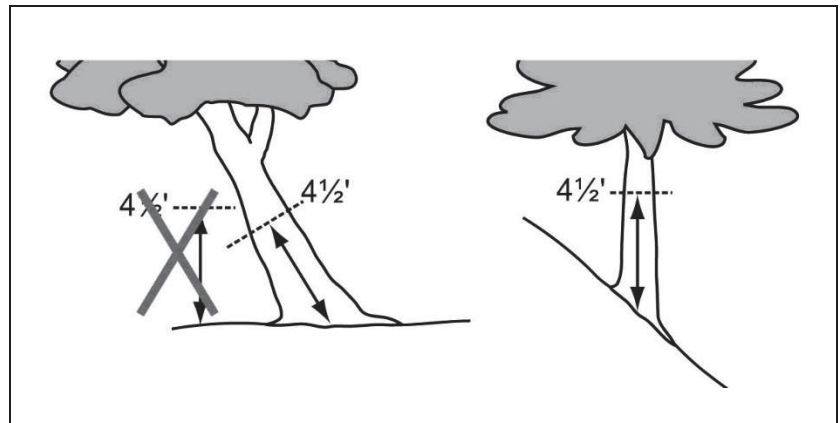
- b.** Existing trees.
- (1)** Existing trees are generally measured in terms of diameter inches at a height of 4-1/2 feet above the ground. See Figure 80-4. The diameter may be determined by measuring the circumference of the tree trunk and dividing by 3.14.

Figure 80-4 Measuring Tree Size for Existing Trees



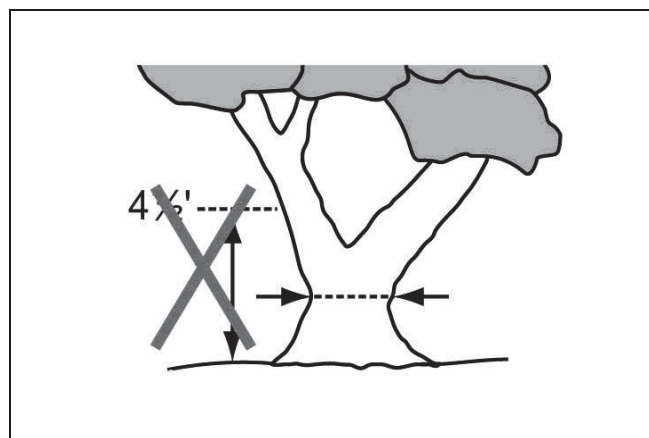
- (2) When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the trunk 4.5 feet along the center of the trunk axis, so the height is the average of the shortest and the longest sides of the trunk; see Figure 80-5.

Figure 80-5 Measuring Existing Trees with an Angle or on Slopes



- (3) When the trunk branches or splits less than 4.5 feet from the ground, measure the smallest circumference below the lowest branch. See Figure 80-6.

Figure 80-6 Measuring Split Trunk Tree

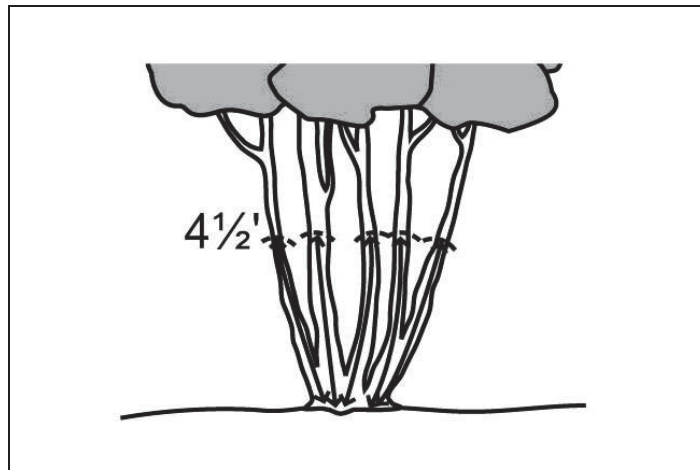


- (4) For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter

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of the largest trunk to one-half the diameter of each additional trunk (see Figure 80-7). A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

Figure 80-7 Measuring Multi-stemmed Trees



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

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

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.)
Police officers, as defined in this Title, are authorized to arrest, issue a citation, or take other enforcement action for violations of the following City Code provisions:

- A. All provisions of Title 11, Tree Regulations;
- B. All provisions of Title 14, Public Order and Police;
- C. All provisions of Title 16, Vehicles and Traffic;
- D. All provisions of Title 18, Noise Control; and
- E. All provisions of Title 20, Parks and Recreation.

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

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

14C.30.040 Seizure and Disposition of Weapons.

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

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- a. Within 60 days after the weapon was seized, if it was not held for use as evidence, or
 - b. Within 60 days after it was released by directive of the Chief of Police or court order, if it was held for use as evidence.
 2. If there is a question as to ownership or right to possession, the weapon shall be released as ordered by the court.
- C. If the name and address of a person entitled to claim possession of a weapon under Subsection B. is known to the Bureau of Police, the Bureau shall give that person notice as provided in Portland City Code 14C.20.
- D. If the weapon is not claimed under the provisions of Subsection B. or was possessed, carried or used unlawfully by the owner, it is a nuisance. Subject to a court order to the contrary, the weapon shall be disposed of as provided in Subsection E. to G.
- E. Subject to approval of the, Property/Evidence Division, if the weapon is a firearm suitable for use by the Bureau of Police, it shall be added to the inventory of the Bureau.
- F. Subject to Subsection C. if the weapon is a shotgun or rifle, it shall be delivered to the Property/Evidence Division, which shall dispose of it in the same manner as surplus property. However, disposal shall be only to persons who have prequalified with the Property/Evidence Division as being licensed to sell firearms at retail.
- G. Any weapon described in Subsection D. that is not disposed of as ordered by the court, or as provided in Subsection E. or F., shall be destroyed by the Property/Evidence Division.

14C.30.050 Seizure of Dangerous and Deadly Weapons for Safekeeping.

If a police officer reasonably believes that a dangerous or deadly weapon may be used to cause serious harm to any person, the police officer may temporarily seize the weapon for safekeeping. If an officer seizes a weapon under this Section, he or she shall promptly turn the weapon into the Bureau of Police Property/Evidence Division.

14C.30.060 Caretaking of Property.

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

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

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

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

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

TITLE 16
VEHICLES AND TRAFFIC

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Chapter 16.40

PRIVATE FOR-HIRE TRANSPORTATION REGULATIONS

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Chapter 16.40

PRIVATE FOR-HIRE TRANSPORTATION REGULATIONS

(Chapter replaced by Ordinance No. 182813,
effective June 19, 2009.)

Sections:

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- 16.40.020 Chapter Applies to all Companies, Drivers and Vehicles.
- 16.40.030 Definitions.
- 16.40.040 Private For-Hire Transportation Board of Review.
- 16.40.050 Board Authority.
- 16.40.060 Board Standing Committees.
- 16.40.070 Fuel Surcharges.
- 16.40.080 Pedicab Driver Permits Required – Application Process & Requirements.
- 16.40.090 LPT and Taxi Driver Permits Required – Application Process & Requirements.
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- 16.40.110 Further Review and/or Denial of a Driver Permit Application.
- 16.40.120 Driver Permit Renewals; Consequences of Failure to Renew.
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- 16.40.220 Vehicle Decal and Taxiplate Issuance or Denial.
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- 16.40.240 Transfer of Decal, Permit or Taxiplate Interest Prohibited.
- 16.40.250 Knowingly Providing False Information; Penalties.
- 16.40.260 Late Submission of Payments Due, Information or Documents; Penalties .
- 16.40.270 Minimum Standards of Service for Taxicab Companies.
- 16.40.280 Taxicab Digital Security Camera Systems.
- 16.40.290 Taxicab Fare Rates.
- 16.40.300 Wheelchair Accessible Taxicabs.
- 16.40.310 Taximeter Requirements.
- 16.40.320 Required Taxicab Equipment.
- 16.40.330 Identification of Taxicab Vehicles.
- 16.40.340 Driver Conduct Requirements and Prohibitions.

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- 16.40.350 Pedicab Regulations.
- 16.40.360 Pedicab Driver and Vehicle Requirements and Prohibitions.
- 16.40.370 Maximum Hours For Drivers.
- 16.40.380 For-Hire Vehicle Requirements and Prohibitions.
- 16.40.390 Identification of SAT Vehicles.
- 16.40.410 LPT and Taxi Insurance Requirements.
- 16.40.420 Pedicab Insurance Requirements.
- 16.40.430 Financial and Operating Restrictions and Reporting.
- 16.40.440 Reports to the Administrator.
- 16.40.450 Limousine, Executive Sedan and Taxi Logs Required.
- 16.40.460 Limousine and Executive Sedan Transportation Must Be Prearranged; Exceptions.
- 16.40.470 Maximum Fares for Shuttles; No Charge for Luggage.
- 16.40.480 Minimum Fares for Limousines and Executive Sedans.
- 16.40.490 Safety Fund.
- 16.40.500 Compliance with Federal, State and Local Laws.
- 16.40.510 Prior Board Orders of No Effect.
- 16.40.520 Administrative Rule Authority and Process.
- 16.40.530 Civil Penalties.
- 16.40.540 Civil Penalty Table.
- 16.40.550 Company and Driver Permit Suspension and Revocation.
- 16.40.560 Criminal Penalties.
- 16.40.570 General Appeals.
- 16.40.580 Appeals Regarding Taxicab Limits.
- 16.40.590 Fee Table.
- 16.40.600 Currently Permitted Companies, Vehicles and Drivers Grandfathered; Renewal Process.
- 16.40.610 Severability.
- 16.40.620 Horse-Drawn Carriage Driver Permits Required – Application Process and Requirements.
- 16.40.630 Horse-Drawn Carriage Company Permits Required – Application Process and Requirements.
- 16.40.640 Horse-Drawn Carriage Permit and Plate Required – Application Process and Requirements.
- 16.40.650 Horse-Drawn Carriage Insurance Requirements.
- 16.40.660 Horse-Drawn Carriage Temperature, Time and Place Restrictions.
- 16.40.670 Operation of Horse-Drawn Carriages: Requirements and Prohibitions.
- 16.40.680 Care of Carriage Horses.
- 16.40.690 Horse-Drawn Carriage Regulations.
- 16.40.700 Horse-Drawn Carriage Penalties.
- 16.40.710 Paid Passenger Referrals Prohibited.
- 16.40.720 Transportation Network Company Permit Requirements.
- 16.40.730 Transportation Network Driver Permit Requirements.

16.40.740 Transportation Network Vehicle Permit Requirements.

16.40.010 Purpose.

- A. The purpose of Chapter 16.40 is to provide for the safe, fair and efficient operation of private “for-hire” transportation services. The industry should be allowed to operate without unnecessary restraint. However, because the industry constitutes an essential part of the City’s transportation system and because transportation so fundamentally affects the City’s well being and that of its citizens, some regulation is necessary to insure that the public safety is protected, the public need provided, and the public convenience promoted. It is not the purpose of Chapter 16.40 to displace competition with regulation or monopoly public service.
- B. The provisions contained herein should be applied and enforced in such a manner as to require the “for-hire” transportation industry to:
 - 1. Promote innovation and adaptation to changing needs; and
 - 2. Allow competition, so long as the public interest is served thereby.

16.40.020 Chapter Applies to All Companies, Drivers and Vehicles.

- A. The requirements of Chapter 16.40 – along with any penalties that may be assessed for violations of Chapter 16.40 – apply to all for-hire transportation companies, vehicles and drivers, whether legally and validly permitted or not.
- B. It is not a defense to any regulatory action (including penalties and fines) to assert that the City cannot act because the driver, company or vehicle does not possess a valid City-issued permit, decal or taxiplate.

16.40.030 Definitions.

(Amended by Ordinance Nos. 184361, 186385, 186746 and 187049, effective March 12, 2015.)

- A. “Administrator” means the private for-hire transportation Program Administrator.
- B. “Approved Mechanic” means a mechanic on a list maintained on a quarterly basis by the Bureau that is published annually and whom meets all the following criteria:
 - 1. does not own, lease or drive a vehicle for-hire;
 - 2. has no financial interest in any for-hire transportation company operating within the States of Oregon or Washington;

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3. has received ASE (Automotive Service Excellence) A Series (Automobile/Light Truck Certification) master certification; and
 4. is not employed by any for-hire transportation company.
- C. “Board” means the Private For-Hire Transportation Board of Review.
- D. “Branded Vehicle” (aka “Reconstructed Vehicle”) means any vehicle that has been purchased by an insurance company because the vehicle has been severely damaged typically due to collision, fire or flood damage, and the value of the vehicle is considered less than the cost to repair the vehicle.
- E. “Bureau” means the Portland Bureau of Transportation of the City of Portland.
- F. “Carriage” means any vehicle or conveyance that is drawn, pulled or propelled by a horse or other animal(s).
- G. “Certificate of Safety” means a document from an approved mechanic certifying that a particular vehicle meets all safety standards as set forth in this Chapter and/or administrative rules.
- H. “Company Permit” means the permit issued to a private for-hire transportation company under the terms of this Chapter and/or administrative rules.
- I. “Compensation” means any form of payment or gratuity by a customer or customer’s agent to a permitted for-hire driver or company for the use of the driver or company’s for-hire transportation services. For-hire transportation providers that only accept gratuities, tips, etc, are considered to be providing “for-hire” transportation services.
- J. “Conduct Business” means operating a for-hire vehicle or company, receiving money or other compensation from the use of a for-hire vehicle, causing or allowing another person to do the same, or advertising the same.
- K. “Customer” means a person who purchases for-hire transportation service from a for-hire transportation service provider that is permitted or should be permitted by the City. The customer may or may not also be a passenger.
- L. “Day” means a business day and not a calendar day unless specifically stated otherwise.

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- M.** “Decal” means the numbered identification sticker issued by the City and affixed to an LPT vehicle.
- N.** “Decaled” means that a particular for-hire transportation vehicle is in full compliance with the requirements of Chapter 16.40 and is operating legally and validly in the City of Portland.
- O.** “Director” means the Director of the Portland Bureau of Transportation.
- P.** “Downtown Core” means the area formerly known as the “Fareless Square” or “Free Rail Zone” as defined by TriMet as follows: The area to the west of the Willamette River shall be bounded on the North by NW Irving, except that at the intersection of NW Irving and NW Station Way it shall be bounded on the North by NW Station Way to NW Broadway and then by NW Broadway south to NW Irving and continuing west on NW Irving to the Stadium (I-405) Freeway, on the West and South by the Stadium (I-405) Freeway and on the East by the Willamette River. The area to the east of the Willamette River shall be bounded on the West by North Interstate Avenue, on the North by NE Multnomah to 125 feet east of 13th Avenue, on the East by 13th Avenue and on the South by NE Holladay.
- Q.** “Driver Permit” means the permit issued to a private for-hire transportation driver under the terms of this Chapter.
- R.** “Driver” means a for-hire transportation driver, including taxi drivers and LPT drivers.
- S.** “Executive Sedan” means a large expensive passenger sedan or full-sized sports utility vehicle (SUV) commonly recognized by the limousine industry as an executive vehicle and used to provide ongoing luxury transportation.
- T.** “Horse-Drawn Carriage” is a vehicle or conveyance operating for hire that is drawn, pulled, propelled or powered, in whole or in part, by a horse, mule or other animal(s).
- U.** “Horse-Drawn Carriage Driver Permit” means the permit issued to a horse-drawn carriage driver under the terms of this Chapter.
- V.** “Limited Passenger Transportation Company” (LPT Company) means a for-hire transportation company other than a taxi company or Transportation Network Company.
- W.** “Limited Passenger Transportation” (LPT) means providing for-hire transportation services with non-motorized vehicles or motorized vehicles other than taxicabs or

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Transportation Network Vehicles. LPTs include, but are not limited to, horse-drawn carriages, pedicabs, executive sedans, limousines, shuttles and SATs.

- X.** “Limousine” means an Executive Sedan whose chassis and wheelbase have been altered by a Qualified Vehicle Modifier (QVM) program participant (or its equivalent) beyond the length of the manufacturer’s original specifications, whether at the time of manufacture or after, and which is commonly recognized by the limousine industry as a “limousine”.
- Y.** “Operate” means driving a for-hire vehicle, using a for-hire vehicle to conduct a business, receiving money from the use of a for-hire vehicle, or causing or allowing another person to do the same.
- Z.** “Passenger” means a person traveling in a for-hire transportation vehicle that is not the operator of that vehicle.
- AA.** “Pedicab” means a tricycle that:
1. transports or is capable of transporting passengers on seats attached to the tricycle;
 2. is powered by human power or an electrical assist; and
 3. is used as a for-hire transportation service.
- BB.** “Pedicab Driver Permit” means the permit issued to a pedicab driver under the terms of this Chapter.
- CC.** “Permittee” means a person or business entity that has been issued a driver or company permit under the terms of this Chapter.
- DD.** “Permitted” means that a for-hire transportation company, driver or vehicle has a valid city-issued permit, decal or taxiplate.
- EE.** “Person” means any individual, partnership, joint venture, association, club, trust, estate, corporation, or other form of business organization recognized by Oregon Law.
- FF.** “Plate” means the numbered identification plate issued by the City and affixed to a horse-drawn carriage or pedicab.
- GG.** “Prearranged” means that the customer, passenger or passenger’s agent has personally asked the driver of a validly permitted for-hire vehicle or a validly

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permitted for-hire transportation company for transportation services, regardless of the communication format used. The Bureau may establish by administrative rule the amount of time required between asking and receiving transportation services to allow a presumption that the services were “prearranged”.

- HH.** “Private for-hire transportation” means providing vehicular, horse-drawn carriage or pedicab transportation for compensation of any kind within the Portland City limits. However, it does not include transportation provided by a public or governmental entity, transportation that is regulated entirely by the state of Oregon or the federal government.

- II.** “Private for-hire vehicle” means motorized or non-motorized vehicle used to transport persons for-hire or other consideration and which is not exclusively regulated by the State. This includes limousines, taxis, executive sedans, shuttles, SATs, pedicabs, and horse-drawn carriages; but does not include school buses, charter buses or ambulances.

- JJ.** “Revocation” means that a permit, taxiplate or decal is no longer valid and cannot be renewed without approval by the Director of the Portland Bureau of Transportation.

- KK.** “Shuttle Transportation” means transportation provided in a vehicle over a fixed route and time schedule.

- LL.** “Specially Attended Transportation” (SAT) means transportation used for agency-sponsored, contracted transportation of non-emergency medical and/or special needs passengers. Ambulance vehicles providing basic life support (BLS) and advanced life support (ALS) services are excluded from this definition.

- MM.** “Suspension” means that a permit, taxiplate or decal is temporarily invalid and that the holder of that permit, taxiplate or decal may not engage in any for-hire transportation activity under the authority granted to that suspended permit, taxiplate or decal.

- NN.** “Taxicab Company” means any entity operating taxicabs other than as a driver and regardless of whether the vehicles so operated are owned by the company, leased, or owned by individual members of the company.

- OO.** “Taxicab driver” means any person operating taxicabs as a driver for any taxicab company regardless of whether the vehicles so operated are owned by the company, leased, or owned by individual members of the company.

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- PP.** “Taxicab” means any vehicle that carries passengers for-hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof.
- QQ.** “Taximeter” means a mechanical or electronic device that calculates and displays a fare based on an initial fee, distance traveled, waiting time, or any combination thereof.
- RR.** “Taxiplate” means the numbered metal identification plate issued by the City and permanently affixed to the rear of a taxicab.
- SS.** “Taxiplate” means that a particular for-hire transportation taxicab is in full compliance with the requirements of Chapter 16.40 and is operating legally and validly in the City of Portland.
- TT.** “Transportation Network Company” (TNC) means any entity, other than a taxicab or LPT company, that operates private for-hire transportation by connecting passengers to Transportation Network Drivers who offer and provide Transportation Network Services through an internet based digital or software platform/application.
- UU.** “Transportation Network Driver” means any individual operating a private for-hire vehicle who connects with passengers through an internet based digital or software platform/application operated by a Transportation Network Company.
- VV.** “Transportation Network Services” mean private for-hire transportation services offered or provided for compensation by a Transportation Network Company that connects passengers with Transportation Network Drivers through an internet based digital or software platform/application.
- WW.** “Transportation Network Vehicle” means any vehicle driven by a Transportation Network Driver to provide Transportation Network Services.
- XX.** “Waiting time” means the time during which a taxicab is under the direction of a passenger and the taxicab is moving slower than the per-mile rate allowed by this Chapter.
- YY.** “Week” means the 7-day period from Monday through Sunday.
- ZZ.** “Wheelchair Accessible” means that a for-hire transportation vehicle is equipped with a hydraulic lift or ramps designed for the purpose of transporting wheelchair

users or others using mobility devices, or which contains any other physical device or alteration designed to permit access to and enable the transportation of physically handicapped persons.

16.40.040 Private For-Hire Transportation Board of Review.

- A.** Membership and Terms. The Private For-Hire Transportation Board of Review (“Board”) consists of 14 members, including a Chairperson. The Director serves as the Chairperson and is a permanent member of the Board. All other members serve 2-year staggered terms as prescribed by administrative rule. In order to achieve the necessary staggered terms, the initial terms of some members will be for less than two years, as prescribed by administrative rule.
- B.** Composition. The Board is composed of:
1. The Director, or his or her designee;
 2. A representative from the Portland Bureau of Transportation;
 3. A representative from the tourism industry;
 4. A representative for persons with disabilities;
 5. A representative of the riding public;
 6. A representative from the Port of Portland;
 7. A representative from TriMet;
 8. A representative from the taxicab companies;
 9. A representative from the non-limousine LPT companies;
 10. A representative from the SAT companies;
 11. A representative from the limousine companies;
 12. A representative from the pedicab companies;
 13. A representative from the taxicab drivers; and
 14. A representative from the LPT drivers.

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- C.** Selection of Members. The Commissioner-in-Charge of the Bureau appoints the Board positions described in Subsections 16.40.040 B.2 - B.7. The Board positions described in Subsections 16.40.040 B.8. - B.14 are selected as provided by Administrative Rule and these are termed “Industry Board member positions”. All validly-permitted for-hire transportation companies and drivers may vote on selecting their respective industry representatives.
- D.** Salary. Board members serve without pay, except they may receive their regular salary during time spent on Board matters.
- E.** Meeting Times; Quorum. Unless the Director cancels a meeting for good cause, the Board will meet every odd-numbered month beginning in July 2009. Eight members must be present to have a quorum, with at least five members present from the positions described in Subsections 16.40.040 B.1. - B.7. Meetings must be noticed and conducted as provided by ORS 192.610 et seq. The Board Chairperson will maintain order and establish and limit the matters to be considered at all Board meetings. The Director may schedule a special meeting provided that at least 5 days’ notice is given and the meeting is otherwise noticed and conducted as provided by ORS 192.610 et seq.
- F.** Absences. If any Board member is absent from more than three regularly-scheduled Board meetings during a 12-month period, that member may be dismissed by a majority vote of the Board. If a Board member sends an alternate in his or her place as provided by Subsection 16.40.040 G., then no absence is considered to have occurred.
- G.** Alternate Members. If any Board member cannot make a regularly-scheduled meeting, that member may send an alternate in the member’s place provided that the member gave at least 5 days’ notice to the Director. Any alternate attending as a result of this Subsection may not vote on any Board action, unless the alternate has been appointed as an alternate by the City Council.
- H.** Company Representative Requirements. Company representatives cannot serve as a specific industry representative unless:

 - 1. at least 85 percent of that company’s business is derived from that industry;
or
 - 2. the company has at least 20 vehicles in that industry.
- I.** Vacancies. Any Board position that becomes vacant for any reason will be filled in the same manner as required by Subsection 16.40.040 C. for non-industry member positions, and by administrative rule for industry member positions.

16.40.050 Board Authority.

- A.** The Board advises the Bureau on matters relating to the for-hire transportation industry operating within the jurisdiction of the City of Portland.
- B.** In addition to its advisory role, the Board has the following specific authority and jurisdiction:
 - 1.** Adopt or reject administrative rules proposed by the Director;
 - 2.** Impose, modify or remove fuel surcharges that are in addition to any fare amounts regulated under Chapter 16.40;
 - 3.** Approve or deny applications by an LPT company to increase the number of decaled vehicles it may operate if the number has been capped by administrative rule pursuant to Section 16.40.200;
 - 4.** Approve or deny applications by a taxi company to increase the number of permitted taxicabs it may operate pursuant to Section 16.40.210; and
 - 5.** Recommend approval or denial of taxicab company applications pursuant to 16.40.160.

16.40.060 Board Standing Committees.

- A.** The Board has three permanent standing committees of which only validly-permitted companies and drivers may be members:
 - 1.** A “Company Standing Committee,” consisting of all for-hire transportation company owners or managers;
 - 2.** A “Taxi Driver Standing Committee,” consisting of all taxi drivers; and
 - 3.** An “LPT Driver Standing Committee,” consisting of all LPT drivers.
- B.** No entities or persons regulated under Chapter 16.40 are required to attend the standing committees described in Subsection 16.40.060 A.
- C.** The Company Standing Committee will select five members who will serve as the Board members described in Subsections 16.40.040 B.8. - B.12. The selection will take place according to administrative rule. The Company Standing Committee

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will also select one person to serve as its Chairperson from among the five members serving on the Board.

- D.** The Driver Standing Committees will each select a member who will serve as both Chairperson of that committee and as the Board members described in Subsections 16.40.040 B.13. - B.14.
- E.** The representatives will bring to the Board's attention issues that are important to their respective committees.
- F.** The Board may task any standing committee to review and discuss issues relevant to the for-hire transportation industry and ask the standing committee to issue a report to the Board at a future meeting. The report may or may not include specific recommendations based on the standing committee's review and discussion.
- G.** The standing committees are responsible for adopting rules of procedure for their meetings, including the frequency of their meetings and the procedure for conduct of the meetings, except that all standing committees are required to keep minutes of the meetings and take attendance of those present. The minutes and attendance records must be reported to the Board at the next regularly-scheduled Board meeting following a standing committee meeting.
- H.** The City will assist the standing committees with notices, meeting rooms and other administrative requirements.

16.40.070 Fuel Surcharges.

- A.** The Board has the authority to impose, modify and rescind fuel surcharges. Any fuel surcharge imposed under this Section or any modification of a fuel surcharge already in place that increases the fuel surcharge must be reviewed by the Board within 180 days from its effective date.
- B.** A failure by the Board to review any fuel surcharge as required in Subsection 16.40.070 A. automatically rescinds the surcharge and it is of no further effect.
- C.** Fuel surcharges authorized under this Section may only be imposed or modified pursuant to the criteria found in administrative rule. Fuel surcharges may be rescinded by the Board at any time, even if the criteria for allowing a fuel surcharge currently exist.
- D.** If at any time a fuel surcharge is currently in place, appropriate notification of the surcharge must be given to the public. The Board may determine by administrative

rule what suffices for appropriate notification, but at a minimum all vehicles subject to a fuel surcharge must have signage in the vehicle notifying of the surcharge.

16.40.080 Pedicab Driver Permits Required – Application Process & Requirements.

- A.** Permit Required. No person may drive a pedicab without a valid, current pedicab driver's permit issued under Chapter 16.40.
- B.** Application Documents Required. Applicants for a pedicab driver's permit must submit to the Administrator the items listed below. The failure to submit any of the items listed will result in a denial of the permit:
 - 1.** a completed application on a form approved by the Administrator;
 - 2.** a copy of the applicant's current driver's license or government issued photo identification (if the company has a Bureau-approved training class relating to traffic rules and regulations); and
 - 3.** if necessary, any information that reasonably relates to the application or is a clarification of information provided to the Administrator.
- C.** Photographs. Applicants will be photographed by the Bureau upon submittal of the driver permit application. The photograph then becomes a part of the applicant's submittal package.
- D.** Fees Required. Applicants must submit a nonrefundable application fee in the amount listed in the Fee Table in Section 16.40.590.
- E.** Age and Criminal History. Applicants for a pedicab driver's permit may not be issued a permit if any of the following conditions exist:
 - 1.** The applicant has a felony of any kind in the 10 years preceding the submission of the application;
 - 2.** The applicant has a felony involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;
 - 3.** During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
 - a.** any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or

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4. if necessary, any information that reasonably relates to the application or is a clarification of information provided to the Administrator.
- C.** Photographs. Applicants will be photographed by the Bureau upon submittal of the driver permit application. The photograph then becomes a part of the applicant's submittal package.
- D.** Fees Required. Applicants must submit a nonrefundable application fee in the amount listed in the Fee Table in Section 16.40.590.
- E.** Age, Criminal History, Driving History and Insurability Requirements. Applicants for a driver's permit may not be issued a permit if any of the following conditions exist:
1. The applicant has a felony of any kind in the 10 years preceding the submission of the application;
 2. The applicant has a felony involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;
 3. During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
 - a. any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
 - b. any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident;
 4. During the 5-year period preceding the submission of the initial application, the applicant had greater than 10 traffic infractions as defined in ORS 801.557; greater than five serious traffic violations as defined in ORS 801.477; greater than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, greater than five of any combination of serious traffic violations or motor vehicle accidents as provided above;
 5. During the 10-year period preceding the filing of the initial application, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident;

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6. The applicant has more than two traffic violations or infractions of any kind within the previous 12 months from the date of the application;
 7. The applicant has more than four infractions of any kind within the previous 12 months from the date of the application;
 8. The applicant does not have at least 2 years' worth of continuous driving experience in a United States jurisdiction immediately prior to the date of the application's submission;
 9. The applicant is less than 21 years old; or
 10. The applicant is unable to obtain car insurance for any reason.
- F.** Driver Safety and Customer Service Training Requirements. Applicants must successfully complete the following training and classes within 6 months of issuance of the driver's permit:
1. A Bureau-approved driver safety program; and
 2. A Bureau-approved customer service training class.
- G.** Driver Knowledge and Skills Testing Requirements. Applicants must successfully complete each of the following tests as administered by the Bureau before a permit can be issued:
1. Map-reading;
 2. Relevant City Code provisions and Administrative Rules; and
 3. Portland-area attractions.
- H.** CPR Training for SAT Drivers. In addition to all other requirements found in Section 16.40.090, SAT drivers must have CPR and advanced first aid certifications within 6 months of issuance of the driver's permit.
- I.** The Director is authorized to provide by Administrative Rule the special permitting process for round trip medical transportation from distant areas for service provided by medical brokerages under contract with the Oregon Health Authority.

16.40.100 Issuance of Driver's Permit; Term; Replacements.

- A.** Issuance and Fees. If an applicant submits the required documents and otherwise satisfies all conditions and requirements found in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs), the Administrator will issue a driver's permit to the applicant within 20 days of completion of all requirements and payment of the permit fees outlined in the Fee Table in Section 16.40.590.
- B.** Permit Requirements: All driver permits must:

 - 1.** contain the permit number, permit expiration date, the driver's name and the driver's photograph;
 - 2.** be posted in a prominent place within any vehicle driven by the permitted driver if the vehicle is a taxicab, pedicab, shuttle or SAT; and
 - 3.** be inside the vehicle and available for inspection by any customer, passenger, police officer or designated City employee if the vehicle is a limousine or executive sedan.
- C.** Term. Driver's permits are valid for a period of 12 months from the date of issuance and must be renewed upon expiration. Permits expire on the last day of any given month, regardless of what day of the month the Bureau issued the permit. In order to achieve the goal of staggered renewal dates, the Board may by administrative rule require that initial permit terms following passage of this ordinance are valid for a period of less than 12 months.
- D.** Replacements. If a driver's permit is lost, damaged or stolen, the Administrator will issue a replacement permit for a fee in the amount outlined in the Fee Table in Section 16.40.590.
- E.** Compliance with Business License Tax Law. If applicable, any driver issued a driver's permit under this Chapter must comply with all provisions of the Business License Tax Law, Chapter 7.02, within 60 days of issuance of a driver's permit.
- F.** Suspension for Failure to Complete Training. Drivers that do not successfully complete all training and skills tests as required by Subsections 16.40.080 F., 16.40.090 F. and 16.40.090 H. within 6 months of the permit's issuance must return their permits to the City and those permits are thereafter suspended pending completion of all required skills tests and trainings. If the required tests and trainings are not completed within 9 months of the permit's original issuance date, the permit is revoked and applicants must begin the permit process again.

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16.40.110 Further Review and/or Denial of a Driver Permit Application.

- A.** “Request for More Information” Letter. If the Administrator determines that a permit cannot be issued due to an incomplete application, a failure to pay the application fee, or for any reason found in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs) that can potentially be corrected, the Administrator will send the applicant a “Request for More Information” letter (the “Information Letter”) within 21 days of the initial application date. If the applicant is a taxi driver, the Administrator will also mail a copy of the Information Letter to the sponsoring taxi company. If the Administrator does not grant a permit or send an Information Letter within 21 days, the application is deemed denied and the applicant may appeal pursuant to Section 16.40.580.
- B.** Contents of Information Letter. The letter must list the reason(s) in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs) that require further information and/or review before a permit may be issued.
- C.** Applicant Response Opportunity. If an applicant receives an Information Letter, the applicant may respond by either:

 - 1.** Submitting any missing information as requested by the Administrator in the letter;
 - 2.** Submitting any explanatory information regarding any criminal or driving infraction that was the subject of the denial;
 - 3.** Completing, within 90 days, any skills tests, driving tests, or knowledge tests that the applicant failed; or
 - 4.** Demonstrating to the Bureau’s satisfaction that the disqualifying factor is either not likely to reoccur or that it occurred under circumstances that diminish the seriousness of the behavior.
- D.** Successful Response. Applicants that successfully and timely address the initially-disqualifying reason found in the Information Letter will be issued a driver’s permit pursuant to Section 16.40.100.
- E.** Failure to Respond. An application is deemed rejected if the applicant fails to respond in writing within 10 days to an Information Letter. Rejected applicants that subsequently wish to obtain a driver’s permit must file a new application and meet all the requirements of Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs), including paying all necessary application fees. If the applicant shows that the delay in responding was based on good cause, the Administrator may allow

the applicant to respond to the Information Letter in the manner prescribed in Subsection 16.40.110 C.

16.40.120 Driver Permit Renewals; Consequences of Failure to Renew.

- A.** Driver permits must be renewed every 12 months from the date of issuance.
- B.** Every 2 years from the date of the initial permit, drivers must successfully complete all driver safety classes as described in Subsection 16.40.090 F. In addition, the City will conduct a review of the driver's criminal history and DMV records during this time.
- C.** The following information, certificate of completion and payment amount must be submitted to the Bureau no less than 1 month prior to the renewal date:
 - 1.** Updated file information if any information in the original application has changed;
 - 2.** Payment of the renewal fee as outlined in the Fee Table in Section 16.40.590.
 - 3.** Certificate of completion of a Bureau-approved driver safety class as described in Subsection 16.40.090 F.
- D.** Permits will not be renewed unless the driver is in compliance with the City's Business License Tax Law, Chapter 7.02, if applicable.
- E.** Except as provided in Subsection 16.40.120 B., permits will not be renewed if the driver fails to satisfy any condition that would have been grounds to deny the initial permit, including any criminal activity or driving crimes/violations.
- F.** Permits will not be renewed if the driver has more than five assessed civil penalties or more than \$4,500 in assessed civil penalty fines in the 12 months prior to the renewal date.
- G.** If a driver fails to timely pay the permit renewal fee, timely provide the renewal information required by Subsection 16.40.120 C., or fails to timely complete any training course as required by Subsection 16.40.120 B., the permit expires and becomes void. Voided driver permits require the former permittee to file an initial permit application and pay all necessary fees as outlined in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs) to obtain a valid permit.

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16.40.130 LPT Company Permits Required – Application Process & Requirements.

(Amended by Ordinance No. 185496, effective August 10, 2012.)

- A.** Permit Required. No person or entity may conduct business as an LPT for-hire transportation company without a valid, current LPT company permit issued by the City under Chapter 16.40.
- B.** Application Requirements. An applicant for an LPT company permit must submit to the Administrator:
1. a completed application on a form supplied by the Bureau;
 2. proof of registration with the Secretary of State for any corporate, LLC or LLP entity;
 3. proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
 4. The name of any person or entity holding an ownership interest of 20 percent or more for any corporation, limited liability company or limited liability partnership;
 5. If an SAT company, proof that it has at least one valid government-approved contract for services; and
 6. A nonrefundable application fee in the amount outlined in the Fee Table in Section 16.40.590.
- C.** Additional Requirements. In addition to the requirements of Subsection 16.40.130 B., the Board has the authority to require, by administrative rule, that the applicant demonstrate some or all of the following:
1. that it has an adequate amount of financial resources to ensure compliance with the requirements of this Chapter, including, but not limited to, insurance and vehicle requirements,
 2. that it has a valid business plan to enter into the for-hire market,
 3. that there is a need for additional LPT service providers in the City limits to service a growing demand or that the applicant has a business model to attract new business in the current market.

- D.** Compliance with Secretary of State Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- E.** The Director is authorized to provide by Administrative Rule the special permitting process for round trip medical transportation from distant areas for service provided by medical brokerages under contract with the Oregon Health Authority.

16.40.140 Issuance of LPT Company Permits; Term; Replacements.

- A.** Issuance of Permit. If the applicant provides all necessary documents required in Subsection 16.40.150 D., and if the applicant has a current business license issued under Chapter 7.02, the Administrator will issue an LPT Company permit upon the payment of the required permit fee as outlined in the Fee Table in Section 16.40.590. If the applicant fails to satisfy any requirement, the permit will be denied.
- B.** Term. LPT Company permits are valid for a period of 12 months from the date of issuance. Permits expire on the last day of any given month, regardless of what day of the month the Bureau issued the permit. In order to achieve the goal of staggered renewal dates, the Board may by administrative rule require that initial permit terms following passage of this ordinance are for less than 12 months.
- C.** Replacement Permit. If an LPT company permit is lost, damaged or stolen, the Administrator will issue a replacement permit for a fee amount as outlined in the Fee Table in Section 16.40.590.

16.40.150 Taxicab Company Permits Required – Application Process & Requirements.

- A.** Permit Required. No person or entity may conduct business as a taxicab company without a valid, current company permit issued by the City under Chapter 16.40.
- B.** Application Requirements. An applicant for a taxicab company permit must submit to the Administrator:
 - 1.** a completed application on a form supplied by the Bureau;
 - 2.** proof of registration with the Secretary of State for any corporate, LLC or LLP entity;
 - 3.** proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;

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4. A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates; and
 5. A nonrefundable application fee in the amount outlined in the Fee Table in Section 16.40.590.
- C. Compliance with Secretary of State's Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.

16.40.160 Issuance or Denial of Taxicab Company Permit; City Council Action.

- A. Administrator Review Process. After receiving a completed taxicab company application form and upon successful completion of all the requirements of Section 16.40.150, the Administrator will review the application in order to make a recommendation to the Board for approval or denial.
- B. Recommendation Factors. The Administrator's recommendation will be based upon the requirements of Chapter 16.40, any regulations established by the Board pursuant to Section 16.40.050, and the following additional factors:
1. The current status of the public transportation system in the City;
 2. The current and future ability of the public transportation system to provide the timely and effective movement of persons;
 3. The ratio of population within the City of Portland to the number of taxicabs currently in operation;
 4. The demonstrated need for additional taxicab service in the City that is not accomplished by existing companies, as shown by the applicant;
 5. The present utilization patterns of taxicabs currently in operation; and
 6. The interests of the applicant in establishing a local business to legitimately serve the citizens of this City.
- C. Administrator's Staff Recommendation Report. Upon completion of the review process outlined in Subsection 16.40.160 A., the Administrator will prepare a Staff Recommendation Report that recommends approval or denial of the application. If the Administrator recommends denial, the Administrator will state the specific reasons therefore in the Staff Recommendation Report.

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- D.** Board Review. Upon completion of the Staff Recommendation Report the Administrator will forward it and the original taxi company application to the Board for consideration at the next regularly-scheduled Board meeting. The Board will review the application and the Staff Recommendation Report and will consider the Administrator's recommendation. Board members may ask questions of the applicant during the Board meeting. Upon the Board's review and consideration of the application, it will then vote on whether it recommends approval or denial of the application. The Board will reduce its recommendation to a written document (the "Board Recommendation") and the Bureau will forward it to the City Council along with the Staff Recommendation Report.
- E.** Council Hearing. Once the Bureau has forwarded the Staff Recommendation Report and the Board Recommendation to City Council, the Administrator will contact the Auditor's Office and set a Council hearing date on the Board's recommendation of the applicant's approval or denial. The Council will conduct a public hearing regarding the Board's recommendation on the application. At such hearing the officers and/or major stockholders in the applicant company may be directed by the Council to personally appear before it.
- F.** Council's Standard of Review. The Council's review is de novo, but it will consider the Staff Recommendation, the Board's Recommendation, and the factors found in Subsection 16.40.160 B. in determining whether to grant an application for a new taxicab company permit.
- G.** Issuance or Denial of Permit. At the close of the hearing, the Council will direct the Bureau to issue a taxicab company permit to the applicant only if it finds:
- 1.** That the interests of the City will be served thereby; and
 - 2.** That the applicant has sufficient financial resources to be able to meet the minimum standards established by Section 16.40.270.
- H.** Conditions of Permit. If the permit is granted, it may contain such terms or conditions as the Council deems appropriate.
- I.** Fees. The Bureau cannot issue the taxicab company permit until the applicant pays the permit fee outlined in the Fee Table in Section 16.40.590.

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16.40.170 LPT and Taxicab Company Permit Renewals.

(Amended by Ordinance No. 185721, effective November 7, 2012.)

- A.** LPT and Taxicab Company permits must be renewed 12 months after issuance. All permits expire on the last day of any given month, regardless of what day of the month the original permit was issued.
- B.** The following information and documents must be submitted to the Bureau no later than 1 month prior to the renewal date:
 - 1.** Updated file information if any information in the initial application has changed; and
 - 2.** Updated copies of insurance certificates for any permitted vehicles that are subject to the requirements found in Section 16.40.410.
- C.** LPT and taxi companies must pay the renewal fees outlined in the Fee Table in Section 16.40.590.
- D.** Permits will not be renewed if the company fails to satisfy any condition that would have been grounds to deny the initial permit.
- E.** Permits will not be renewed unless the company is in compliance with the City's Business License Tax Law, Chapter 7.02.
- F.** Permits will not be renewed if the company does not have a current, valid registration with the Oregon Secretary of State's office, including registration of all assumed business names.
- G.** Company and vehicle permits will not be renewed if the company does not achieve the minimum score on the matrix of taxi company performance standards. The number of taxi vehicle permit renewals granted will be related to review of the performance standards. Taxi company performance standards will be described by administrative rule.

16.40.180 Pedicab Decals Required – Application Process & Requirements.

- A.** Decal Required for Pedicabs. No pedicab may be used as a for-hire transportation vehicle without a valid and unobstructed decal issued by the City under Chapter 16.40. Applicants for a vehicle decal must satisfy the conditions as set forth in Subsections 16.40.180 B. – F. for every vehicle decal application, which includes providing to the Bureau a copy of all certificates required.

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- B.** Application Form. The applicant for a pedicab decal must complete a “Pedicab Decal Application Form” provided by the Administrator and which includes the following requested information:
 - 1.** Pedicab Make;
 - 2.** Pedicab Model; and
 - 3.** Pedicab Owner.
- C.** Insurance Certificate. All pedicab applicants must provide the Bureau with an insurance certificate of liability indicating that the requirements of Section 16.40.420 have been satisfied.
- D.** Safety Inspection. The Board has the authority, by administrative rule, to require that a pedicab satisfy certain safety standards before it may be decaled. This may include inspection by an independent third party or inspection by City personnel.
- E.** Pedicab Condition. Notwithstanding Subsection 16.40.180 D., no pedicab will be decaled if the Administrator determines that the interior is not clean and/or the exterior is not in good condition.
- F.** Fees. Pedicab companies must pay a nonrefundable application fee for each for-hire pedicab applying for a decal in the amount outlined in the Fee Table in Section 16.40.590.

16.40.190 LPT Decals and Taxiplates Required; Application Process & Requirements.
(Amended by Ordinance Nos. 185496 and 185497, effective August 10, 2012.)

- A.** Decal Required for LPT Vehicles. No LPT vehicle may be used as a for-hire transportation vehicle without a valid and unobstructed decal issued by the City under Chapter 16.40. Applicants for a vehicle decal must satisfy the conditions as set forth in Subsections 16.40.190 C. – J. for every vehicle decal application, which includes providing to the Bureau a copy of all certificates required.
- B.** Taxiplate Required for Taxicabs. No taxicab vehicle may be used as a for-hire transportation vehicle without a valid and unobstructed taxiplate issued by the City under Chapter 16.40. Applicants for a taxiplate must satisfy the conditions as set forth in Subsections 16.40.190 C. – J. for every vehicle taxiplate application, which includes providing to the Bureau a copy of all certificates required

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- C.** Application Form. The applicant for a vehicle decal or taxiplate must complete a “Decal/Taxiplate Application Form” provided by the Administrator and which includes the following requested information:
1. Vehicle Make;
 2. Vehicle Model;
 3. Vehicle Identification Number (VIN);
 4. Vehicle Owner;
 5. Vehicle Model Year;
 6. Vehicle License Plate Number; and
 7. Whether the vehicle is wheelchair accessible
- D.** Age of Vehicle. After December 31, 2011, decals and taxiplates will not be issued to a for-hire vehicle applicant unless the vehicle meets the age requirements below. For the purposes of Chapter 16.40, the age of a vehicle is determined by the manufacturer’s model year, regardless of when the vehicle was purchased or put into service as a “for-hire” vehicle. Apart from the exception found in Subsection 16.40.190 E., no for-hire vehicle may be older than the following ages:
1. Taxicabs: 10 years
 2. Shuttles: 10 years
 3. Executive Sedans: 10 years
 4. SAT’s: 10 years
 5. Wheelchair Accessible Vehicles: 10 years for all new and replaced wheelchair accessible vehicles, effective January 1, 2013; except that vehicles purchased and put into service prior to January 1, 2013 may be used and renewed until they are 15 years old, so long as they remain continuously permitted and in service from the time of purchase.
- E.** Vehicle Age Exception. Applicants whose vehicles are considered “classic” or “antique” under criteria found in administrative rule may petition the Administrator for an exception to the vehicle age requirements found in Subsection 16.40.190 D. Applicants who can demonstrate to the Administrator that their vehicle is in

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excellent safety, mechanical and physical condition despite it being beyond the age limits found in Subsection 16.40.190 D. may be granted an exception to those age limits.

- F.** Insurance Certificate. All decal and taxiplate applicants must provide the Bureau with an insurance certificate of liability indicating that the requirements of Section 16.40.410 have been satisfied.
- G.** Safety Certificate. Each vehicle must pass a standardized vehicle safety test as performed by a certified mechanic approved by the City. The Certified Mechanic will then issue to the applicant a “Safety Certificate” stating that the vehicle passed the required safety inspection. A list of certified mechanics and the things that must be inspected by the mechanic are found in administrative rules.
- H.** Vehicle Condition. Notwithstanding the issuance of a safety certificate, no vehicle will be decaled or taxiplated if the Administrator determines that the interior is not clean and/or the exterior is not in excellent condition.
- I.** Vehicle Registration. All applicants must provide the Administrator with a copy of the appropriate state-issued vehicle registration for all for-hire transportation vehicles.
- J.** Fees. All for-hire companies must pay a nonrefundable application fee for each for-hire vehicle applying for a decal or taxiplate in the amount outlined in the Fee Table in Section 16.40.590.
- K.** The Director is authorized to provide by Administrative Rule a substitute decal or permit card for round trip medical transportation from distant areas for service provided by medical brokerages under contract with the Oregon Health Authority.

16.40.200 Limit on Number of LPT Vehicles Allowed.

- A.** The total number of LPT decal-issued vehicles for any specific LPT industry (sedan, limousine, shuttle, SAT or pedicab) may be capped by administrative rule if the Bureau determines that market saturation exists. In determining if market saturation exists, the Bureau will examine the factors outlined in administrative rule.
- B.** If the Bureau determines that market saturation exists after examining the factors listed in administrative rule, the Director may ask the Board to adopt an administrative rule capping the number of LPT vehicles for that specific industry. In making this determination, the Bureau is not required to find that all factors are present, nor is it required to give any one factor priority over other any other factor.

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- C.** If the Board adopts an administrative rule that caps the number of LPT decaled vehicles, then no new permits will be issued by the Bureau in that specific industry category.
- D.** Notwithstanding Subsection 16.40.200 C., no currently-decaled vehicle will be required to forfeit its decal upon adoption of any administrative rule capping the number of decaled vehicles allowed.
- E.** Notwithstanding Subsection 16.40.200 C., any vehicle that has been providing for-hire transportation for at least 12 months prior to June 1, 2009, and which was not subject to this Chapter's requirements at that time but which is subject to this Chapter's requirements as of June 1, 2009, may be permitted provided that the Bureau receives its application for a permit by August 31, 2009.
- F.** If the Board adopts an administrative rule that caps the number of decaled LPT vehicles, any LPT company affected by the cap may apply to the Board for an increase in the number of decaled vehicles that it may operate notwithstanding the cap. The application must be in a form established by the Administrator. Applications will only be accepted from April 1 – April 30 and September 1 – September 30 of any given year. Requests for more LPT vehicle decals will be considered by the Board at the first regularly-scheduled board meeting after July 1 for the April applications and after December 1 for the September applications. Bureau staff will submit a recommendation to the Board at least 10 days prior to the meeting, but the Board is not required to follow staff's recommendation. The Board may grant the application in whole or in part upon a finding that an increase in decaled vehicles for the applicant would not detrimentally affect market saturation or that the applicant has demonstrated a need for increased vehicles to serve a growing demand for that applicant.

16.40.210 Limit on Number of Taxicabs Allowed.

(Amended by Ordinance No. 185721, effective November 7, 2012.)

- A.** No taxicab company may operate more taxicabs than authorized by the Council, unless additional taxicabs have been authorized by the Board pursuant to Subsection 16.40.210 B.
- B.** A taxicab company may apply to the Board for an increase of the number of taxicabs that the company may operate. The application must be in a form established by the Administrator. Applications will only be accepted from April 1 – April 30 and September 1 – September 30 of any given year. Requests for more taxiplates will be considered by the Board at the first regularly-scheduled board meeting after July 1 for the April applications and after December 1 for the

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September applications. Bureau staff will submit a recommendation to the Board at least 10 days prior to the meeting, but the Board is not required to follow staff's recommendation. The Board may grant the application in whole or in part.

- C.** If the Board approves an increase in the number of taxicabs that a company may operate, it may also impose additional conditions, including but not limited to, vehicle type or utilization. If a condition is imposed under this Subsection, the Board may remove it upon application by the taxi company if the Board determines that the reasons for the condition no longer exist or have otherwise been minimized.
- D.** Any Board action that authorizes an increase in the number of taxicabs operated by a taxicab company is automatically stayed if a timely appeal of such action is filed by an aggrieved party pursuant to the procedures in Section 16.40.580.
- E.** Board review of taxi company requests for additional vehicle permits will include evaluation of taxi company performance standards, as described by administrative rule.

16.40.220 Vehicle Decal and Taxiplate Issuance or Denial.

- A.** Upon successful completion of the vehicle or pedicab decal/taxiplate application process and payment of the required permit fee as outlined in the Fee Table in Section 16.40.590, the Administrator will issue a vehicle identification decal bearing a bar code and the city seal for each LPT vehicle or pedicab that qualifies, and the Administrator will issue a taxiplate bearing a unique City-issued number for each taxicab that qualifies.
- B.** Decals and taxiplates are valid for a period of no more than 12 months from the date of issuance, and all decals and taxiplates expire on the same day as the expiration of the LPT or Taxi Company permit with which they are affiliated. Fees for decals and taxiplates that are not issued contemporaneously with a company permit will be prorated to equal the cost of the number of months remaining until the company permit expires.
- C.** Decals must be affixed to the vehicle's front and back window in a manner outlined by administrative rule.
- D.** Taxiplates must be affixed to the trunk, tailgate or rear bumper of the taxicab.
- E.** All decals and taxiplates must be clearly visible upon outside inspection.

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- F.** Permittees may not operate any substitute vehicle or pedicab until the substitute vehicle or pedicab has passed the safety inspection process and has a decal or taxiplate affixed to it.
- G.** Decals that are intentionally destroyed or damaged by the permittee prior to renewal and without the City's authorization are not subject to renewal.

16.40.230 Vehicle Decal and Taxiplate Renewals.

- A.** Company permittees must pay a renewal fee in the amount outlined in the Fee Table in Section 16.40.590 for each decaled and taxiplated vehicle no later than 1 month prior to the decal or taxiplate's expiration date.
- B.** If the permittee fails to pay the renewal fee or provide other renewal information as required by Subsection 16.40.230 A., the vehicle decal or taxiplate is deemed abandoned and the vehicle decal or taxiplate becomes void within 30 days of its original expiration date.
- C.** Voided vehicle decals and taxiplates are not renewable in the year following their voidance.
- D.** Once a vehicle decal or taxiplate is voided, a for-hire transportation company may not renew that decal or taxiplate and instead must complete the initial application process if the company seeks a decal or taxiplate for that vehicle.
- E.** With the exception of pedicabs, vehicle decals and taxiplates will not be renewed unless the vehicle passes the safety inspection test outlined in Subsection 16.40.190 G. and the permittee provides the City with a Certificate of Safety.
- F.** No decal or taxiplate will be issued as a renewal if any condition exists that would have been grounds for denial of the initial decal or taxiplate.

16.40.240 Transfer of Decal, Permit or Taxiplate Interest Prohibited.

- A.** All permits, decals and taxiplates issued by the City under the terms of this Chapter are City property and cannot be leased, sold, transferred or assigned in any manner.
- B.** Any decal, taxiplate or permit that is not returned to the City within 21 days upon revocation or upon a failure to renew is considered conversion of City property and is an actionable offense in a court of competent jurisdiction.

- C. Any person or company that fails to return, within 21 days, any decal, taxiplate or permit upon revocation or upon a failure to renew is subject to a civil penalty of \$1,500.

16.40.250 **Knowingly Providing False Information; Penalties.**

- A. Any person that knowingly provides materially false information on any document, insurance form, report or application required under this Chapter is subject to a civil penalty of \$250 for each occurrence.
- B. If the correct information would have been grounds for a denial of a permit for any reason, then any permit issued due to the false information is revoked in addition to the penalty found in Subsection 16.40.250 A.
- C. If a person knowingly provides materially false information to an insurance agent, broker or company as part of the requirements for insurance under this Chapter, then all permits issued to that person will be revoked immediately upon the date the violation is discovered by the Administrator.

16.40.260 **Late Submission of Payments Due, Information or Documents; Penalties.**

- A. Any person that does not timely submit any payment when due, or who does not timely submit any information or documents required under this Chapter or requested by the Administrator, is subject to a civil penalty as described in Subsection 16.40.260 B.
- B. Civil penalties for late submissions will be assessed as follows:
 - 1. If less than 10 days late, the penalty is \$50 per occurrence.
 - 2. If more than 10 days late but less than 21 days late, the penalty is \$100 per occurrence.
 - 3. If more than 21 days late the penalty is \$200 per occurrence and, if the information or documents are necessary for the issuance or renewal of a permit, the permit will not be issued by the City absent a showing of good cause for the delay.

16.40.270 **Minimum Standards of Service for Taxicab Companies.**

Permitted taxicab companies must comply with the following minimum standards:

- A. A dispatch system in operation 24 hours each day capable of providing reasonably prompt service in response to requests received by telephone.

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- B.** Acceptance of any request for taxicab service received from any location within the City.
- C.** Service city-wide, 24 hours a day, 7 days a week. If more than 65 percent of the company's permitted taxicabs are found within a 1 mile radius of the Portland International Airport's main entrance road at any given time (not including any taxicabs at a company headquarters), a rebuttable presumption exists that the company is not providing city-wide service.
- D.** A minimum fleet of 15 taxicabs.
- E.** At least 2/3 of the taxicab company's permitted fleet must be utilized and in service at all times. Utilization is measured by the number of days in operation divided by a given number of days. This test will be for no fewer than 30 days.

16.40.280 Taxicab Digital Security Camera Systems.

- A.** Digital security cameras are required in every permitted taxicab. Taxicab companies own the cameras and are responsible for their maintenance and the records produced by them.
- B.** Taxicab companies must perform inspection and testing of the cameras according to the recommended product specifications, requirements and schedule.
- C.** If a Portland Police Bureau Officer requests access to any record produced by the digital security camera systems to assist in the investigation of any crime, the taxi company must provide access thereto within 24 hours. Except as provided by Subsection 16.40.280 B., no person other than a Portland Police officer may intentionally access any record produced by the digital security camera systems.
- D.** No taxicab company or driver may allow any person to intentionally access any records produced by the digital security camera systems.
- E.** No taxicab company or driver may benefit or gain from any records produced by digital security camera systems.
- F.** No taxicab driver may tamper with, damage, disturb, remove or disable a digital security camera system in a taxicab.
- G.** Taxicab drivers must utilize the digital security camera and immediately notify the taxicab company if a digital security camera system is or appears to be damaged, stolen or inoperative.

16.40.290 Taxicab Fare Rates.

(Amended by Ordinance No. 185722, effective November 7, 2012.)

- A.** The following are the maximum rates that can be charged for the transportation of passengers in taxicabs for trips within the City limits:

 - 1.** An initial charge of \$2.50, for one passenger, and waiting time at a rate of \$30 per hour or proportionate fraction thereof;
 - 2.** Subsequent to the initial charge provided for in Subsection 16.40.290 A.1., the maximum charges may not exceed \$2.60 per mile; and
 - 3.** For each extra passenger, \$1 additional charge.
- B.** Taxi companies are authorized, per company policy, to require that passengers must use cash only to pay for fares of less than \$5. If a taxi company has such a policy in effect, it must post that policy in all taxiplated taxicabs in a manner consistent with the requirements of Subsection 16.40.290 G.
- C.** The Bureau has the authority to perform a rate study annually to determine appropriate maximum meter rates.
- D.** If there is more than one passenger during a taxi trip, the last person leaving the cab is responsible for the entire fare – regardless of when other passengers boarded or disembarked. The taximeter is started at the beginning of the trip but not again until the last passenger has arrived at that passenger’s destination.
- E.** No extra charge is to be made for transporting any items belonging to a passenger if those items fit within the interior of the taxicab (including the trunk but not the front seat), provided that the items in total can be carried by the driver and/or passenger(s) in one walking trip from the vehicle to the building entrance, and each item can be carried by a single person.
- F.** No charge is to be made for time lost or distance traveled while the taxicab is disabled. No charge is to be made for traveling empty while en route to pick up a passenger, unless the person requesting the taxicab unreasonably refuses to hire it after it arrives, in which case an amount equal to the minimum charge on file as specified in Subsection 16.40.290 A. may be charged.
- G.** A clear and complete summary of a taxi company’s rate schedule must be posted in a conspicuous place in the passenger compartment of every taxicab. Every taxicab company must provide the Administrator with a copy this summary prior

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to posting them in the taxis. A summary of the meter rate in a form approved by the Administrator must be placed in a manner to be visible from the outside of every taxicab. If the Administrator approves a change of rate schedule upon proper filing by the taxi company, the taximeter, rate card, and rates posted must be converted for every taxicab within 30 days. The rates posted must match those used in the taximeter of any taxicab in service.

16.40.300 Wheelchair Accessible Taxicabs.

- A.** At least 20 percent of every taxi company fleet must be wheelchair accessible.
- B.** Notwithstanding Subsection 16.40.300 A., companies that participate in the Portland Accessible Cab Association Agreement (PACA) are required to have only 10 percent of their fleet wheelchair accessible.
- C.** The percentages required under this Section are calculated with respect to taxicab vehicles that are permitted by the City of Portland and not to the entire taxicab fleet if some percentage of the fleet operates outside the City. The percentages apply only to vehicles being used exclusively as taxicabs and not as specially attended transportation vehicles in conjunction with any other agency, private or government contract.
- D.** Taxi companies that participate in the PACA are required to provide wheelchair accessible taxi service within a reasonable time. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.

16.40.310 Taximeter Requirements.

- A.** Every taxicab must be equipped with a taximeter in accurate operating condition, with a lighted face that can easily be read at all times by the passenger.
- B.** Every taximeter must be inspected by a certified taximeter installer and certified at installation, at change in rate, and within 1 year of the last inspection. A certificate of inspection must be issued by a qualified taximeter repair service upon each inspection. A copy of the certificate of inspection must remain in the taxicab.
- C.** Certificates of inspection must include:
 - 1.** The identifying number of the taximeter;
 - 2.** The make, model and license number of the taxicab in which the taximeter is installed;

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3. The name of the taxicab company;
 4. The date of inspection;
 5. A statement that the taximeter has been inspected and approved as operating within the limits of accuracy as specified by Subsection 16.40.310 E., as well as on the basis of rates on file with the Administrator under Section 16.40.290; and
 6. The signature of the individual making the certification.
- D.** Taxi companies must keep on file copies of all certificates of inspection until the taximeter is recalibrated and the certificate is no longer accurate.
- E.** Taximeters must operate within the following limits of accuracy: Plus or minus 50 feet in 1 mile and 1 second in 1 minute of waiting time.
- F.** Certificates of inspection may be examined or a taximeter re-inspected by any police officer or the Administrator at any time during normal business hours.
- G.** All taximeters must be approved by the National Type Evaluation Program (NTEP) as evidenced by a "Certificate of Conformance" issued by an authorized inspector. All taximeters must have an active NTEP Certificate of Conformance number.

16.40.320 Required Taxicab Equipment.

Every taxicab must be equipped with a top light, have seat belts for every passenger and have signage in a visible location within the taxicab that says: YOU ARE ON CAMERA. IT IS A FELONY IN OREGON TO ASSAULT A TAXICAB DRIVER.

16.40.330 Identification of Taxicab Vehicles.

- A.** Every taxicab must prominently display on both sides of the vehicle the following information:
1. the full name of the taxicab company;
 2. the company-assigned taxi number;
 3. the telephone number of that company where service can be requested; and
 4. the word "taxi", "cab" or "taxicab".

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- B.** Every taxicab must be painted in the colors of its company. No two taxicab companies may have the same colors.
- C.** Only vehicles with City-issued taxiplates may be equipped with a top light or taximeter, and only those vehicles may use the words “taxi”, “cab” or “taxicab” anywhere on the vehicle, unless the company’s legally registered name at the time this ordinance passes contains the word “cab”.

16.40.340 Driver Conduct Requirements and Prohibitions.

(Amended by Ordinance No. 187049, effective March 12, 2015.)

- A.** No permitted driver shall:
 - 1.** Allow another person to use his/her driver’s permit;
 - 2.** Drive or allow another person to drive a for-hire transportation vehicle without a valid driver’s license;
 - 3.** Operate any for-hire transportation vehicle while consuming, or while under the influence of alcohol, or in a careless or reckless manner or in a manner contrary to the laws of this City or the State of Oregon;
 - 4.** Operate any for-hire transportation vehicle while consuming, or while under the influence of illegal drugs;
 - 5.** Operate any for-hire transportation vehicle if impaired by any legally-prescribed or over-the-counter drugs;
 - 6.** Use a for-hire transportation vehicle in the commission of any crime;
 - 7.** Use profane or obscene language offensive to the passenger while operating a for-hire transportation vehicle;
 - 8.** Smoke any substance or use tobacco in any form inside a permitted vehicle, unless it is a pedicab;
 - 9.** Allow any passenger to smoke any substance or use tobacco in any form inside a permitted vehicle, unless it is a pedicab;
 - 10.** Defraud a passenger in any way;
 - 11.** Be discourteous to a passenger;

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12. Refuse to issue a fully completed receipt for a fare paid if one is requested; or
 13. Drive passengers to their destination by any other than the most direct and safe route, unless requested to do so by the passenger.
 14. Operate any for-hire transportation vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1).
- B.** In addition to the prohibitions in Subsection 16.40.340 A. above, no taxicab driver shall:
1. Charge a fare higher than that authorized by Chapter 16.40 for passenger transportation; or
 2. Refuse to transport to his requested destination any passenger of proper demeanor who requests services or is assigned by a taxicab service company when the taxicab is not already in service, and who is able to demonstrate the ability to pay the fare.
- C.** The Administrator has the authority to investigate any and all complaints concerning possible violations of Chapter 16.40 or administrative rules adopted hereunder and to fine accordingly if a violation is found.

16.40.350 Pedicab Regulations.

Unless the context clearly requires otherwise or unless the regulations and requirements are more stringent than those found in Sections 16.40.080, 16.40.180 or 16.40.360, pedicab drivers, companies, and vehicles are subject to the regulations and requirements found in this Chapter. Pedicab drivers, vehicles and companies are specifically exempted from the insurance requirements found in Section 16.40.410.

16.40.360 Pedicab Driver and Vehicle Requirements and Prohibitions.

- A.** Pedicab vehicles are required to satisfy the following conditions when operating between dusk and dawn:
1. Make use of working battery-powered lights;
 2. Be equipped with one headlight capable of projecting a beam of light for a distance of at least 500 feet; and

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3. Be equipped with two red taillights mounted on the right and left area of the pedicab's rear.
- B. No pedicab may be operated on a public sidewalk, unless it is allowed to do so pursuant to either city, county or state bicycle and tricycle traffic laws.
- C. No pedicab may use any public street, public property or right-of-way as a waiting area unless such area is a legal motor vehicle parking area or unless it is allowed to do so as a bicycle or tricycle pursuant to city, county or state traffic laws
- D. All pedicab drivers must have a valid driver's license or government-issued photo identification in their possession while in control of any pedicab.
- E. No pedicab driver may exceed the pedicab manufacturer's limits on the amount of weight the pedicab may safely carry.
- F. No bicycle or tricycle may operate as a pedicab by pulling any kind of cart, trailer or other enclosed seating contraption behind the bicycle or tricycle.
- G. Every pedicab must be:
 1. Kept clean;
 2. Kept in good appearance and good repair; and
 3. Kept in a safe condition.

16.40.370 Maximum Hours For Drivers.

- A. No taxi or LPT driver is allowed to drive or be on duty (in any combination thereof) for more than 14 hours in any given 24-hour period.
- B. Each taxi and LPT company must maintain hours of service records for its drivers for a period of at least 1 year from the date of the driver's last for-hire service.
- C. Both drivers and companies are subject to penalties for any violation of Section 16.40.370.

16.40.380 For-Hire Vehicle Requirements and Prohibitions.

- A. All private for-hire transportation vehicles must be:
 1. Kept clean;

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2. Kept in good appearance and good repair;
 3. Properly equipped, including but not limited to carrying a standard first aid kit and a fire extinguisher;
 4. Kept in a safe condition; and
 5. Equipped with all pollution control equipment originally installed by the manufacturer.
- B.** The use of tobacco products are prohibited in any for-hire transportation vehicle. Signs detailing this prohibition must be displayed in each taxi, shuttle and SAT vehicle in a form and manner as described in administrative rule.
- C.** The Administrator has the authority to demand that a for-hire vehicle be made available for inspection within 48 hours notice. Authorized City personnel have the authority to inspect any for-hire vehicle at any time if the vehicle:
1. is within the City limits;
 2. does not have a passenger inside; and
 3. is parked in the public right of way or on public property.
- D.** If the Administrator determines that the vehicle violates any provision of Section 16.40.380 A., the Administrator may issue a civil penalty and set a deadline of not less than 48 hours in which the vehicle must be in compliance. If the vehicle is not in compliance at the time of the deadline, the Administrator may suspend the vehicle permit until the violations are corrected.

16.40.390 Identification of SAT Vehicles.

All Specially Attended Transportation vehicles must prominently display on the outside of the vehicle, on both sides, the full name and telephone number of the permittee, and the words “RESERVED, NOT FOR-HIRE” on both rear doors or rear windows. All required signage must be in lettering at least 3 inches in height with proportional width and must be clearly visible at all times.

16.40.410 LPT and Taxi Insurance Requirements.

- A.** Coverages and Limits: All for-hire transportation company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:

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1. Commercial Business Insurance. Company permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than \$1,000,000 per Occurrence and \$2,000,000 Aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire transportation company permit.
 2. Vehicle Insurance. All for-hire company permit holders, regardless of whether the company holds title to a vehicle or not, must provide the City with a copy of a valid Commercial Auto Liability policy reflecting a Combined Single Limit of not less than 500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a for-hire transportation vehicle. The Commercial Auto Liability policy must comply with the mandatory laws of the State of Oregon and/or other applicable governing bodies.
 3. Worker's Compensation and Employers Liability Insurance. The company permit holder must secure and maintain a Workers Compensation and Employers Liability policy where required by state law.
- B.** Additional Policy Conditions: Policies required under Subsections 16.40.410 A.1. and/or 16.40.410 A.2. must also contain, include, provide for or comply with the following:
1. The Commercial General Liability and Commercial Auto Liability coverage must name the City and its officers, agents and employees as additional insureds as respects to claims, in the course of the permit holder's work as a for-hire transportation company, covered by such policies;
 2. Policy coverages must be primary and non-contributory, and any insurance coverage maintained by the City must be considered excess.
 3. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
 4. The insurance policy must allow for written notice to the Administrator 30 days before any policy is canceled;
 5. The insurance policy must allow for written notice to the Administrator 30 days before a policy will expire or be reduced in coverage;

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6. All insurance companies issuing policies under this Section must carry at least an A.M. Best Company rating of A-, VIII or better; and
 7. The adequacy of insurance coverage outlined in this Section is subject to the review and approval of the City Attorney's Office.
- C.** Permit Holder's Insurance Obligations. All company permit holders must comply with the following obligations with respect to insurance reporting, updating and filing:
1. The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
 2. The permit holder must file a certificate of liability with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements of this Section. The certificate of liability must be on a standard ACORD form or its equivalent.
 3. The permit holder must file with the Bureau a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents and employees as additional insureds.
 4. The permit holder must keep a copy of the vehicle's proof of insurance in every for-hire vehicle.
- D.** Independent Contractors/Owner-Operators. If an independent contractor/owner-operator relationship exists with a permit holder and the independent contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverages and limits and conditions as outlined in Subsections 16.40.410 A. - C. The same certificate of liability and additional insured endorsement requirements will apply.
- E.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and obligations meet the same or higher requirements as found in Subsections 16.40.410 A. - C., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

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16.40.420 Pedicab Insurance Requirements.

- A.** Coverages and Limits: All pedicab transportation company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:
- 1.** Commercial Business Insurance. Company permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than \$500,000 per Occurrence and \$1,000,000 Aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire transportation company permit.
 - 2.** Worker's Compensation and Employers Liability Insurance. The company permit holder must secure and maintain a Workers Compensation and Employers Liability policy where required by state law.
- B.** Additional Policy Conditions. Policies required under Subsection 16.40.420 A.1. must also contain, include, provide for or comply with the following:
- 1.** The Commercial General Liability coverage must name the City and its officers, agents and employees as additional insureds as respects to claims, in the course of the permit holder's work as a for-hire transportation company, covered by such policies;
 - 2.** Policy coverages must be primary and non-contributory, and any insurance coverage maintained by the City must be considered excess;
 - 3.** The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
 - 4.** The insurance policy must allow for written notice to the Administrator 30 days before any policy is canceled;
 - 5.** The insurance policy must allow for written notice to the Administrator 30 days before a policy will expire or be reduced in coverage;
 - 6.** All insurance companies issuing policies under this Section must carry at least an A.M. Best Company rating of A-, VIII or better; and
 - 7.** The adequacy of insurance coverage outlined in this Section is subject to the review and approval of the City Attorney's Office.

- C.** Permit Holder's Insurance Obligations. All pedicab company permit holders must comply with the following obligations with respect to insurance reporting, updating and filing:
- 1.** The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
 - 2.** The permit holder must file a certificate of liability with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements of this Section. The certificate of liability must be on a standard ACORD form or its equivalent.
 - 3.** The permit holder must file with the Administrator a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents and employees as additional insureds.
- D.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and obligations meet the same or higher requirements as found in Subsections 16.40.420 A. – C., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

16.40.430 Financial and Operating Restrictions and Reporting.
(Amended by Ordinance No. 185723, effective November 7, 2012.)

- A.** For the purposes of investigating citizen complaints and to aid in enforcement of this Chapter, the Administrator may require a for-hire transportation company to report financial and operating data, in such form and at such times as the Administrator requires. The company must compile the necessary data and submit reports to the Administrator as requested and within the timeframe demanded subject to the requirements of this Section, but in no event must the company be forced to submit this information without at least 72 hours prior notice by the Administrator.
- B.** Except as otherwise required by law, information submitted to the Administrator under this Section can only be used within the City government. Such information may not be released to the public except in aggregate form.

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- C.** Notwithstanding the provisions of Subsection 16.40.430 B., information submitted under this Section may become a matter of public record as necessary to initiate, prosecute and defend an enforcement action.
- D.** All permitted taxi companies must submit to the Director, or his or her designee, a comprehensive accounting of all current payments required from drivers to the taxi company as of October 1, 2012;
- E.** Any payments or fees charged by taxi companies to drivers may not be raised or modified without the review and approval of the Director, or his or her designee, after receiving written application from the taxi company.
- F.** The Director or his or her designee will review the application in accordance with the criteria established in Administrative Rule.

16.40.440 Reports to the Administrator.

- A.** For-hire transportation companies must report any of the following events to the Administrator within 24 hours of it becoming known by any company officer or principal managing employee:
 - 1.** The arrest or conviction for any criminal offense of any officer or principal managing employee of the company involving the operation of that company;
 - 2.** Any accident required to be reported to the State of Oregon involving a company vehicle;
 - 3.** The filing of any lawsuit against or on behalf of the for-hire company related to the operation of the company;
 - 4.** The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
 - 5.** Any information required to be disclosed by Subsection 16.40.440 B that comes to the attention of a for-hire transportation company's management.
- B.** Every for-hire transportation driver must report any of the following events to the Administrator and to the driver's for-hire transportation company within 24 hours of its occurrence:

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1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation, that occurs during, or arises out of, the driver's operation of a for-hire transportation vehicle;
2. Any arrest, charge or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or any related offense;
3. Any vehicle accident required to be reported to the State of Oregon involving any vehicle operated as for-hire transportation by the driver; and
4. Any restriction, suspension or revocation of the driver's motor vehicle driver's license.

16.40.450 Limousine, Executive Sedan and Taxi Logs Required.

- A. Limousine, executive sedan and taxi transportation providers must maintain a log in either electronic or written form in which a record of every trip is kept.
- B. Limousine and Executive Sedan Requirements. The following information is required for each trip:
 1. customer name;
 2. passenger name if different that customer name;
 3. date and time of initial reservation;
 4. date and start and end times of trip;
 5. initial and destination addresses; and
 6. the fare amount paid.
- C. Taxi Requirements. The following information is required:
 1. date and time of initial reservation; and
 2. initial and destination addresses.
- D. The logs must be kept in a form approved by the Administrator.

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- E.** The company must retain these logs for not less than 1 year after the date of the driver's last entry.
- F.** The logs must be made available to the Administrator or other designated City staff upon request.
- G.** Except as otherwise required by law, information submitted to the Administrator under this Section can only be used within the City government. Such information may not be released to the public except in aggregate form.

16.40.460 Limousine and Executive Sedan Transportation Must Be Prearranged; Exceptions.

(Amended by Ordinance No. 186385, effective December 18, 2013.)

- A.** All limousine and executive sedan service must be provided on a prearranged basis. "Prearranged" is defined in administrative rules.
- B.** Notwithstanding Subsection 16.40.460 A., limousine and executive sedan transportation providers may operate "on demand" at the Portland International Airport if permitted to do so by the Port of Portland.
- C.** Notwithstanding Subsection 16.40.460 A., limousine and executive sedan transportation providers may operate "on demand" provided that the limousine or executive sedan company has a written contract with TriMet, the Port of Portland, a major hotel, or an airline company, in which case the limousine or executive sedan company is considered "on call" for such service requests.
- D.** If a limousine or executive sedan company wishes to be considered "on demand" as provided in Subsection 16.40.460 C., the company must comply with the following conditions:
 - 1.** file with the Administrator all such contracts indicating the contracting party's name along with the beginning and ending contracted dates, and a minimum fee of \$50.00 to the airport from the downtown is required;
 - 2.** provide the Administrator with a brief description of the service provided under the contract including the specific basis for reimbursement and schedule of fees/fares;
 - 3.** provide the Administrator with notarized signatures from all contracting parties stating that the contract is currently effective and listing the end date.; and

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4. pay to the Bureau an “on demand” license fee of \$2,500 for the first vehicle and \$1,000 for each additional vehicle used to service the contract, valid for a period of 12 months from the date of the license’s issuance; and
 5. transportation provided by a third party company as part of the Contract must be prearranged, in compliance with Subsection 16.40.460 A.
- E.** If a civil penalty is issued to a limousine or executive sedan company or driver because service was provided without the requisite prearranged reservation, it is no defense to assert that a valid and current contract existed at the time of the penalty but was simply not filed with the City. Limousine and executive sedan companies must file all contracts with the City prior to the acceptance of any fare “on demand”. A failure to file a contract with the City is prima facie evidence that “on demand” service does not exist with that contracting party.
- F.** If a limousine or executive sedan service provider is in a marked hotel zone or loading/unloading zone, it is a rebuttable presumption that it is providing for-hire transportation services that require a reservation.
- G.** Hotels are liable for a civil penalty of \$500 per occurrence for every instance in which a hotel employee, agent or independent contractor allows a hotel guest to obtain limousine or executive sedan transportation services without the required 60-minute reservation. This Subsection does not apply if the limousine or executive sedan service provider has complied with the conditions found in Subsections 16.40.460 C. and D.

16.40.470 Maximum Fares for Shuttles; No Charge for Luggage.
(Amended by Ordinance No. 186385, effective December 18, 2013.)

- A.** Maximum flat rates apply for shuttles that provide for-hire transportation service between the airport and Portland’s Downtown Core and/or the AMTRAK station (in either direction), whether paid by the passenger or by a third party. The maximum rates are prescribed in administrative rules.
- B.** On routes in which the maximum rates apply, shuttle operators may not charge any fee for luggage or any other allowed item that the passenger carries on board.
- C.** Rates charged for shuttle services must be at least 35 percent lower, per passenger, than the prevailing taxicab rates for the same route.

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16.40.480 Minimum Fares for Limousine and Executive Sedans.

(Amended by Ordinance No. 186385, effective December 18, 2013.)

- A. Minimum flat rates apply for limousine and executive sedans that provide for-hire transportation service between the airport and Portland's Downtown Core and/or the AMTRAK station (in either direction), whether paid by the passenger or by a third party. The minimum rates are prescribed in administrative rules.
- B. Rates charged for limousine and executive sedan services must be at least 35 percent higher than the prevailing taxicab rates for the same route.

16.40.490 Safety Fund.

- A. The For-Hire Transportation Safety Fund (Safety Fund) is designed to provide adequate funding to ensure the safety of both the riding public and the for-hire transportation drivers.
- B. The Bureau administers the Safety Fund. The Bureau has the authority to determine appropriate expenditures of the Safety Fund for driver, passenger and vehicle safety improvements for the industries regulated by Chapter 16.40.
- C. The Safety Fund is funded by revenues generated by permit, decal and taxiplate fees.
- D. The Bureau will disperse Safety Fund revenues only by grant, with the grant process outlined in administrative rule. Utilization of digital security camera system grants by taxicab companies is restricted to the cost of purchase of digital security camera systems plus an amount sufficient to subsidize installation of the cameras as determined by the Board.

16.40.500 Compliance with Federal, State and Local Laws.

Any for-hire transportation company, driver or vehicle that is not in compliance with all federal, state or local laws relating to "for-hire transportation" services is likewise not in compliance with Chapter 16.40, and is subject to penalties, suspension or revocation.

16.40.510 Prior Board Orders of No Effect.

Any Board Order, Board Rule or Board Regulation in effect prior to the passage of this ordinance has no legal effect and is hereby repealed.

16.40.520 Administrative Rule Authority and Process.

- A. The Director may implement procedures, forms and written policies for administering the provisions of Chapter 16.40.

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- B.** The Board may adopt administrative rules for administering the provisions of Chapter 16.40 under the authority granted to it in Section 16.40.050.
- C.** Before a rule is adopted, the Director must first provide notice of the proposed rule to the public in a manner reasonably calculated to accomplish such notice. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- D.** In addition to the general notice required in Subsection 16.40.520 C., the Director must also announce the proposed rule at a regularly-scheduled Board meeting (the “Announcement Meeting”) prior to the meeting in which public testimony will take place (the “Testimony Meeting”). At the Announcement Meeting, the Director will provide a copy of the proposed rule to anyone in attendance that so requests, and the Director will announce the date and time of the Testimony Meeting. The Testimony Meeting must take place no less than 14 days or more than 75 days from the Announcement Meeting.
- E.** At the Testimony Meeting, the Board will receive oral and written testimony concerning the proposed rule. Upon completion of the public testimony, the Director may then choose, at the Director’s sole discretion, to either:

 - 1. move that the Board adopt the proposed rule as originally proposed;
 - 2. move that the Board adopt a slightly modified version of the originally propose rule;
 - 3. move that a substantially modified version of the originally proposed rule be considered at a later Board Meeting and with additional public testimony; or
 - 4. withdraw the proposed rule altogether and allow no further vote on it.
- F.** If no Board member seconds the Director’s motion under Subsections 16.40.520 E.1. - E.3. above, then the proposed rule does not take effect. Only the Director can make the motion to adopt a proposed rule.
- G.** If a Board member seconds the Director’s motion to adopt the proposed rule under Subsections 16.40.520 E.1. or E.2., the Board will then consider and discuss the proposed rule, taking into account any public testimony received. Upon completion of the Board’s discussion, the Director will then call for a vote on the proposed rule. If a majority of the Board votes to adopt the rule, it is thereby adopted.

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- H.** If a Board member seconds the Director's motion under Subsection 16.40.520 E.3., then additional public review must be conducted, but no additional public notice is required if an announcement is made at the Testimony Meeting of a future hearing for a date, time and place certain at which the substantially modified rule will be discussed. After the additional testimony is received at the future hearing date, the proposed rule will be subject to the discussion, testimony and voting procedures found Subsections 16.40.520 E. - G.
- I.** Unless otherwise stated, all rules are effective upon adoption by the Board. All rules adopted by the Board will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.
- J.** Notwithstanding Subsections 16.40.520 C. and D., the Director may adopt an interim rule without prior public notice or Board action upon a finding that a failure to act promptly will likely result in prejudice to the public interest or the interest of the affected parties. If the Director adopts a rule under this Subsection, the Director must state the specific reasons for such prejudice. Any interim rule adopted pursuant to this Subsection is effective for a period of not longer than 120 days.
- K.** Administrative Rules adopted by the Board have the same force and effect as any other provision of Chapter 16.40. To the extent that any administrative rule conflicts with the provisions of Chapter 16.40, Chapter 16.40 will control and prevail.

16.40.530 Civil Penalties.

- A.** Any civil penalty assessed must be paid in full within the time ordered and under the terms and conditions specified. If either the payment is not made or the required conditions are not met, the penalty will become a suspension, which will take effect immediately upon the deadline given for payment of the civil penalty. The suspension will remain in effect until the penalty is paid in full and/or the conditions required are met.
- B.** Unless a specific civil penalty amount is prescribed by any Section of this Chapter, penalties for specific code and administrative rule violations are found in the Civil Penalty Table in Section 16.40.540. Any violation of a code Section that is not found in the Civil Penalty Table and which is not specifically prescribed by a code Section, but which places an obligation or requirement on a driver or company, will result in a penalty of \$100 for the 1st violation, \$500 for the 2nd violation and \$1,000 for 3rd violation.

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16.40.540 Civil Penalty Table.

(Amended by Ordinance Nos. 185498 and 187049, effective March 12, 2015.)

- A. The following table outlines the penalties that will be assessed for a violation of the specific code Sections listed. In addition to the civil penalty, and the suspension and revocation provisions in Section 16.40.550, any second offense is grounds for suspension of the permit and any third or subsequent offense is grounds for revocation of the permit.

Code Section	Requirement	1st Offense	2nd Offense	Subsequent Offenses
16.40.070 D.	Fuel Surcharge Sticker	\$50	\$100	\$500
16.40.080 A.	Pedicab Driver Permit	\$500	\$1,000	\$2,500
16.40.090 A.	LPT and Taxi Driver Permit	\$1,000	\$2,500	\$5,000
16.40.100 E.	Business License	\$250	\$500	\$1,000
16.40.130 A.	LPT Company Permit	\$1,500	\$2,500	\$5,000
16.40.150 A.	Taxi Company Permit	\$1,500	\$2,500	\$5,000
16.40.180 A.	Pedicab Decal	\$250	\$500	\$1,000
16.40.190 A.	LPT Decal	\$1,250	\$2,500	\$5,000
16.40.190 B.	Taxiplate	\$1,250	\$2,500	\$5,000
16.40.210 C.	Taxi Conditions	\$1,250	\$2,500	\$5,000
16.40.220 C. - E.	Decal/Taxiplate	\$1,250	\$2,500	\$5,000
16.40.220 F.	Substitute Vehicle	\$1,250	\$2,500	\$5,000
16.40.240 A.	Decal/Taxiplate Interest	\$1,250	\$2,500	\$5,000
16.40.270	Minimum Standards	\$500	\$1,000	\$2,000
16.40.280	Security Camera	\$1,250	\$2,500	\$5,000
16.40.290 A.	Taxi Fare	\$1,500	\$2,500	\$5,000
16.40.290 D. - F.	Fares	\$500	\$1,000	\$2,500
16.40.300 A.	Wheelchair	\$500	\$1,000	\$2,500
16.40.310	Taximeter	\$1,250	\$2,500	\$5,000
16.40.320	Required Equipment	\$1,250	\$2,500	\$5,000
16.40.330	Identification	\$1,250	\$2,500	\$5,000

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16.40.340	Driver Conduct	\$1,250	\$2,500	\$5,000
16.40.360	Pedicab Requirements	\$200	\$500	Suspension
16.40.370	Maximum Hours	\$1,250	\$2,500	\$5,000
16.40.380 A.-B.	Vehicle Requirements	\$1,250	\$2,500	\$5,000
16.40.380 C.	Vehicle Inspection	\$1,250	\$2,500	\$5,000
16.40.390	SAT ID	\$500	\$1,000	\$2,500
16.40.410 A.-E.	Insurance	\$1,250	\$2,500	\$5,000
16.40.420 A.-E.	Pedicab Insurance	\$1,000	Suspension	Revocation
16.40.430	Financial Data	\$250	\$500	\$1,000
16.40.440	Reports to Administrator	\$1,250	\$2,500	\$5,000
16.40.450 A.	Logs Required	\$500	\$1,000	\$2,500
16.40.450 B. - E.	Log Entries	\$500	\$1,000	\$2,500
16.40.450 F.	Log Availability	\$500	\$1,000	\$2,500
16.40.460	Prearranged	\$500	\$1,000	\$2,500
16.40.470	Maximum Fares	\$500	\$1,000	\$2,500
16.40.480	Minimum Fares	\$500	\$1,000	\$2,500
16.40.720	Transportation Network Company Permit Requirements	\$1,500	\$2,500	\$5,000
16.40.730	Transportation Network Driver Permit Requirements	\$1,000	\$2,500	\$5,000
16.40.740	Transportation Network Vehicle Permit Requirements	\$1,500	\$2,500	\$5,000

- B.** Offenses are measured by a period of 36 months. Offenses for the same violation that occur more than 36 months apart from each other are not considered “subsequent” offenses for purposes of them being the “second”, “third”, etc, offense.
- C.** Nothing in this Section prohibits the Bureau from suspending or revoking any permit, decal or taxiplate after a third offense for the same violation.

16.40.550 Company and Driver Permit Suspension and Revocation.

- A.** Suspension. Any permit, decal or taxiplate issued under Chapter 16.40 may be suspended by the Administrator if the Administrator finds reasonable grounds to believe that any of the following apply:
1. A temporary suspension is necessary to protect the public safety;
 2. The permittee's insurance is not current; or
 3. The permittee has failed to fully pay a civil penalty when due and the permittee did not file a timely appeal.
- B.** Revocation. Any permit, decal or taxiplate issued under Chapter 16.40 may be revoked by the Administrator if the Administrator finds reasonable grounds to believe that any of the following apply:
1. The revocation is necessary to protect the public safety;
 2. The permittee did not comply with the terms and conditions of a temporary suspension;
 3. The permittee is found operating as a for-hire company or driver while on suspension;
 4. A taxi driver permittee has fraudulently altered the calibration of the driver's taximeter;
 5. The permittee provides either the City, an insurance agent or an insurance carrier with materially false information regarding vehicle insurance; or
 6. The permittee has incurred a total of five penalties and/or temporary suspensions during any consecutive twelve-month period.
- C.** Simultaneous Revocation. In the event that a for-hire transportation company permit is revoked, all vehicle decals and/or taxiplates assigned to that company are simultaneously revoked and void.
- D.** Notice Requirements for Suspensions. If the Administrator has reasonable grounds to impose a suspension based on any factor found in Subsection 16.40.550 A., the Administrator will send a "Notice of Proposed Suspension" to the permittee by both regular and certified mail (return receipt requested) at the address listed in the permittee's application form. The written notice must include the following:

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1. the Administrator’s findings concerning the alleged violation;
 2. notice that alleged violator has 10 days from the date of the letter in which to file a written response to the Administrator if the permittee denies that any violation has occurred;
 3. the terms, conditions and timeframe of the proposed suspension;
 4. notice that a failure to comply with the terms and conditions may result in a revocation of the permit; and
 5. the permittee’s appeal rights.
- E.** Notice Requirements for Revocations. If the Administrator has reasonable grounds to revoke a permit based on any factor found in Subsection 16.40.550 B., the Administrator will send a “Notice of Proposed Revocation” to the permittee by both regular and certified mail (return receipt requested) at the address listed in the permittee’s application form. The written notice must include the following:
1. the Administrator’s findings concerning the alleged violation;
 2. notice that alleged violator has 10 days from the date of the letter in which to file a written response to the Administrator if the permittee denies that any violation has occurred; and
 3. the permittee’s appeal rights.
- F.** Actual Notice Presumed. Actual notice of the proposed suspension or revocation is presumed after 5 days of mailing the notices described in Subsections 16.40.550 D. and E. above.
- G.** Effective Date of Suspensions and Revocations. Suspensions and revocations are effective as provided in Subsections 16.40.550 D. and E., except that they are effective immediately if the Administrator finds reasonable grounds to believe that:
1. A permittee is not covered by liability insurance as required by Sections 16.40.410 or 16.40.420; or,
 2. Continued operation by the permittee would cause, or is likely to cause, danger to the public health or safety.

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- H.** Suspension Length. If the suspension resulted from the failure to pay a civil penalty or due to an ongoing code violation, the suspension continues until the penalty is paid or the violation is corrected. If no correction or payment is made within 60 days from the date that the suspension became effective, the suspension becomes a revocation. In all other cases, the suspension will be for a specific number of days and will end automatically with no further required action from the City or permittee.
- I.** Right to a Stay. Suspensions and revocations are stayed if a timely appeal is filed, unless the grounds for suspension or revocation relate to public safety issues, in which case there is no right to a stay.
- J.** Renewal Not Allowed After Revocation or During Suspensions. Permits, decals and taxiplates that have been revoked during their term are not renewable. Permits, decals and taxiplates that are in suspended status at the time of renewal are not renewable unless the suspension is for a specific number of days. Drivers and companies whose permits, decals or taxiplates were not renewable due to a prior revocation or suspension are required to successfully complete the initial application process to obtain another permit, decal or taxiplate.

16.40.560 Criminal Penalties.

(Amended by Ordinance Nos. 185498 and 187049, effective March 12, 2015.)

- A.** It is unlawful to tamper with a taximeter or to conduct any fraudulent scheme with the intent to charge any person a fare greater than that allowed by Chapter 16.40.
- B.** Any violation of Subsection 16.40.560 A. is punishable upon conviction by a fine of not more than \$1,000 or imprisonment for not more than 6 months or both.
- C.** In addition to the civil penalties listed in Section 16.40.540, any violation of Subsections 16.40.090 A., 16.40.130 A., 16.40.150 A., 16.40.190 A., 16.40.190 B., 16.40.720, 16.40.730 or 16.40.740 is punishable, upon conviction, by imprisonment for not more than 6 months.
- D.** Vehicles operated for-hire in violation of Subsections 16.40.090 A., 16.40.130 A., 16.40.150 A., 16.40.190 A., 16.40.190 B., 16.40.720, 16.40.730 or 16.40.740 are subject to vehicle towing and impoundment.

16.40.570 General Appeals.

- A.** Civil Penalties. Any person or entity assessed a civil penalty may appeal that decision to the Code Hearings Officer under the provisions of Chapter 22.10.

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- B.** Permit/Decal/Taxiplate Denials, Suspensions and Revocations; Exception.
- 1.** Any person or entity whose permit, decal or taxiplate application is denied, or whose permit, decal or taxiplate is suspended or revoked, may appeal that decision to the Code Hearings Officer under the provisions of Chapter 22.10.
 - 2.** If the suspension is due to a failure to timely pay a civil penalty when due, then the underlying reasons for the civil penalty may not be appealed to the Code Hearings Officer. In that situation, the person or entity may only appeal to the Code Hearings Officer to determine if the Bureau properly followed the notice requirements found in Section 16.40.550.
- C.** Limit on Number of LPT Vehicles. If the number of LPT vehicles for a particular LPT industry is capped by administrative rule, then any LPT company whose application to the Board for more LPT vehicles is denied may appeal that decision to the Code Hearings Officer pursuant to the provisions of Chapter 22.10, but only for the purpose of determining if the Bureau and the Board followed the appropriate procedures. The Code Hearings Officer may not review any factual determinations made by the Bureau or Board.
- D.** Stays. If a timely appeal is made pursuant to this Section, the action appealed from is stayed pending the outcome of the appeal. This includes any civil penalty payment, suspension or revocation.

16.40.580 Appeals Regarding Taxicab Limits.

- A.** Any taxicab company aggrieved by a decision of the Board pursuant to Section 16.40.210 may appeal such action to the City Council by filing a written notice of appeal to the Bureau within 10 days of the Board's decision. The Bureau will then forward that request to the City Auditor within 5 business days.
- B.** Within 60 days of receiving the Bureau's notice, the City Auditor will:
- 1.** set the time for the appeal to be heard by the City Council;
 - 2.** place the hearing of the appeal upon the calendar of the Council; and
 - 3.** notify the appealing taxi company and the Administrator of the time set no less than 10 days prior to that time.

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- C. The appealing taxi company may appear personally via a company representative and/or by counsel and present such facts and arguments as may tend to support the appeal.
- D. The Bureau will provide Council with a staff report outlining the Board’s decision and the reasons therefore. The Director or his/her designee must be present at the hearing, representing the Board, to answer any questions that Council may have regarding the Board’s decision.
- E. The Council will uphold the Board’s decision, reverse it, or modify it to allow more taxicabs with any conditions that the Council deems appropriate. If no Council action is taken within 60 days, the appeal is deemed denied. The Council’s decision may not be appealed to the Code Hearings Officer.

16.40.590 Fee Table.

(Amended by Ordinance No. 185723, effective November 7, 2012.)

- A. The following table outlines the fee costs associated with this Chapter.

PERMIT and APPLICATION FEES				
PERMIT TYPE	APPLICATION (nonrefundable)	INITIAL PERMIT	RENEWAL	REPLACEMENT
Taxi/LPT Driver	\$100	\$100	\$100	\$25
Pedicab Driver	\$25	\$25	\$25	\$10
LPT Company	\$250	\$500	\$500	\$75
Taxi Company <25 permitted vehicles	\$250	\$1,250	\$500	\$75
Taxi Company 25-50 permitted vehicles	\$250	\$1,250	\$1,000	\$75
Taxi Company 50-100 permitted vehicles	\$250	\$1,250	\$2,000	\$75
Taxi Company >100 permitted vehicles	\$250	\$1,250	\$3,000	\$75
Pedicab Company	\$100	\$125	\$125	\$75
Taxi Vehicle	N/A	\$225	\$600	\$75

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LPT Vehicle	N/A	\$225	\$180	\$75
Pedicab	N/A	\$25	\$25	\$10
GENERAL FEES				
Moving Decals or Taxiplates to Another Vehicle		\$150		
Temporary Decals During Vehicle Repair		\$25		

- B.** Fees are rounded up to a full monthly rate when being prorated for any particular decal, taxiplate or permit, regardless of what date of the month the fee is actually paid on.
- C.** For the purposes of this Fee Table Schedule, pedicabs are not considered to be LPT vehicles and are treated separately.

16.40.600 Currently Permitted Companies, Vehicles and Drivers Grandfathered; Renewal Process.

- A.** All companies, vehicles and drivers that are currently permitted by the City on the date that this ordinance passes do not need to reapply for new permits upon passage of the ordinance, but must otherwise adhere to all the requirements as found in this Chapter.
- B.** As of January 1, 2010, all previously permitted companies, vehicles and drivers must comply with all provisions of this Chapter, regardless of their permit, decal or taxiplate expiration date. All companies, vehicles and drivers are required to obtain new permits, decals and taxiplates by January 1, 2010.
- C.** To achieve the goal of staggered renewal dates, the Board may by administrative rule require that the initial permit term of some permittees be for less than the 12 month term required under this Chapter. The fees associated with any permit terms that are less than the 12 month requirement will be prorated as necessary to reflect the shorter permit duration.
- D.** Notwithstanding 16.40.600 A., all drivers that are currently permitted by the City on the date this ordinance passes must satisfy the customer service, knowledge and skills tests outlined in 16.40.090 F. – G. no later than December 31, 2010.

16.40.610 Severability.

If a court of law finds any provision of this Chapter invalid or unenforceable as to any person, business or circumstance, then that provision is considered severed from this

Chapter. The severed provision has no effect on the remainder of the Chapter or its application to other persons, businesses and circumstances.

16.40.620 Horse-Drawn Carriage Driver Permits Required – Application Process and Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A. Permit Required. No person may operate a horse-drawn carriage without a valid, current horse-drawn carriage driver’s permit issued under Chapter 16.40, except that no permit issued pursuant to this chapter is required of a person who is operating a horse-drawn carriage as an entry in a parade or otherwise permitted special event, where the horse-drawn carriage entry is specifically noted and approved in said special event permit, and where the horse-drawn carriage rides are not being offered on-demand or by reservation to members of the general public.

- B. Application Documents Required. The failure to submit any required application documents as listed below is grounds for denial of the permit. It is the applicant’s responsibility to make certain that the information and forms required have been completed in full, and that there are no errors or omissions. Applicants for a horse-drawn carriage driver’s permit must submit to the Administrator the items listed below:
 - 1. A completed application on a form provided by the Administrator;
 - 2. Proof of current residence address;
 - 3. Legal proof that the applicant is at least 18 years of age;
 - 4. A copy of the applicant’s current motor vehicle driver’s license, if any;
 - 5. A copy of the applicant’s non-Oregon driving record, if any, for any year in which the applicant was not a resident of Oregon during the last 10 years, regardless of the jurisdiction;
 - 6. Disclosure of all applicable criminal history and driving and motor vehicle record history, as listed on the application form;
 - 7. Certification of a horse-drawn driver training program approved by the Administrator;
 - 8. Confirmation that the driver will be employed for a horse-drawn carriage company with current and valid horse-drawn carriage company and vehicle permits.

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9. If necessary, any information requested by the Administrator that reasonably relates to the application or is a clarification of information provided.
- C.** Photographs. The applicant will be photographed by the Bureau after submission of the driver permit application. The photograph then becomes a part of the applicant's submittal package.
- D.** Fees Required. The applicant for a horse-drawn carriage driver's permit must submit an initial permit fee of \$25, and \$25 per year renewal fee.
- E.** Disqualifying Factors. The following disqualifying factors are grounds for denial of a horse-drawn carriage driver's permit:
1. The applicant has a felony conviction of any kind within the 10 years preceding the application and permit processing;
 2. The applicant has a felony charge pending;
 3. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;
 4. The applicant has a felony charge pending involving physical harm or attempted physical harm to a person;
 5. The applicant has been convicted of any criminal offense involving animal cruelty or neglect, regardless of when the conviction occurred;
 6. During the 5-year period preceding the application and permit processing, the applicant has been convicted of a criminal offense involving:
 - a. any misdemeanor involving theft, identity theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
 - b. any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident;
 7. During the 5-year period preceding the application and permit processing, the applicant had 10 or more traffic infractions as defined in ORS 801.557; or three or more serious traffic violations as defined in ORS 801.477; or three or more motor vehicle accidents required to be reported to the Oregon

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Department of Motor Vehicles pursuant to ORS 811.720; or, three or more of any combination of serious traffic violations or motor vehicle accidents as provided above;

8. During the 10-year period preceding the application and permit processing, the applicant had five or more serious traffic violations as defined in ORS 801.477; or the applicant's driving privileges were limited, suspended, or revoked by any governing jurisdiction as a result of a driving-related incident;
 9. The applicant has more than two traffic infractions or violations of any kind within the previous 12 months from the date of the application;
 10. The applicant has a current Oregon Department of Motor Vehicles license restriction, suspension or revocation;
 11. The applicant is less than 18 years old;
 12. Upon review of the applicants criminal and motor vehicle background check, and other information deemed pertinent to the application, the administrator determines that information contained in the application is false or incomplete; or
 13. Review of the applicant's traffic and criminal record, and other information the supervisor deems pertinent, is reasonable grounds for the determination that the public safety would not be served by the issuance of a driver's permit to the applicant.
- F.** Driver Safety and Customer Service Training Requirements. The applicant must provide documentation of successful completion of Bureau-approved horse-drawn carriage driver training prior to issuance of a horse-drawn driver's permit.
- G.** Driver Knowledge and Skills Testing Requirements. The applicant must successfully complete each of the following tests as administered by the Bureau or its designee before a permit can be issued:
1. Basic carriage horse care;
 2. Demonstrate ability to operate and control a horse-drawn carriage;
 3. Relevant City Code provisions and Administrative Rules.

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16.40.630 Horse-Drawn Carriage Company Permits Required – Application Process and Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Permit Required. No person or entity may operate a for-hire horse-drawn carriage company without a valid, current horse-drawn carriage company permit issued by the City under Chapter 16.40.
- B.** Each horse-drawn carriage company permit application must satisfy the requirements of Section 16.40.130 LPT Company Permits Required.
- C.** Applicants must provide the physical location (address) of each stable or other facility used to house the carriage horses. Each facility must be available for inspection during normal hours of operation by the Administrator or designee.
- D.** Applicants for a horse-drawn carriage company permit must obtain certification for each carriage horse to be used in the operation of the permitted carriages. Application requirements for carriage horse certification are:
 - 1.** A description of the horse's name, age, breed, gender;
 - 2.** A photograph and physical description of the horse, to include color, markings or other identifying marks, such as brands or tattoos, or any other identifiers, such as microchips;
 - 3.** Certification of examination (Health Certificate) by an equine veterinarian within thirty day days prior to the application for a permit that the horse is able to perform the work described (in the horse-drawn carriage company application) without undue stress or effort.
 - 4.** Additional veterinary certification requirements are provided in Administrative Rule.
- E.** Insurance Certificate. All horse-drawn carriage applicants must provide the Bureau with an insurance certificate of liability and an additional insured endorsement indicating that the requirements of Section 16.40.650 have been satisfied.
- F.** Applicants must provide to the Administrator a description of the types, dates and time range, length and location of horse-drawn carriage rides offered; and
- G.** Applicants must provide to the Administrator a schedule of rates and charges. An updated schedule must be provided to the Administrator when the rates are changed during the course of the permit.

- H.** Horse-drawn carriage company permit fees are: \$100 nonrefundable application fee, to be paid at the time of permit application; \$125 for initial one year permit, and \$125 per year annual permit renewal.

16.40.640 Horse-Drawn Carriage Permit and Plate Required – Application Process and Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Permit and Decal or Plate Required for Horse-Drawn Carriages. No horse-drawn carriage may be used as a for-hire transportation vehicle without a valid and current permit and a valid and current, unobstructed plate issued by the City under Chapter 16.40. Applicants for a carriage vehicle permit and carriage plate must be the owner of the carriage. Carriage permits will only be issued to an owner who has obtained a horse-drawn carriage company permit.
- B.** Application Form. The applicant for a horse-drawn carriage permit must complete a “Horse-Drawn Carriage Application” in the form required by the Administrator, which includes, but is not limited to, the following required information:
 - 1.** Carriage make, model and manufacturer;
 - 2.** Seating capacity and weight limits;
 - 3.** A photograph of each carriage to be registered;
 - 4.** If necessary, any information that reasonably relates to the application or is a clarification of information provided to the Administrator.
- C.** Safety Inspection. The Board has the authority, by Administrative Rule, to require that a horse-drawn carriage operator demonstrate by inspection that all safety standards are met prior to a permit plate or decal being issued.
- D.** Horse-Drawn Carriage Condition. No horse-drawn carriage will be issued a plate or decal if the Administrator determines that the carriage is not clean and in good repair, with all required equipment in sound operating condition.
- E.** Horse-Drawn Carriage Equipment: Specific equipment requirements are provided by Administrative Rule.
- F.** Each horse-drawn carriage shall be made available for inspection at the request of the Administrator or his designee.

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- G.** Fees. Horse-drawn carriage companies must pay a \$25 initial and annual renewal fee for each horse-drawn carriage vehicle permit and plate.

16.40.650 Horse-Drawn Carriage Insurance Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Coverage and Limits: All horse-drawn carriage company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:
 - 1.** Commercial Business Insurance. Company permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than \$1,000,000 per Occurrence and \$2,000,000 Aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire horse-drawn carriage company permit.
 - 2.** Worker's Compensation and Employers Liability Insurance. The company permit holder must secure and maintain a Workers Compensation and Employers Liability policy where required by state law.
- B.** Additional Policy Conditions. Additional insurance policy requirements are provided in Administrative Rule.
- C.** Permit Holder's Insurance Obligations. All horse-drawn carriage company permit holders must comply with the following obligations with respect to insurance reporting, updating and filing:
 - 1.** The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
 - 2.** The permit holder must file a certificate of liability with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements of this Section. The certificate of liability must be on a standard ACORD form or its equivalent.
 - 3.** The permit holder must file with the Administrator a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents and employees as additional insureds.

- D.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and obligations meet the same or higher requirements as found in Subsections 16.40.650 A. through C., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

16.40.660 Horse-Drawn Carriage Temperature, Time and Place Restrictions.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** No horse-drawn carriage may operate between the hours of 6 a.m. and 10 a.m. or between the hours of 3 p.m. and 6 p.m. except on Saturdays, Sundays and City holidays, unless an exemption from this restriction is granted by the Administrator.
- B.** No horse-drawn carriage may operate when the outdoor temperature is greater than 90 degrees Fahrenheit.
- C.** No horse-drawn carriage may operate when the outdoor temperature/humidity exceeds the Carriage Operators of North America (CONA) standards.
- D.** No horse-drawn carriage may operate in the presence of weather conditions that make horse-drawn carriage travel unsafe.
- E.** Should any condition or combination of conditions in Subsections 16.40.660 B. through D. occur, the horse-drawn carriage driver will remove the horse from the street to a safe location, provide appropriate rest and shade or shelter, and will return the horse to its stable or usual boarding facility, by the least-strenuous and shortest safe route possible.
- F.** No horse-drawn carriage may operate on a street that does not have a posted speed limit of 35 mph or less.
- G.** No horse-drawn carriage may operate along a street with MAX or street car tracks. Upon written request, permission may be granted by the Administrator, to allow brief access or crossing of streets with MAX or streetcar tracks in order to provide access to particular locations. The Administrator may provide a list of excepted circumstances and locations in Administrative Rule.
- H.** The Administrator or his designee, who observes a horse-drawn carriage operating in adverse weather or other dangerous conditions creating a threat to the health and safety of the horse, passengers, or to the general public, may order the ride

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discontinued and the horse returned to its boarding facility by the least-strenuous and shortest safe route possible.

16.40.670 Operation of Horse-Drawn Carriages: Requirements and Prohibitions.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** The company and carriage permit holder is responsible to ensure that all drivers operating have a current and valid City horse-drawn carriage driver permit, and that all drivers operate in compliance with the requirements of this Chapter. Penalties may be issued to both company and driver for violations of operating requirements.
- B.** Each horse-drawn carriage must maintain unobstructed the City horse-drawn carriage permit plate in the location and manner prescribed in Administrative rule.
- C.** Each horse-drawn carriage driver must carry his horse-drawn carriage driver permit when operating a horse-drawn carriage, and present the permit for inspection when requested by the Administrator or his designee.
- D.** Each horse-drawn carriage and horse-drawn carriage operator shall comply with all other requirements of State, federal and local law.
- E.** No horse-drawn carriage driver shall permit other persons to operate the carriage under his control at any time under any circumstances.
- F.** No driver shall operate a horse-drawn carriage at a weight or capacity in excess of the manufacturer's recommendation for that carriage;
- G.** No driver shall operate a horse-drawn carriage when the combined weight of the carriage and passengers exceeds the weight of the horse;
- H.** Horse-drawn carriages and equipment must be available for inspection immediately upon request by the Administrator or his designee.
- I.** A copy of the Health Certificate for the working carriage horse, as described in Subsection 16.40.630 D., shall be in the custody of the company owner at all times. The driver will keep a copy of this Certificate in any operating carriage, and make said Certificate immediately available for inspection upon request by the Administrator or his designee.
- J.** No horse-drawn carriage driver shall leave a horse untethered or unattended except when confined to a stable or other safe enclosure.

- K.** Each driver operating a horse-drawn carriage shall maintain the horse at a speed no faster than a walk or slow trot.
- L.** Waste catchers must be in place and functioning properly at all times. It shall be the responsibility of the horse-drawn carriage operator to clean up any spillage.
- M.** The operator of a horse-drawn carriage must comply with the orders of the Administrator or his designee, or any police officer, parking enforcement officer, or animal control officer regarding the operation of the carriage. Failure to comply with these directions is grounds for revocation of the horse-drawn carriage driver's permit and the horse-drawn carriage vehicle and company permits.

16.40.680 Care of Carriage Horses.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Horse-drawn carriage rides must not be initiated nor continued when the ambient temperature is greater than 90 degrees Fahrenheit, or when the combination of temperature and humidity exceeds current Carriage Operators of North America (CONA) standards.
- B.** When the temperature exceeds 90 degrees Fahrenheit, or the combination of temperature and humidity exceeds current CONA standards, the carriage driver will end the ride and return the horse to the home boarding facility or pasture by the least-strenuous and shortest safe route possible, providing rest and shelter as required.
- C.** When the temperature is between 84 and 90 degrees Fahrenheit, no carriage ride will be initiated if the local weather forecast predicts temperatures to rise over 90 degrees Fahrenheit during the time for which the ride is scheduled, or within the time allowed for the trip back to the boarding facility.
- D.** When conducting horse-drawn carriage rides when the temperature is between 78 and 90 degrees Fahrenheit, the driver will monitor respiratory rate, heart rate and temperature of the horse every hour. Horses exceeding the following resting parameters should immediately undergo cooling measures, then be brought to the stable for rest, and not worked for the remainder of that day:
 - 1.** Respiratory rate > 36 breaths per minute after 1 minute;
 - 2.** Temperature > 103 degrees;
 - 3.** Heart rate > 52 beats per minute after 1 minute recovery time.

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- E.** Horses must be provided with a blanket for dryness and warmth when appropriate.
- F.** Owners, operators and drivers of a horse-drawn carriage will monitor the condition of each horse and will not allow a horse to work when there are signs of exhaustion, dehydration, sickness, disease, injury or severe stress.
- G.** No stallions, no mares with unweaned foals, and no pregnant mares at gestation greater than 9 months shall be used as carriage horses.
- H.** The towing weight of the horse-drawn carriage may not exceed the weight of the horse.
- I.** Tie ropes used around the neck or attaching to the halter shall be carried on all horse-drawn carriages. No horse shall be tied using the bridle, bit or reins.
- J.** No animal shall work pulling a horse-drawn carriage for more than 5 hours in a 24 hour period, nor more than 5 days in any given week.
- K.** Each horse will be given at least a 10 minute rest period at the end of each hour of work. The horse must be provided ready access to clean drinking water during each break, and must be allowed at reasonable intervals to consume food and water during the workday.
- L.** Stables or other boarding facilities must be sanitary. Stables and stalls must be in good repair, well-ventilated, and free of hazards and debris.
- M.** Horses must be turned out for at least one hour per day. Adequate turn-out facilities include dry paddocks, runs, or pastures of dimensions equal to or greater than 12 feet by 24 feet.

16.40.690 Horse-Drawn Carriage Regulations.

(Added by Ordinance No. 184361, effective February 11, 2011.) Unless the context clearly requires otherwise or unless the regulations and requirements are more stringent than those found in Sections 16.40.620 through 16.40.700, horse-drawn carriage drivers, companies, and vehicles are subject to the regulations and requirements found in this Chapter.

16.40.700 Horse-Drawn Carriage Penalties.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** For violation of the regulations and requirements in Sections 16.40.620 through 16.40.690, the penalties are \$250 for the first occurrence, \$500 for the second occurrence, and \$1,000 and permit suspension for the third occurrence.

- B.** Three or more violations within one year are grounds for permanent revocation of horse-drawn carriage driver, vehicle and company permits.

16.40.710 Paid Passenger Referrals Prohibited.

(Added by Ordinance No. 185720, effective November 7, 2012.)

- A.** All private for-hire transportation drivers are prohibited from providing payment to hotel staff, dispatchers, or any other person for referral of a passenger or passengers. The penalties for violation of Subsection 16.40.710 A. are as follows: \$1,500 for the first offense; \$2,000 and 10-day driver permit suspension for the second offense; and \$2,500 and driver permit revocation for the third offense.
- B.** It is prohibited for any person to solicit or accept payment for referral of a passenger to a motor vehicle for hire, or for any person or business, firm, association or corporation to act in concert with or on behalf of another person or persons to solicit or accept payments for the referral of passengers to a motor vehicle for hire. This prohibition does not include payment for legitimate advertising placement, such as placement of flyers or posters, or legitimate commissions provided by tour companies that do not operate on demand. Advertising or commission payments exempted herein must be documented, and said documentation must be provided to the Administrator when requested. The penalties for violation of Subsection 16.40.710 B. are as follows: \$1,500 for the first offense; \$2,500 for the second offense; and \$3,500 for the third and each subsequent offense.
- C.** It is prohibited for any person to solicit or accept gifts and/or gratuities or anything of value from any holder of a City of Portland company, vehicle or driver permit, except as authorized in this Chapter, in return for any dispatch call, assignment, vehicle or shift. The penalties for violation of Subsection 16.40.710 C. are as follows: \$1,500 for the first offense; \$2,500 for the second offense; and \$3,500 for the third and each subsequent offense.
- D.** If a limousine, executive sedan, taxicab, shuttle or other for-hire vehicle is in a marked hotel zone or loading/unloading zone, it is a rebuttable presumption that it is parked there to provide private for-hire transportation services that require a log book entry. Taxis, shuttles, executive sedans and limousines parked in a hotel zone must provide properly documented log book entry when requested by the Administrator. The penalties for violation of Subsection 16.40.710 D. are as follows: \$500 for the first offense; \$1,000 for the second offense; \$2,500 and suspension for the third and subsequent offenses.
- E.** Other than for drop off, for-hire vehicles may not park in the hotel zone without a reservation or request for service. Per Section 16.40.460 limousine and executive sedan service must be prearranged. The penalties for violation of Subsection

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16.40.710 E. are as follows: \$500 for the first offense; \$1,000 for the second offense; and \$2,500 and suspension for the third and subsequent offenses.

- F.** Taxicabs may not park in the hotel zone or loading/unloading zone prior to 15 minutes before pick up for a dispatch or request for service. The dispatched call/request for service must be documented in the required log format, and available for review by any authorized enforcement officer inspecting logs in the field. The penalties for violation of Subsection 16.40.710 F. are as follows: \$500 for the first offense; \$1,000 for the second offense; and \$1,000 and driver permit suspension for the third offense.

16.40.720 Transportation Network Company Permit Requirements.

(Added by Ordinance No. 187049, effective March 12, 2015.) No person or entity may conduct business as a Transportation Network Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this section shall be a violation subject to the penalties provided in Sections 16.40.540 and 16.40.560.

16.40.730 Transportation Network Driver Permit Requirements.

(Added by Ordinance No. 187049, effective March 12, 2015.) No person or entity may conduct business as a Transportation Network Driver in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this section shall be a violation subject to the penalties provided in Sections 16.40.540 and 16.40.560.

16.40.740 Transportation Network Vehicle Permit Requirements.

(Added by Ordinance No. 187049, effective March 12, 2015.) No person or entity may operate a for-hire Transportation Network Vehicle in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this section shall be a violation subject to the penalties provided in Sections 16.40.540 and 16.40.560.

Chapter 16.48

TAXICAB REGULATIONS

(Chapter added by Ordinance No. 139316; Replaced by Ordinance No. 147243;
Repealed by Ordinance No. 165189; Reinstated by Ordinance No. 165522,
and repealed by Ordinance No. 165947, effective October 28, 1992.)

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Chapter 16.50

MASS TRANSIT

Sections:

- 16.50.001 Purpose.
- 16.50.100 Designation of Transit Lanes.
- 16.50.110 Designation of the Transit Mall and Auxiliary Vehicular Lanes.
- 16.50.200 Prohibited Use of Transit Lanes, Transit Mall and Auxiliary Vehicular Lanes.
- 16.50.300 Vehicles Allowed In Transit Lanes, Auxiliary Vehicular Lanes and on the Transit Mall.
- 16.50.400 Vehicles Allowed in Non Transit Mall Transit Lanes During Certain Hours.
- 16.50.410 Vehicles Allowed on the Transit Mall and Auxiliary Vehicular Lanes by Permit.
- 16.50.500 Regulation and Permit Procedure.

16.50.001 Purpose.

(Amended by Ordinance No. 182921, effective June 17, 2009.) This section describes how mass transit lanes, the Transit Mall and Auxiliary Vehicular Lanes are designated, the regulations that apply, and which vehicles may use them.

16.50.100 Designation of Transit Lanes.

(Amended by Ordinance No. 182921, effective June 17, 2009.) Designation of transit lanes, excluding the Transit Mall and Auxiliary Vehicular Lanes separately designated herein will be made by the City Traffic Engineer upon advice of the City Engineer and the Tri-County Metropolitan Transportation District of Oregon (TriMet). Designation will be shown by official signs or markings. Signs or markings will distinguish whether the transit lane may be used by:

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

16.50.110 Designation of the Transit Mall and Auxiliary Vehicular Lanes.

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall is hereby designated to be that portion of 5th Avenue and 6th Avenue between NW Irving Street and SW Jackson Street including NW Irving Street between NW 5th Avenue and NW 6th

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Avenue, and SW Morrison and Yamhill Streets between SW 4th Avenue and SW Broadway specifically designated with official signs or marking for the use of transit vehicles. The automobile lanes on 5th Avenue, 6th Avenue, NW Irving Street, SW Morrison Street and SW Yamhill Street adjacent the Transit Mall are hereby designated as Auxiliary Vehicular Lanes for purposes of this Section.

16.50.200 Prohibited Use of Transit Lanes, Transit Mall and Auxiliary Vehicular Lanes.
(Amended by Ordinance No. 182921, effective June 17, 2009.)

- A. Except as otherwise provided for in this Section, no vehicle may enter upon, park on, or use an officially designated transit lane, or the Transit Mall.
- B. Restrictions on transit lane use will vary depending on whether the lane is designated for light rail, motor bus, trolley, or carpool use.
- C. Except as otherwise provided for in this Section, no vehicle may stop or park on Auxiliary Vehicular Lanes except vehicles acting in compliance with law, or at the direction of a police officer or a control device or Multnomah County prisoner transfer vehicles actively transferring people.
- D. Except vehicles may cross the Transit mall to ingress or egress the following driveways provided that the vehicles shall obey all applicable traffic control devices:
 - 1. The driveway located on the west side of SW 5th Avenue immediately south of SW Jefferson Street.
 - 2. The first two driveways located on the west side of SW 5th Avenue immediately north of SW College Street.
 - 3. The driveway located on the west side of SW 5th Avenue immediately south of SW Harrison Street.

16.50.300 Vehicles Allowed In Transit Lanes, Auxiliary Vehicular Lanes and on the Transit Mall.

(Amended by Ordinance Nos. 182921 and 183979, effective August 13, 2010.) The following vehicles may enter upon, stop or park in a transit lane or the Transit Mall:

- A. A vehicle owned or operated by the Tri-County Metropolitan Transportation District of Oregon.

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- B.** A vehicle so allowed by the terms of a maintenance contract with the City of Portland or TriMet or City Transportation maintenance crews engaged in maintenance.
- C.** A police, fire, ambulance, or outpatient vehicle, if performing emergency services.
- D.** A vehicle and equipment engaged in emergency response:
 - 1.** Towing;
 - 2.** Snow removal; or
 - 3.** Street, sewer, utility, bus or fire alarm repair.
- E.** Street Car.

16.50.400 Vehicles Allowed in Non Transit Mall Transit Lanes During Certain Hours.
(Amended by Ordinance Nos. 173627, 182389 and 182921, effective June 17, 2009.)

- A.** A vehicle may enter upon and park in a transit lane if the lane is closed by a street closure permit from the City Engineer per Title 17 and if the vehicle is specifically authorized to do so by the street closure permit.
- B.** A vehicle with a travel lane parking permit (16.20.550) or an angle loading permit (16.20.540) may park in a transit lane if authorized to do so by the permit.
- C.** A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use except during the following hours: 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, after giving notification as required by regulations governing the Special Traffic Control District (17.23.050).
- D.** A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use between the hours of 7 a.m. to 9 a.m. and/or 4 p.m. to 6 p.m., Monday through Friday, when specifically allowed during this time by a permit from the City Traffic Engineer. The City Traffic Engineer will notify Tri-Met and the City Engineer before issuing such a permit.
- E.** A vehicle requiring direct access to properties facing a transit lane for ingress/egress or special loading may enter upon and use (but not park in) the transit lane(s) between 7 p.m. and 6 a.m. A permit from the City Traffic Engineer is required for this access between 6 a.m. and 7 p.m.

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- F. A taxicab, for hire vehicle, delivery vehicle, maintenance vehicle, or garbage truck may enter certain transit lanes during times established by the Bureau of Transportation's Administrative Rules.

16.50.410 Vehicles Allowed on the Transit Mall and Auxiliary Vehicular Lanes by Permit.

(Added by Ordinance No. 182921; Amended by Ordinance No. 183979, effective August 13, 2010.)

- A. A public utility or construction vehicle engaged on or adjacent to the Transit Mall may enter upon, park and use the Transit Mall and/or the Auxiliary Vehicular Lanes if the Transit Mall and/or Auxiliary Vehicular Lanes are closed by permit from the City Engineer per Title 17, or TriMet access permit, and the vehicle is specifically authorized to do so by the permit.
- B. Except in the case of emergency and as otherwise provided for herein, the City Engineer shall not issue permits for the use of Auxiliary Vehicular Lanes between the hours of 6:00 AM and 7:00 PM Monday through Friday. The City Engineer may issue permits for Saturday and/or Sunday, but permits shall not be short term closures as required for operational safety of the service provider and shall not interrupt TriMet service.
 - 1. "Emergency" shall mean any unscheduled repair of existing facilities which must be accomplished immediately to protect the life, health and well being of the public, or to protect public or private property. Under this definition, "emergency" work shall encompass only immediately required repairs and shall not include extensive replacement or upgrading of the facility.
- C. The City Engineer may issue permits for the use of Auxiliary Vehicular Lane on SW 6th Avenue between SW Taylor and SW Morrison Streets to accommodate events permitted and authorized by Pioneer Courthouse Square, Inc. as may be deemed appropriate in the judgment of the City Engineer.
- D. All permits shall include a traffic control plan approved by the City Engineer and Tri-County Metropolitan Transportation District of Oregon (TriMet).

16.50.500 Regulation and Permit Procedure.

- A. The Traffic Engineer must notify the Tri-County Metropolitan Transportation District of Oregon of any rule, regulation or permit proposed to be issued under this chapter. The rule, regulation or permit will become effective on a date agreed upon by both parties. In the event of disagreement between Tri-Met and the Traffic

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Engineer, the City Council will determine whether the rule be adopted or the permit issued based upon the amount of interference to mass transit operations.

- B.** No limitation or prohibition of use herein applies to vehicles on a street intersecting or crossing a transit lane unless it is specifically designated as a transit lane.

Chapter 16.60

MOTOR VEHICLE FUELS

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

Sections:

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

16.60.010 Definitions.

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

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

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- G.** “Diesel” means petroleum based liquid that is suitable for use as a fuel in diesel powered vehicles.
- H.** “E10” means a fuel mixture of 10% ethanol and 90% gasoline.
- I.** “Ethanol” means ethyl alcohol, a flammable liquid used or sold for the purpose of blending or mixing with gasoline.
- J.** “Feedstock” means the plant or animal matter from which a biofuel is derived.
- K.** “Fuel” means all gasoline or diesel sold within the City of Portland for the purpose of operating motor vehicles on public roadways.
- L.** “Fuel distributor” means a person that causes the transportation or storage of fuel at any point between a refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer within the City of Portland.
- M.** “Gasoline” means any fuel sold for use in spark ignition engines.
- N.** “Motor Vehicle” means every inanimate vehicle which is self-propelled. For the purposes of this Chapter, the definition of motor vehicle shall not include aircraft, watercraft, or locomotives.
- O.** “Nonretail dealer” means any person who owns, operates, controls or supervises an establishment at which motor vehicles fuel is dispensed through a car or key-activated fuel dispensing device to nonretail customers.
- P.** “Reseller” means a person who purchases fuel and resells or transfers it to a retailer or wholesale purchaser-consumer within the City of Portland.
- Q.** “Retail outlet” means any establishment within the City of Portland at which fuel is sold or offered for sale to the ultimate consumer for use in motor vehicles.
- R.** “Retailer” means any person who owns, leases, operates, controls or supervises a retail outlet within the City of Portland.
- S.** “Wholesale purchaser-consumer” means any organization within the City of Portland that is an ultimate consumer of fuel, and which purchases or obtains diesel or gasoline from a fuel distributor or reseller for use in motor vehicles, and receives delivery of that product into a storage tank or directly into a vehicle’s tank.

16.60.020 Biofuel Requirements.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

A.

1. On and after July 1, 2007, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).
2. On and after August 15, 2007, all diesel fuel sold by fuel retailers, dispensed by nonretail dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).

B.

1. On and after July 1, 2010, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).
2. On and after July 1, 2010, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).

C.

1. On and after September 16, 2007, all gasoline sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.
2. On and after November 1, 2007, all gasoline sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.

- D.** The Director of the Bureau of Development Services shall establish, and revise as necessary, standards for biofuels sold in the City of Portland. The Director shall consult specifications established for biofuels by the American Society for Testing

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and Materials, the Oregon Department of Agriculture or similar specifications, in forming its standards.

- E.** Biodiesel produced from a feedstock of palm oil may not be used to satisfy the requirements of this Chapter.
- F.** The Bureau of Development Services shall study and monitor biodiesel production, use and sales in Oregon and in the City of Portland. When the production of biodiesel from Oregon grown feedstock and used cooking oil reaches a level of at least two million five hundred thousand gallons on an annualized basis for at least three months, the Bureau of Development Services shall notify all fuel distributors, resellers, retailers, nonretail dealers and wholesale-purchaser consumers that:
 - 1.** The production of biodiesel from Oregon grown feedstock and used cooking oil has reached the level described above; and
 - 2.** That three months from the date of the notice, all biodiesel used for the purposes of satisfying the requirements of this Chapter shall contain a minimum of 50% (by volume) of biodiesel produced from used cooking oil and/or feedstock from the Genera Brassica, Camelina, Helianthus or Carthamus.
- G.** Fuel retailers shall be required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling guidelines or rules established by the Oregon Department of Agriculture. For example, B5 fuel shall be labeled “B5 Biodiesel Blend.”

16.60.025 Additional Regulation in the 122nd Avenue Subdistrict.

(Added by Ordinance No. 180372; amended by Ordinance 180671, effective January 12, 2007.) Effective July 1, 2007, in the 122nd Avenue subdistrict of the East Corridor plan district, all fuel vendors established under the provisions of Subsection 33.521.300. F. of Title 33, Planning and Zoning, must sell a minimum blend of 20% Biodiesel (B20 fuel) at one or more pumps.

16.60.030 Exemptions.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.** Any retailer who offers a biodiesel blend of 20% (B20 fuel) or greater shall be exempt from the requirements of Section 16.60.020 (A) and (B), and may also provide for sale, on the same site or a contiguous site, diesel fuel which does not contain biodiesel.

- B.** The Director of the Bureau of Development Services may temporarily suspend or modify the minimum biofuel content requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director's determination shall be made by filing a report with the City Council.
- C.** The requirements of this Chapter do not apply to fuel used for the operation of railroad locomotives, watercraft or aircraft.
- D.** Nothing in this Chapter is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using up to eighty-five percent ethanol fuel blends.

16.60.040 Enforcement and Notice of Violation.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.** The Director of the Bureau of Development Services, or designee, upon determining that a violation of this code or regulations duly adopted pursuant to this Chapter has occurred, shall issue a written notice of the violation by certified mail to the fuel distributor, reseller or retailer identifying the violation and applicable penalty.
- B.** The fuel distributor, reseller or retailer shall, upon receipt of a notice of violation, correct the violation and pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer within 10 days of receipt of the notice.
- C.** A determination issued pursuant to Section 16.60.040.A may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

16.60.050 Penalties.

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

- A.** A fine of up to \$5,000 for the first violation;
- B.** A fine of up to \$10,000 for each subsequent violation.

16.60.060 Disclosure.

(Amended by Ordinance No. 180671, effective January 12, 2007.) For all sales of biofuels blended products by fuel distributors or resellers for the purposes of meeting this Chapter, the distributor or reseller must provide a bill of lading or shipping manifest disclosing biofuel content, stating volume percentage, gallons of biofuel per gallon base stock, or an "Bxx" or "Exx" designation where "xx" denotes the volume percent biofuel included in the blended product, and the feedstock from which the biofuel was derived.

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16.60.070 Additional Regulations.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

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

Chapter 16.65

FUNERAL PROCESSIONS

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

Sections:

16.65.010 Funeral Processions.

16.65.010 Funeral Processions.

As used in this Section, funeral procession means four or more motor vehicles accompanying the body of a deceased person in the daytime, when each of such vehicles has its headlights lighted.

- A.** Pedestrians and the operators of all vehicles, except emergency vehicles, must yield the right-of-way to each vehicle which is a part of a funeral procession. Whenever the lead vehicle in the funeral procession lawfully enters an intersection, the remainder of the vehicles in such a procession may continue to follow such lead vehicle through the intersection notwithstanding any traffic control device or right-of-way provisions prescribed by statute or ordinance, provided the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian upon the streets or highway.
- B.** No person may operate any vehicle as part of a funeral procession without having the headlights of such vehicle lighted.
- C.** No operator of a vehicle may drive between vehicles in a funeral procession which are properly identified while the procession is in motion, except when directed to do so by a police officer.

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Chapter 16.70

MISCELLANEOUS REGULATIONS

Sections:

- 16.70.001 Purpose.
- 16.70.200 Pedestrians.
- 16.70.210 Must Use Crosswalks.
- 16.70.220 Must Cross at Right Angles.
- 16.70.230 To Obey Directions of School Traffic Patrol and Crossing Guard.
- 16.70.240 Bridge Railings.
- 16.70.300 Bicycles.
- 16.70.310 Persons Riding Bicycles to Obey Traffic Regulations.
- 16.70.320 Operating Rules.
- 16.70.330 Impounding Bicycles.
- 16.70.340 Renting Bicycles.
- 16.70.400 Other Transportation.
- 16.70.410 Roller Skates and Skateboards.
- 16.70.430 Train Switching Prohibited in Certain Areas
- 16.70.450 Off Street Parking Required for Trucks.
- 16.70.500 Traffic Regulations.
- 16.70.510 Trespassing - Leaving Pamphlet on Vehicle.
- 16.70.520 Hitching Onto Vehicle.
- 16.70.530 Central City Plan District Closed to Driving Lessons.
- 16.70.550 Vendor Traffic Regulations.
- 16.70.560 Traffic Regulations in Parks.
- 16.70.570 Inoperative Electric Traffic Control Signals.
- 16.70.600 Over Dimensional Vehicles.
- 16.70.610 General Prohibitions.
- 16.70.620 Exemptions.
- 16.70.630 Permits.
- 16.70.640 Limits of Authority to Issue Variance Permit.
- 16.70.650 Requirements, Conditions and Procedures for Issuance of Variance Permit;
Duration; Cancellation.
- 16.70.660 Permit Must Be Carried and Displayed.
- 16.70.670 Movement of Building or Other Structure Excluded.
- 16.70.680 Liability for Damage to Streets or Other Public Property.
- 16.70.690 Designation of Streets for Vehicles of Excess Weight or Size.
- 16.70.700 Traffic Congestion Thoroughfares.
- 16.70.710 Purpose.
- 16.70.720 Posting Signs.

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- 16.70.730 Signs.
- 16.70.740 Acts Prohibited.
- 16.70.750 Penalty.
- 16.70.760 Subsequent Violation.
- 16.70.770 Notice of Towing For Subsequent Violations.
- 16.70.800 Visibility.
- 16.70.810 Street Obstructions and Dangerous Conditions.
- 16.70.900 Reckless Driving.

16.70.001 Purpose.

This Section provides traffic regulations in addition to those of the Oregon Revised Statutes that apply in the City of Portland.

16.70.200 Pedestrians.

16.70.210 Must Use Crosswalks.

No pedestrian may cross a street other than within a crosswalk if within 150 feet of a crosswalk.

16.70.220 Must Cross at Right Angles.

A pedestrian must cross a street at right angles unless crossing within a crosswalk.

16.70.230 To Obey Directions of School Traffic Patrol and Crossing Guard.

At intersections where a member of the school traffic patrol or crossing guard is stationed for the safety of school children, all pedestrians must obey the directions of such school traffic patrol member or crossing guard. It is unlawful for any pedestrian to cross at any intersection where such patrol member or crossing guard is stationed contrary to the direction of such school traffic patrol member or crossing guard.

16.70.240 Bridge Railings.

No pedestrians may sit, stand on, or lean their torso over a Willamette River bridge railing unless engaged in bridge maintenance work or otherwise authorized by an appropriate government agency.

16.70.300 Bicycles.

16.70.310 Persons Riding Bicycles to Obey Traffic Regulations.

Every person riding a bicycle upon a roadway is subject to state law and the provisions of this Title applicable to the driver of a vehicle, except state law and those provisions of this Title which by their very nature can have no application.

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16.70.320 Operating Rules.

(Amended by Ordinance No. 165594, effective July 8, 1992.) No person may:

- A. Leave a bicycle so that it obstructs vehicle or pedestrian traffic on a roadway, sidewalk, driveway, handicap access ramp, building entrance, or so that it prevents operation of a parking meter or newspaper rack;
- B. Leave a bicycle secured to a fire hydrant or to a police or fire call box;
- C. Leave a bicycle on private property without consent of the owner or legal tenant. Consent is implied on private commercial property;
- D. Leave a bicycle on a street or other public property for more than 72 hours; or
- E. Ride a bicycle on a sidewalk, unless avoiding a traffic hazard in the immediate area, within the area bounded by and including SW Jefferson, Front Avenue, NW Hoyt and 13th Avenue, except:
 - 1. On sidewalks designated as bike lanes or paths;
 - 2. On the ramps or approaches to any Willamette River Bridge; or
 - 3. In the area bounded by the west property line of SW Ninth Avenue, the east property line of SW Park Avenue, the north property line of SW Jefferson and the south property line of SW Salmon Street.
 - 4. For police or special officers operating a bicycle in the course and scope of their duties; or
 - 5. For employees of the Association for Portland Progress and companies providing security services operating a bicycle in the course and scope of their duties. These employees must have in possession an identification card issued by the Chief of Police certifying the rider has completed a training course in the use of a bicycle for security patrol.

16.70.330 Impounding Bicycles.

- A. A bicycle left on a street or other public property for more than 72 hours may be impounded.
- B. A bicycle may be immediately impounded if:

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1. It is parked in violation of this code and obstructs or impedes pedestrian or vehicular traffic; or
 2. It is an immediate threat to the public welfare.
- C. The impounding agency must make reasonable efforts to notify the owner of the impoundment and a description of how and by what date the bicycle must be claimed.
- D. A fee may be charged to the owner of an impounded bicycle. No impoundment fee will be charged to the owner of a stolen bicycle that has been impounded.
- E. An impounded bicycle that remains unclaimed after 30 days may be disposed of in accordance with city procedures for disposal of abandoned or lost personal property.

16.70.340 Renting Bicycles.

No person may rent a bicycle to another person unless the bicycle is equipped as required by state law.

16.70.400 Other Transportation.

16.70.410 Roller Skates and Skateboards.

(Replaced by Ordinance No. 185596, effective September 5, 2012.)

- A. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any sidewalk within the area bounded by and including SW Jefferson, Naito Parkway, NW Hoyt and 13th Avenue. The middle and bisecting sidewalks in the Park Blocks are considered sidewalks for the purposes of this Subsection.
- B. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk on
1. SW 5th or 6th Avenues between SW Lincoln and Burnside; and on
 2. NW 5th or 6th Avenues between Burnside and Union Station.
- C. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk between the hours of 10 p.m. and 7 a.m. on

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1. SW Fairview Boulevard between SW Knights Boulevard and SW Kingston Avenue;
 2. SW Kingston Avenue between SW Tichner Drive and the Washington Park entrance;
 3. SW Tichner Drive between SW Kingston Avenue and SW Marconi Avenue;
 4. SW Marconi Avenue;
 5. SW Park Place between SW Marconi Avenue and SW Wright Avenue;
 6. SW Lafayette Place;
 7. SW Hampshire Street between SW Lafayette Place and SW Champlain Drive;
 8. SW Champlain Drive between SW Hampshire Street and SW Rutland Terrace;
 9. SW Rutland Terrace; and
 10. West Burnside Street from Skyline Boulevard to SW Vista Avenue.
- D.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk while attached in any manner to any motor vehicle on the roadway. In addition, a person shall not knowingly drive a motor vehicle that is towing a person riding same.
- E.** All persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must while on a public street, traveling at less than the speed limit of the roadway shall yield to vehicles approaching from the rear by moving to the right curb or shoulder of the street.
- F.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that shows a white light visible from a distance of at least 500 feet to the front of the device.

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- G.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that has a red reflector or lighting device or material of such size or characteristic and so mounted, carried or worn as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.
- H.** The penalty for failing to follow the rules of Subsections A. - G. shall be a minimum fine of \$115.
- I.** All persons under 16 years of age shall wear protective headgear when using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, sidewalk, or bridge. The penalty for failure to wear protective headgear as required in this subsection shall be a maximum fine of \$25.
- J.** Except for those provisions by their very nature can have no application, this subsection adopts the Oregon Motor Vehicle Code's rules of the road for vehicle drivers to regulate the use of roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon a public highway in the City. Riders of such devices are subject to the provisions applicable to, and have the same rights and duties provided any driver of a vehicle by the Oregon Vehicle Code concerning operating on highways except when otherwise specifically provided in this Code.
- 1.** The penalty for failing to follow the rules of the road incorporated by Subsection J. shall be a fine of \$250.
- a.** First time offenders of this Code are eligible to participate in Share the Road or similar program in lieu of the fine.
- K.** This Section does not apply to bicycles as defined by Section 16.90.025 of this Code.

16.70.430 Train Switching Prohibited in Certain Areas.

- A.** On railroad tracks located in NW 12th Avenue between West Burnside and NW Hoyt Streets, and on railroad tracks located on NW Flanders Street, between NW 12th Avenue and NW Front Avenue, it is unlawful for any person to direct, cause, or permit switching movements of freight cars between the hours of 6 a.m. and 7 p.m.

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- B.** No person may direct, cause, or permit any railroad equipment to be left or parked on the main line tracks of these streets.

16.70.450 Off-Street Parking Required for Trucks.

A person owning or controlling any truck or truck trailer must provide at his or her own expense complete off-street parking facilities for the storage of all such equipment.

16.70.500 Traffic Regulations.

16.70.510 Trespassing - Leaving Pamphlet On Vehicle.

(Amended by Ordinance No. 165987, November 12, 1992.)

- A.** It is unlawful for any person to ride or trespass upon or within any motor vehicle without the consent of the owner or operator thereof.
- B.** It is unlawful for any person to post, stick, or place upon or within any motor vehicle any card, notice, handbill, leaflet, pamphlet, survey, or similar matter without the consent of the owner or operator.
- C.** The provisions of this Section do not apply to any card, notice, handbill, leaflet, pamphlet, survey, or similar matter placed upon or within such motor vehicle by authority of law, by an authorized officer of the City, County, or State or by a designee of the City Traffic Engineer.

16.70.520 Hitching Onto Vehicle.

- A.** It is unlawful for any person riding upon any vehicle, sled, or other conveyance to hitch or hold on to any part of another vehicle or conveyance for the purpose of being propelled or drawn along any street or highway within the City.
- B.** Nothing contained in this Section is deemed to prohibit the coupling of one or more motor vehicles or motor vehicle and trailer in the manner approved by ORS 818.

16.70.530 Central City Plan District Closed to Driving Lessons.

It is unlawful for any person to give or receive lessons or instructions in driving or operating any vehicle upon any street, except interstate freeways, in the Central City Plan District except for access directly to and from an institution or business located in the Central City Plan District. This Section does not apply to an applicant for a motor vehicle operator's license when accompanied by an examiner from the office of the Department of Motor Vehicles of Oregon.

16.70.550 Vendor Traffic Regulations.

(Amended by Ordinance Nos. 165594, 166575, and 176585, effective July 5, 2002.)

- A. It is unlawful for any:
 - 1. Vehicle, cart, or temporary stand used to conduct business to be left unattended for 30 or more minutes or parked or stored over night on any public grounds, street, or highway. See also: 14A.50.030, 14A.50.040, 14A.50.050, 16.20.150 D., 16.60.100 F., 17.25, 17.26.
 - 2. Vendor to conduct business in a roadway adjacent to or directly across from residential property for a period longer than 10 minutes within any block face. Such vendor must vacate said block face for a period of 2 hours upon expiration of the 10-minute limit.
- B. Whenever, in the judgement of the Bureau of Police, traffic is or will be congested in and around an area being used by a vendor, the Bureau of Police is hereby given authority to cause said vendors to move and remain out of the congested area.

16.70.560 Traffic Regulations in Parks.

(Amended by Ordinance No. 165594, effective July 8, 1992.)

- A. Except as otherwise provided in this Section, the provisions of this Title regulating street traffic and parking apply to driving or parking a vehicle in a City park or golf course.
- B. With approval of the Commissioner In Charge, the Superintendent of Parks may restrict or prohibit traffic or types of traffic and parking in City parks and golf courses. Signs giving notice of any restriction or prohibition imposed under this Subsection shall be posted and maintained by the Superintendent in a conspicuous manner and place to inform the public. It is unlawful for any person to violate any restriction or prohibition imposed under this Subsection after notice thereof has been posted.
- C. The Bureau of Police has authority to enforce the provisions of this Section.
- D. The provisions of this Section do not apply to City authorized vehicles used in park or golf course service.

16.70.570 Inoperative Electric Traffic Control Signals.

An intersection with inoperative electric traffic control signals shall be treated as an uncontrolled intersection, unless other official traffic control devices have been erected at

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the intersection. This Section does not apply to freeway ramp metering signals operated by the Oregon Department of Transportation.

16.70.600 Over Dimensional Vehicles.

16.70.610 General Prohibitions.

- A.** It is unlawful for any person or owner to drive, move, or to cause or permit to be driven or moved on any street in the City any vehicle or combination of vehicles that:
- 1.** Exceeds the weight or size limitations set forth in the Oregon Revised Statutes (ORS), Chapter 818;
 - 2.** Is not constructed or equipped as required by ORS 818;
 - 3.** Is dragging upon or over the surface of a street any log, pole, piling, or other thing;
 - 4.** Does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the street;
 - 5.** Is so constructed or loaded so as to allow its contents to drop, sift, leak, or otherwise escape therefrom; or
 - 6.** Violates any other provisions of this Title.
- B.** Operation of any vehicle or combination of vehicles in violation of the provisions of this Chapter is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed pursuant to ORS 818.

16.70.620 Exemptions.

- A.** The provisions of this Chapter governing size and weight do not apply to:
- 1.** Any vehicle, combination of vehicles, article, machine, or other equipment in use by the Federal Government, the State of Oregon, or any county or city while in the immediate vicinity of and involved with the construction, maintenance, or repair of public highways;

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2. Any vehicle in use by a mass transit district for the purposes authorized under ORS 267.010 to ORS 267.390, provided the size or weight of the vehicle is approved by the City for that route; or
 3. Any vehicle, combination of vehicles, article, machine, or other equipment operated under a permit issued by the Traffic Engineer and in compliance with the conditions and restrictions thereof.
- B.** None of the size limits described in ORS 818, except the maximum limit of allowable extension beyond the last axle of a combination of vehicles, apply to agricultural equipment hauled, towed, or moved upon any street if the movement is incidental to the farming operations of the owner of the agricultural equipment.

16.70.630 Permits.

Under authority granted in Section 16.10.200, the Traffic Engineer may grant written permits for the operation over City streets, or sections thereof, of any vehicle or combination of vehicles, including any load thereon, having:

- A. A gross weight;
- B. A length;
- C. A width;
- D. A height; or
- E. A maximum number of vehicles in combination; in excess of that authorized in ORS 818 or administratively imposed weight or size limits designated in accordance to 16.70.690.

16.70.640 Limits of Authority to Issue Variance Permit.

A permit may not be issued for any vehicle or load that can readily or reasonably be dismantled or disassembled to reduce weight or width. This does not apply to any vehicle, combination of vehicles, load, article, property, machine, or thing that is:

- A. Used in the immediate vicinity of construction, maintenance, or repair of public highways; and
- B. Of a length in excess of that permitted in ORS 818.

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16.70.650 Requirements, Conditions and Procedures for Issuance of Variance Permit; Duration; Cancellation.

(Amended by Ordinance Nos. 176361 and 181217, effective September 14, 2007.)

- A.** In issuing a permit, the Traffic Engineer may:
- 1.** Grant a permit that is valid for a single trip, a number of trips or an amount of time not to exceed one year.
 - 2.** Establish seasonal or other time limitations on a permit.
 - 3.** Require the applicant to furnish public liability or automobile insurance and property damage insurance as follows:
 - a.** General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage; or
 - b.** Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired or nonowned vehicles, as applicable; and
 - c.** The City of Portland, and its agents, officers, and employees are Additional Insured, but only with respect to operations occurring within the scope of the permit.
 - d.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
 - e.** As evidence of the insurance coverage required, the applicant shall furnish acceptable insurance certificates to the City prior to issuance of any permit. The certificate will specify that the City is additional insured and will include the 30-day cancellation clause. Insuring companies or entities are subject to City acceptance. The applicant shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.
 - 4.** Require the applicant to furnish indemnity insurance or an indemnity bond in an amount fixed by the Traffic Engineer to:

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1. Any vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is issued to be operated or moved contrary to any provisions of the vehicle code, except as specified in a permit; or
 2. Any movement or operation of a vehicle, combination of vehicles, load, article, property, machine, or thing until a permit is issued.
 3. Any vehicle, combination of vehicles, load, article, property, machine, or thing which is eligible for a permit under the State of Oregon Continuous Operation Variance Permit program as described in OAR 734.074.0010.
- F.** The City Traffic Engineer may be present during the movement. The presence of the City Traffic Engineer and any directions or suggestion made by him/her is not to be considered supervision of the movement and does not relieve the permit holder or the permit holder's insurers or sureties from liability for any damage done by the movement. If there are any of the permit's terms or conditions with which the movement does not comply, the City Traffic Engineer who is present at the movement may order it to be stopped.
- G.** Any permit may be canceled at any time by the City Traffic Engineer upon satisfactory proof that:
1. The permit holder has violated any of the terms of the permit;
 2. The permit was obtained through misrepresentation in the application therefor; or
 3. The public interest requires cancellation.

16.70.660 Permit Must Be Carried and Displayed.

- A.** The driver of any vehicle or combination of vehicles for which a variance permit has been issued commits the offense of failure to carry and display a variance permit if the driver does not:
1. Have the variance permit in immediate possession at all times when driving the vehicle or combination of vehicles upon a public highway or street; and
 2. Display the variance permit upon demand of any police officer, department or county weighmaster, judicial officer, or the City Traffic Engineer.
- B.** Later producing a variance permit issued prior to and valid at the time of an offense by authority of this section is not a defense for a charge under this Section.

16.70.670 Movement of Building or Other Structure Excluded.

The movement of buildings or other structures on or over the streets and other public right-of-ways of the City is excluded from the provisions of this Chapter. (See Chapter 17.48, Public Improvements.)

16.70.680 Liability for Damage to Streets or Other Public Property.

Any person moving any vehicle of excess weight or size on or over any street or other public right-of-way in the City is responsible for damage to pavement or other public improvement or property caused thereby.

16.70.690 Designation of Streets for Vehicles of Excess Weight or Size.

- A. When in the judgement of the City Traffic Engineer any City street or section thereof is capable of carrying any vehicle or combination of vehicles having a gross weight or overall size in excess of that authorized in ORS 818, the City Traffic Engineer may report to the City Council so declaring that street and fixing the maximum gross weight, width, height, and/or length and types and classes of vehicles or combination of vehicles which may be operated thereon.
- B. The provisions of any report accepted by the City Council pursuant to recommendation of the City Traffic Engineer under this Section may be changed or rescinded at any time and is subject to any order made pursuant to Section 16.10.200.
- C. If a report submitted by the City Traffic Engineer under this Section is accepted by the City Council, a duplicate original thereof (and any amendment or revocation thereof) must be filed by the Auditor with the Secretary of State. After such resolution is adopted and filed, no permit is required for the operation upon such street or section thereof of a vehicle or combination of vehicles not exceeding the maximum gross weight and length fixed by the report for vehicles or combinations of vehicles of that type and class.

16.70.700 Traffic Congestion Thoroughfares.

16.70.701 Purpose.

The purpose of this Chapter is to prohibit the repeated driving of a motor vehicle along and across one portion of a congested public street, which constitutes a strict liability violation without any requirement of culpable mental state, all as described in this Chapter.

16.70.720 Posting Signs.

With respect to any traffic congestion thoroughfare, the Chief of the Bureau of Police or his/her designee is authorized to declare that portion of the street to be a traffic congestion

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thoroughfare and to cause signs, as described in this Chapter, to be posted notifying of that designation.

16.70.730 Signs.

The signs referred to in Section 16.70.720 will notify drivers that they are entering a traffic congestion thoroughfare; that repeated passage of a motor vehicle through or across the traffic congestion thoroughfare is a violation of City Code Section 16.70.740; and that for a subsequent violation, the vehicle will be towed.

16.70.740 Acts Prohibited.

Between the hours of 9 p.m. and 5 a.m. of the following morning, no vehicle may pass along or across a traffic congestion thoroughfare, designated as such by signs as described in Section 16.70.730, more than two times.

16.70.750 Penalty.

(Amended by Ordinance Nos. 165987 and 176394, effective April 17, 2002.) Violation of this Chapter is an infraction punishable by a fine not to exceed \$150.

- A. Except as provided below, violation of this Chapter is an infraction punishable by a fine not to exceed \$150.
- B. Violation of Sections 16.20.470, 16.70.510 A, 16.70.210, 16.70.220 and 16.10.060, is punishable by a fine of not more than \$500, or by imprisonment not exceeding 10 days or both.

16.70.760 Subsequent Violation.

If a vehicle passes along or across a traffic congestion thoroughfare as designated by signs in violation of Section 16.70.740, any single subsequent drive-through of that traffic congestion thoroughfare by that vehicle within the same 9 p.m. to 5 a.m. time period constitutes a separate violation of Section 16.70.740, punishable as provided in section 16.70.750; and the vehicle may be towed and taken to a storage area designated by the City and may be held for not more than 24 hours, all at the expense of the owner or person entitled to possession.

16.70.770 Notice of Towing For Subsequent Violations.

Upon issuing a citation for a violation of Section 16.70.740, the officer will give the person to whom the citation is issued a written notice which will state:

NOTICE

You have been cited for violation of Code Section 16.70.740 for repeated passage of a motor vehicle on or across a traffic congestion thoroughfare.

If the vehicle you are driving is again driven along or across this traffic congestion thoroughfare before 5 a.m. this morning, this vehicle may be impounded and towed in accordance with City Code Section 16.70.760.

Chief of the Bureau of Police

16.70.780 Exemptions.

This Section does not apply to:

- A. Any publicly owned vehicle of any city, county, public district, state, or federal agency;
- B. Any vehicle licensed for public transportation; or
- C. Any other vehicle granted an exemption by the Chief of Police because passage of the vehicle along or across the traffic congestion thoroughfare is necessary for commercial or medical reasons.

16.70.800 Visibility.

(Amended by Ordinance Nos. 165987, 173369, 183397, 184522, 185448 and 186053, effective January 1, 2015.)

- A. It is the responsibility of the owner or occupant of any property to prevent any vegetation including trees on the property or the abutting public right-of-way from partially or wholly obstructing the visibility of traffic control devices, the visibility of or for drivers, bicyclists, or pedestrians, or in any way presents a safety hazard.
- B. The person who owns or occupies said property is liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or prune such vegetation as required by Title 16 or any other Title of the City Code. Furthermore, said person is liable to the City of Portland for any judgement or expense incurred or paid by the City, by reason of said person's failure to satisfy the obligations imposed by this or any other Title of the City Code.
- C. Any tree removal or pruning required by this Title shall be done in accordance with the provisions of Title 11, including the need to obtain tree permits for removal and pruning.
- D. Vegetation, including trees, in green street or other public stormwater management facilities, shall be trimmed only by the City or under the authorization of the Bureau of Environmental Services (BES).

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- E. Any vegetation or tree not removed or pruned as required in this Title is hereby declared to be a public nuisance and may be summarily abated as provided in Title 29.
- F. Whenever the provisions of this section conflict with those of any other section of this code, including but not limited to Titles 11, 16, 17 and 33, the stricter provisions shall govern.

16.70.810 Street Obstructions and Dangerous Conditions.

(Added by Ordinance No. 176585, effective July 5, 2002.) No person, whether acting as private citizen, principal, employee or agent shall:

- A. Between the hours of sunset and sunrise, place or allow to remain on any street any obstruction, other than a lawfully parked vehicle or any permitted structure, unless a clearly displayed warning light or lights are:
 - 1. plainly visible for 200 feet in either direction parallel to the street and at least 25 feet in all other directions, and
 - 2. placed on the edge or side of the obstruction nearest the center of the street.
- B. At any time, create a dangerous condition on any street without erecting and maintaining a distinctly visible barricade which provides a clear indication of the danger and directs people safely around it; and/or
- C. Remove such a barricade from any street while the danger continues.

16.70.900 Reckless Driving.

(Added by Ordinance No. 173097, effective by February 10, 1999.)

- A. A driver of a vehicle commits the crime of reckless driving within the City of Portland if the driver commits two or more of the following violations in a single series of acts in such a way as to endanger the safety of persons or property:
 - 1. Unlawful or unsignaled lane change;
 - 2. Unsafe passing on the left or right;
 - 3. Passing in a no-passing zone;
 - 4. Following too close;
 - 5. Illegal backing;

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6. Unlawful stop or deceleration;
 7. Failure to signal;
 8. Violation of maximum speed limit in an urban area; or
 9. Taking other actions that a reasonable driver would know endanger the safety of persons or property in a congested urban driving environment such as the City of Portland.
- B.** Violation of this law shall constitute a Class A Misdemeanor as prescribed in State law.

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Chapter 16.90

DEFINITIONS

Sections:

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16.90.015	Alley.
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16.90.025	Bicycle.
16.90.030	Bicycle Boulevard.
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16.90.036	Bikeway, Extra Width Curb Lane.
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16.90.249	Space Reservation Device.
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16.90.260	Permanently Exhibit.
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16.90.285	Rail Vehicles.
16.90.290	Recreational Vehicle.
16.90.295	Regulated Parking Zone.
16.90.300	Repair (a vehicle).
16.90.302	Right-of-Way.
16.90.305	Roadway.
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16.90.315	Service (a vehicle).
16.90.320	Short-Term Parking Meter.
16.90.325	Shoulder.
16.90.330	Sidewalk.
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16.90.350	Street or Highway.
16.90.351	Storage Container.
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16.90.370	Traffic Congestion Thoroughfare.
16.90.375	Traffic Control Device.
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16.90.001 **Generally.**

The following words and phrases when used in this Title shall, for the purpose of this Title, have the meanings respectively ascribed to them in this Chapter, except in those instances where the context clearly indicates a different meaning. Definitions of words and phrases in the Oregon Revised Statutes may be applied unless defined differently in this Title or in those instances where the context clearly indicates a different meaning.

16.90.005 **Abandoned Vehicle.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) A vehicle that remains in violation for more than 24 hours and one or more of the following conditions exist:

- A. The vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration.
- B. The vehicle appears to be inoperative or disabled.
- C. The vehicle appears to be wrecked, partially dismantled or junked.

16.90.010 **Accessory Recreational Vehicle.**

See Recreational Vehicle.

16.90.015 Alley.

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular movement.

16.90.020 Angle Loading.

When a vehicle is parked at an angle to traffic flow for the purpose of loading/unloading and extends into the public right-of-way anywhere outside of a legal parking area.

16.90.025 Bicycle.

A type of vehicle that:

- A. Is designed to be operated on the ground on wheels;
- B. Has a seat or saddle for use of the rider;
- C. Is designed to travel with not more than three wheels in contact with the ground;
- D. Is propelled exclusively by human power; and
- E. Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.

16.90.030 Bicycle Boulevard.

(Replaced by Ordinance No. 177028, effective December 14, 2002.) A roadway with low vehicle traffic volumes where the movement of bicycles is given priority.

16.90.032 Bicycle Lane.

(Added by Ordinance No. 177028, effective December 14, 2002.) The part of the street designated by official signs or markings for the movement of persons riding bicycles except as otherwise specifically provided by law.

16.90.034 Bikeway, Shoulder.

(Added by Ordinance No. 177028, effective December 14, 2002.) A street upon which the paved shoulder, separated by a four-inch stripe and no bicycle lane markings, is used for the movement of persons riding bicycles. Auto parking is also allowed on shoulders marked in this manner.

16.90.035 Bicycle Path.

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

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16.90.036 Bikeway, Extra Width Curb Lane.

(Added by Ordinance No. 177028, effective December 14, 2002.) A wider than normal curbside travel lane provided to give extra room for the movement of persons riding bicycles where there is insufficient space for a bicycle lane or shoulder bikeway.

16.90.038 Bikeway, Off-Street Path.

(Added by Ordinance No. 177028, effective December 14, 2002.) An off-street path for the movement of persons riding bicycles that is physically separated from motorized vehicular traffic by an open space or barrier and either within a street right-of-way, but not in the roadway, or within an independent right-of-way or dedicated easement.

16.90.040 Bikeway, Signed Connection.

(Replaced by Ordinance No 177028, effective December 14, 2002.) A bikeway upon which signing is placed to direct bicyclists to a destination or another bikeway.

16.90.045 Block Face.

The area between the line separating a public right-of-way from private property and the center line of a street or highway, and between the midpoint of two intersections.

16.90.050 Bureau of Transportation System Management.

(Repealed by Ordinance No. 182389, effective January 2, 2009.)

16.90.055 Carpool Vehicle.

- A. Any vehicle that is designed by its manufacturer to seat three or more people and is utilized to transport on a regular basis, three or more people including the driver, from a point of origin to a destination.
- B. For the purpose of this Title of the City Code, carpool vehicle specifically means any vehicle described in A. above, which displays a carpool permit issued by the Tri-County Metropolitan Transportation District of Oregon.

16.90.060 Central City Plan District.

The Central City Plan District is defined in Title 33 of this code. For purposes of this Title, however, regulations that apply to the Central City Plan District apply to the whole street (up to the property line or extension of a property line to the corner of a property line across an intersection) of the streets whose center lines serve as boundaries to the Central City Plan District.

16.90.065 City Recognized Holidays.

City recognized holidays are:

- A. New Year's Day;

- B.** Martin Luther King Jr.'s Birthday;
- C.** President's Day;
- D.** Memorial Day;
- E.** Fourth of July;
- F.** Labor Day;
- G.** Veteran's Day;
- H.** Thanksgiving Day; and
- I.** Christmas Day.

A day begins at 12:00:00 a.m. and ends at 11:59:59 p.m.

16.90.070 Compact Car.

Any vehicle which will fit within the space lines of a space designated for compact cars by official signs or markings.

16.90.075 Conduct Business.

The act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.

16.90.080 Construction Zone.

The space adjacent to the curb and in immediate proximity to the premises where construction, alteration, remodeling, repairing, or similar work is in progress, and designated by official parking meter or sign hoods, signs, or markings.

16.90.085 Crosswalk.

Any portion of a roadway at an inter-section or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked cross-walks have been indicated, such cross-walks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- A.** Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured

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from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:

1. The connections of the lateral lines of the sidewalks, shoulders, or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
 2. The prolongation of the lateral lines of a sidewalk, shoulder, or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.
- B.** If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than 6 feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk.

16.90.090 Curb.

Any raised margin defining the space in the street devoted to vehicular traffic.

16.90.095 Curb Line.

The curb line separates a street or highway into the area dedicated to vehicle traffic (roadway) and the area dedicated to pedestrian and nonmotor vehicle traffic (planting strip, sidewalk, etc.).

16.90.097 Disabled Person Permit/Placard.

(Added by Ordinance No. 186575, effective July 1, 2014.) Any official State-issued disabled person registration plate, placard, permit or decal, including: Regular, Program, Family, Motorcycle, Golf Cart or any other placard not issued specifically for "Wheelchair Only".

16.90.100 Driver.

The rider, driver, or leader of any animal or vehicle that is not self-propelled and the operator of any vehicle that is self-propelled.

16.90.105 Driveway.

- A.** A road or access, whether improved or unimproved, extending from a public right-of-way onto private or public lands or structures for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious opening for access. For purposes of enforcement, a driveway:
1. Extends from one curb return to the other;

2. If winged, includes the wings; or
 3. If the street is unimproved, the driveway area falls between the projections of the edges of an improved driveway or the most established tire ruts of an unimproved driveway.
- B.** Such road or access will be enforced as a driveway unless closed by a structure or permanent closure device.

16.90.110 Drop Box.

A container in which trash or any other refuse material is temporarily stored or collected. For the purposes of Title 16, a drop box will be considered a vehicle in terms of parking provisions and restrictions.

16.90.115 Emergency Vehicles.

(Amended by Ordinance No. 180917, effective May 26, 2007.) Vehicles of Portland Fire & Rescue, police vehicles, emergency vehicles of municipal departments, and ambulances while being used for emergency purposes and displaying lights as required by the Oregon Revised Statutes.

16.90.120 Fire Station.

Any building used for the purpose of housing fire apparatus of the City.

16.90.125 Fog Line or Edge Line.

The official 4-inch wide marking that defines the lateral lines of a roadway.

16.90.130 Gross Vehicle Weight Rating.

The value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle or the registration weight, whichever is greater.

16.90.135 Guest.

As used in a regulated parking zone sign, means a patron or visitor to the adjacent hotel.

16.90.140 Handicap Access Ramp.

An inclination, ramp-like structure, or any other such device designed to serve and provide ease of access from the sidewalk to the roadway or from the street to adjacent property for individuals using a mobility aid. If winged, it includes the winged area of the structure.

16.90.145 Hotel.

Any structure intended or designed for transient occupancy and which offers more than 25 percent of its rooms for dwelling, lodging or sleeping purposes for less than a 30 day period.

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16.90.150 Improper Use.

Improper use occurs when a permit holder violates the provisions described on the permit application.

16.90.155 Intersection.

The area of a roadway created when two or more public roadways join together at any angle, as described in one of the following:

- A.** If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.
- B.** If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.
- C.** The junction of an alley with a roadway does not constitute an intersection.
- D.** Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection.

16.90.160 Light Rail Transit System.

A commuter transit mode consisting of steel-wheeled rail vehicles, powered electrically through overhead lines, operating predominately on exclusive right-of-way that need not be grade separated.

16.90.165 Light Rail Vehicle.

A component car in a light rail transit system.

16.90.170 Load/Unload.

To load or unload a vehicle means to be actively engaged in removing merchandise from or putting merchandise in a vehicle.

16.90.175 Local Authorities.

Every county, municipality, and other local board or body having authority to adopt local police regulations under the constitution and laws of this State.

16.90.180 Long-Term Parking Meter.

A parking meter with a designated time limit of more than 4 hours.

16.90.185 Mobile Construction Trailer.

A trailer that is used temporarily in conjunction with a construction site for office and other related purposes.

16.90.190 Motor Bus.

Every motor vehicle designed or used for carrying passengers and their personal baggage for compensation. The term “motor bus” does not mean or include taxicabs designed or constructed to accommodate and transport not more than five passengers, exclusive of the driver, and fitted with taximeters or using or having some other device, method, or system to indicate and determine the passenger fare paid for distance traveled.

16.90.195 Motor Home.

See Recreational Vehicle.

16.90.200 Motor Vehicle.

Every inanimate vehicle which is self-propelled.

16.90.205 Municipal Terminal.

Any property owned or operated by the Port of Portland for the provision of port services.

16.90.210 Official.

By authority of or recognized by law or code.

16.90.215 Official Vehicle.

Any government vehicle so identified by public registration plates.

16.90.220 Official/Reserved Zone.

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any space adjacent to the curb or edge of the roadway, or on City of Portland owned or operated property, which is exclusively reserved for those vehicles which have been assigned the use of such space through official permits or other means of designation.

16.90.225 Operator.

Any person who is in actual physical control of a vehicle.

16.90.230 Parade.

Any group of persons and/or vehicles moving on a street or streets of the City under permit as herein provided in accordance with a plan or common purpose for a celebration, display, exhibition, show, or advertisement, whether for public, semi-public, or private purposes, but does not include funeral processions or advertising vehicles operating under the provisions of Title 7.

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16.90.235 Park, Parking, or Parked.

The stopping or standing of any vehicle upon any street or highway within the City, whether such vehicle is occupied or not. It does not mean stopping or halting temporarily for less than 30 seconds to load/unload passengers, or in obedience to traffic regulations, signs, signals, or officers.

16.90.240 Parking Lane.

The area between the curb and not more than 8 feet from the curb or curb line or as shown by official street markings. The parking lane is generally intended for vehicle parking. Parking regulations may apply to the parking lane area according to the provisions of Title 16 of the Portland City Code.

16.90.245 Parking Meter.

(Amended by Ordinance Nos. 176394 and 179141, effective March 23, 2005.) A device placed at or near the curb adjacent to the street area, or on City of Portland owned or operated property authorized by the City and designed to register the duration of the parking time and the limit thereof, upon payment by a U.S. coin or a payment card. Parking meter includes a pay station.

16.90.247 Payment Card.

(Added by Ordinance No. 176394, effective April 17, 2002.) A valid credit, debit or stored value card.

16.90.249 Space Reservation Device.

(Added by Ordinance No. 176394; amended by 179141, effective March 23, 2005.) A hood that is secured over a parking meter or a marker that is placed near the curb of the parking space, which contains administrative information on permit holder and regulations.

16.90.250 Pedestrian.

(Amended by Ordinance No. 177028, effective December 14, 2002.) A person afoot; a person operating a pushcart; a person riding on or pulling a coaster wagon, sled, scooter, tricycle, bicycle with wheels less than 14 inches in diameter, or a similar non-motorized vehicle; or on roller skates, skateboard, wheelchair, or a baby in a carriage.

16.90.255 Pedestrian Way.

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility intended for pedestrian movement.

16.90.260 Permanently Exhibit.

To display affixed to a vehicle so that the sign may not be removed from the vehicle without mechanical tools.

16.90.265 Person.

A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

16.90.270 Planting Strip.

The area between the curb or edge of the roadway and an improved sidewalk.

16.90.275 Private Road.

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

16.90.280 Public Right-of-Way.

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

16.90.285 Rail Vehicles.

Any steel-wheeled vehicle(s) propelled on fixed steel rails, including, but not limited to: trolleys; light rail vehicles; and diesel- powered trains.

16.90.290 Recreational Vehicle.

A vehicle which is designed for sport or recreational use, or which is designed for human occupancy on an intermittent basis. Recreational vehicle is divided into two categories as follows:

- A. Motor Home. A motor vehicle designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck.
- B. Accessory Recreational Vehicle. A nonmotor vehicle designed for human occupancy on an intermittent basis such as vacation trailers and fifth-wheel trailers. A camper is considered an accessory recreational vehicle when it is not on the back of a pick-up or truck. Accessory recreational vehicle also includes vehicles designed for off-road use such as off-road vehicles, dune buggies, and recreational boats.

16.90.295 Regulated Parking Zone.

(Amended by Ordinance No. 179141, effective March 23, 2005.) A space adjacent to a curb or curb line, designated by official signs or markings, where special regulations for parking or stopping a vehicle apply in addition to the general parking regulations that apply to all parking areas in the public right-of-way, or on City of Portland owned or operated property.

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16.90.300 Repair (a vehicle).

To perform work on the motor, mechanical, or body parts of a vehicle.

16.90.302 Right-of-Way.

(Added by Ordinance No. 177028, effective December 14, 2002.)

- A. The area between property lines of a street, easement, tract or other area dedicated to the movement of vehicles, pedestrians and/or goods.
- B. A public right-of-way is dedicated or deeded to the public for public use and under the control of a public agency.
- C. A private right-of-way is in private ownership, for use by the owner and those having express or implied permission from the owner, but not by others.

16.90.305 Roadway.

(Amended by Ordinance No. 177028, effective December 14, 2002.) The portion of a street or highway improved for vehicle movement, including any parking lane. On an improved street, the area between the curbs or edge lines of a street.

16.90.310 School Bus.

A motor bus owned or operated by authority of any lawfully recognized school district.

16.90.315 Service (a vehicle).

To perform routine maintenance such as replacing fluids or charging batteries. It does not include repairs to motor or body parts.

16.90.320 Short-Term Parking Meter.

A parking meter with a designated time limit of 4 hours or less.

16.90.325 Shoulder.

The portion of a public street or highway without curbs, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

16.90.330 Sidewalk.

The portion of the street between the curb or lateral lines of the roadway and the adjacent property lines, intended for use by pedestrians. An improved sidewalk is a pedestrian walkway with permanent surfacing in the sidewalk area of a street or highway.

16.90.335 Skateboard.

A board of any material, natural or synthetic, with wheels affixed to the underside, designed to be ridden by a person.

16.90.340 Sled.

Vehicles that do not move exclusively on revolving wheels in contact with the surface of the road or on fixed rails.

16.90.345 Stop, Stopping, or Stopped.

Any halting, even momentarily, of a vehicle, whether occupied or not, except to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

16.90.350 Street or Highway.

(Amended by Ordinance No. 177028, effective December 14, 2002.) The entire width of a right-of-way when any portion thereof is intended for motor vehicle movement or motor vehicle access to abutting property.

16.90.351 Storage Container.

(Added by Ordinance No. 179141, effective March 23, 2005.) A Storage Container in which any material is temporarily stored or collected. For the purposes of Title 16, a storage container will be considered a vehicle in terms of parking provisions and restrictions.

16.90.355 Taxicab.

Any motor vehicle which carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly licensed by the City of Portland as a taxicab.

16.90.360 Tire.

The band of material used on the circumference of a wheel, on the outer face of a track or on a runner of a sled, which forms the tread that comes in contact with the surface of the road, or, if no band is used, then it means the tread or runner of a sled.

16.90.365 Traffic.

(Amended by Ordinance No. 177028, effective December 14, 2002.) Pedestrians, ridden or herded animals, and vehicles, either singly or together, while using any street or highway for purposes of movement or parking.

16.90.370 Traffic Congestion Thoroughfare.

Any portion of a street or highway within the City affected by traffic congestion caused in whole or in part by the repeated driving of the same motor vehicles along or across that portion of the thoroughfare.

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16.90.375 Traffic Control Device.

- A. All signs, signals, markings, and devices consistent with this Title placed or operated by direction of the City Traffic Engineer for the purpose of guiding, directing, warning, or regulating traffic or parking.
- B. Any device that remotely controls by electrical, electronic, sound, or light signal the operation of any device identified in subsection (A) of this definition.

16.90.380 Traffic Control Signal.

Any device, whether manually, electrically, or mechanically operated, by which traffic is directed. An electric traffic control signal is considered inoperative when none of the signal control indications are illuminated.

16.90.385 Traffic Hazard.

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any object, including vehicles, that impede the safe movement of vehicles in the public right-of-way or, on City of Portland owned or operated property.

16.90.390 Traffic Lane.

(Amended by Ordinance No. 177028, effective December 14, 2002.) An area of a street or highway, designated by official signs or markings, as dedicated to the movement of one vehicle at a time.

16.90.392 Transit Mall and Auxiliary Vehicular Lanes.

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall and Auxiliary Vehicular Lanes shall be designated in Section 16.50.110. An emergency is defined in Subsection 17.23.020 E.

16.90.395 Tri-Met Bus.

A motor bus owned or operated by the Tri-Metropolitan Transit District of Oregon.

16.90.400 Trolley or Streetcar.

(Amended by Ordinance No. 175564, effective May 9, 2001.) An electric or diesel powered, steel wheeled rail vehicle, operating on steel rails, used to transport passengers.

16.90.405 Truck.

(Amended by Ordinance No. 179141, effective March 23, 2005.) Every motor vehicle designed, used or maintained primarily for the transportation of property, goods or providing a service, tow truck with passenger plates, step vans, vehicle length or width or height greater than original manufacturer's vehicle dimensions, and meeting the description as defined by DMV registration as a truck, van or pickup.

16.90.410 Truck Trailer.

A vehicle which is not a recreational vehicle or utility trailer, is more than 16 feet in length, and is designed to be pulled by a motor vehicle.

16.90.415 Uncontrolled Intersection.

Any intersection with no official traffic control device to designate vehicular right-of-way.

16.90.420 Utility Trailer.

A vehicle which is used to carry property, refuse, or special equipment, is 16 feet or less in length and is designed to be pulled by a motor vehicle. Boat trailers are included as utility trailers no matter what their length.

16.90.421 Valid Receipt.

(Added by Ordinance No. 179141, effective March 23, 2005.) A parking meter receipt dispensed from a City of Portland Parking Meter device indicating the valid date, time purchased, expiration time, watermark, or any other identifications showing validity of receipt. The receipt issued is valid only in the designated meter district where purchased.

16.90.425 Vehicle.

(Amended by Ordinance No. 177028, effective December 14, 2002.) Every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway. Bicycle is more specifically defined in Section 16.90.025.

16.90.430 Vehicle Alarm System.

Any device, equipment, assembly, or system designed, arranged, or intended to sound an alarm horn, siren, klaxon, or other sound emitting device to signal an entry or attempted entry into, or tampering with, a vehicle.

16.90.435 Vendor.

Any person who conducts business in the public right-of-way or any other public property.

16.90.440 Way.

(Added by Ordinance No. 177028, effective December 14, 2002.) A facility for the movement of pedestrians, vehicles or goods, the specific user or users being determined by modifying words, such as road, bicycle, pedestrian, etc. Path and lane are synonyms for way, and likewise may be given a more specific meaning through use of a specified user or specific definition. See: Roadway, Pedestrian Way, Traffic Lane, Bicycle Path, et. al.

16.90.445 Wheelchair User Disabled Permit/Placard.

(Added by Ordinance No. 186575, effective July 1, 2014.) Any official State-issued disabled person registration plate, placard, permit or decal specifically for the use of a wheelchair or similar low-powered, motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.

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Chapter 17.42

PROPERTY OWNER
RESPONSIBILITY FOR STREETS

(New Chapter added by
Ordinance No. 172051,
effective March 11, 1998.)

Sections:

- 17.42.010 Policy.
- 17.42.020 Maintenance and Construction Responsibility.
- 17.42.025 Maintenance Restrictions.
- 17.42.030 Liability.
- 17.42.040 Definition.

17.42.010 Policy.

(Amended by Ordinance No. 177124, effective January 10, 2003.)

- A. It has been and remains the policy of the City of Portland that streets are constructed at the expense of abutting property owners and are maintained by abutting property owners until street improvements are constructed to the standards of, and accepted for maintenance by, the City. Until a street improvement has been constructed to City standards and the City has expressly assumed responsibility for street maintenance, it is the exclusive duty of the abutting property owners to construct, reconstruct, repair and maintain the unimproved street in a condition reasonably safe for the uses that are made of the street and adjoining properties. Streets that have not been improved to City standards are not and will not be maintained or improved at City expense, except at the discretion of the City and as provided in this Code and the City Charter.
- B. Disputes regarding the condition of the unimproved street are private actions among affected property owners.

17.42.020 Maintenance and Construction Responsibility.

(Amended by Ordinance No. 177124, effective January 10, 2003.) The City assumes no responsibility for maintenance, construction or reconstruction of any street until and unless:

- A. The street has been constructed to City standards and specifications; and

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- B.** The City has expressly accepted maintenance responsibility for the street.

17.42.025 Maintenance Restrictions.

(Added by Ordinance No. 177124; amended by 177750, 184522, 185448 and 186053, effective January 1, 2015.)

- A.** Notwithstanding anything to the contrary in this Title 17, residents and property owners are not required to obtain a permit to maintain public streets abutting their properties if those streets have not been accepted for maintenance by the City or any other jurisdictions, provided the following conditions are met:
- 1.** The travel lane width of the unimproved portion of the street remains the same;
 - 2.** There is no resulting change in existing drainage patterns outside the public right-of-way;
 - 3.** Drainageways located within public rights-of-way are not filled in or otherwise altered in any manner that could impact the flow of water;
 - 4.** The materials used for maintaining the street are equivalent to the existing street materials, except that gravel may be used to resurface a dirt road;
 - 5.** Asphalt, concrete or other man-made materials may not be applied to existing dirt or gravel surfaces, nor may existing dirt or gravel surfaces be converted to a paved surface;
 - 6.** The maintenance activities and resulting condition of the street do not adversely affect surrounding properties;
 - 7.** Trees in the public right-of-way are not removed or pruned unless a tree permit has been obtained as provided in Title 11, Trees; and
 - 8.** Speed bumps or other types of devices intended to slow traffic are not constructed.
- B.** The City Engineer retains final authority to regulate all maintenance and construction activities in the public right-of-way, regardless of whether a permit is required or obtained.
- C.** The City Traffic Engineer retains exclusive authority to establish traffic control devices as provided in Section 16.10.080 and in Section 16.10.200. This includes, but is not limited to, all regulatory, warning, and guide signs, and all types of pavement markings.

17.42.030 Liability.

The owner(s) of land abutting any street that has not been improved to City standards and accepted for maintenance shall be liable for any and all damages to any person who is injured or otherwise suffers damages resulting from the defective condition of the street, or by reason of the property owner's failure to keep the street in safe condition and good repair. Said property owner(s) shall be liable to the City of Portland for any amounts which may be paid or incurred by the City by reason of all claims, judgments or settlements, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of said property owners' failure to satisfy the obligations imposed by the Charter and Code of the City of Portland to maintain, construct and repair such streets.

17.42.040 Definition.

(Amended by Ordinance No. 173369, effective May 12, 1999.) As used in this chapter, the term "street" is defined as provided in Section 17.04.050 of the City Code and includes any drainage facilities associated with the street, and any structures in the dedicated street area. It also includes the run-off from any street where no drainage facilities have been constructed.

Chapter 17.46

PUBLICATION BOXES

(Chapter replaced by Ordinance No. 186965,
effective February 6, 2015.)

Sections:

- 17.46.010 Definitions.
- 17.46.020 Publication Boxes within the Right-of-Way.
- 17.46.030 Limitations on Publication Box Placement.
- 17.46.040 Co-located Publication Boxes.
- 17.46.050 Maintenance Requirements.
- 17.46.060 Enforcement.
- 17.46.070 Liability.
- 17.46.080 Appeal.

17.46.010 Definitions.

- A.** “**Abandoned Publication Box**” means a Publication Box (including a Co-located Publication Box) that has remained empty for 30 or more days. The basis for the conclusion that the Publication Box has not been stocked with new materials for 30 days or more shall be documented in the enforcement records.
- B.** “**ADA Ramp**” means a combined ramp and landing to accomplish a change in level at a curb in order to provide access to pedestrians using wheelchairs.
- C.** “**Co-located Publication Box**” means a Publication Box designed to dispense two or more different Publications.
- D.** “**Crosswalk**” means any Crosswalks either “marked” or “unmarked”. A “marked crosswalk” is any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway. An “unmarked crosswalk” is the imagined extension of a sidewalk or shoulder across a street at an intersection. An unmarked crosswalk exists at all intersections unless specifically marked otherwise.
- E.** “**Distributor**” means a person responsible for placing, installing, or maintaining a Publication Box.
- F.** “**Publication Box**” means a free standing self-service or coin-operated box, container, or other dispenser installed, used, or maintained on the Sidewalk or

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public Right-of-Way for the sale or distribution of newspapers, periodicals, or other Publications to the general public.

- G.** “**Person**” means any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.
- H.** “**Publication**” means any printed material.
- I.** “**Right-of-Way**” means property subject to public use for existing or future streets, curbs, planting strips, or sidewalks. Property subject to a right-of-way may be through an express, implied, or prescriptive easement granted to or controlled by the city or other public entity or may be owned by the city or other public entity in fee simple or other freehold interest. The Portland Bureau of Transportation, as stewards of the right-of-way, administers and regulates use of the public right-of-way on behalf of the City.
- J.** “**Sidewalk**” means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians.
- K.** “**Street**” means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.
- L.** “**Through Pedestrian Zone**” means the area intended for pedestrian travel as defined by the Portland Pedestrian Design Guide.
- M.** “**Transit Platform**” means any Portland StreetCar platform or TriMet bus stop, bus layover zone or light rail station platform. This definition applies (but is not limited to) transit facilities located on public or private streets, in transit centers and on the Transit Mall.

17.46.020 Publication Boxes within the Right-of-Way.

Publication Boxes may be placed within the Right-of-Way as allowed by this Chapter.

17.46.030 Limitations on Publication Box Placement.

- A.** All Publication Boxes must be placed on a Sidewalk, parallel to the curb and face the Through Pedestrian Zone.
- B.** Publication Boxes which meet all of the requirements of this code may be chained to a sign post, street light or signal/utility pole. If the sign post, street light or signal/utility pole is painted a plastic or rubber coated steel chain/cable is required. The distance between the Publication Box and the sign post, street light, or signal/utility pole shall be no more than 6 inches. If the sign post, street light,

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or signal/utility pole is not owned by the City of Portland then the written permission of the owner of such property is required.

- C.** Publication Boxes may not be fastened in any way to street furniture, public art, bicycle racks or street trees.
- D.** Publication Boxes placed within the right-of-way shall be located in groupings with a combined length of no greater than 10 feet, immediately abutting one another. At least 20 feet must be left clear of Publication Boxes between groupings of Publication Boxes along the same block face.
- E.** The maximum height of any Publication Box shall be 50 inches. The maximum width of any Publication Box shall be 24 inches. The maximum depth of any such publication box shall be 24 inches.
- F.** Publication Boxes cannot be located:
 - 1. within a traffic island, median or traffic circle;
 - 2. within 5 feet of any Crosswalk;
 - 3. within 5 feet of a fire hydrant;
 - 4. within 5 feet of a drinking fountain;
 - 5. within 5 feet of any public art;
 - 6. within 5 feet of any driveway, alley, or curb cut;
 - 7. within 5 feet of any portion of an ADA Ramp;
 - 8. within 5 feet of a marked disabled parking space;
 - 9. within 5 feet of a marked loading or taxi zone;
 - 10. within a Transit Platform unless allowed by Portland StreetCar or TriMet;
 - 11. at any distance less than 2 feet from the street side face of the curb, measured to the side of the Publication Box closest to the curb;
 - 12. within the corner of two intersecting sidewalk corridors, as determined by the adjacent property lines extended;

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13. where the unobstructed Through Pedestrian Zone is less than 8 feet within Pedestrian Districts and City Walkways, or 6 feet on all other sidewalks. (Sidewalk classification for this purpose shall be determined pursuant to the City's Transportation System Plan);
14. where the Publication Box may cause damage to any landscaping, including but not limited to lawn, flowers, shrubs or trees;
15. where the Publication Box may cause damage to or interfere with the use of pipes, vault areas, telephone or electrical cables/wires or other utility facilities;
16. on any grating, manhole cover or access lid;
17. where the Publication Box obstructs access to parked vehicles;
18. where the Publication Box obscures any fixed regulatory or informational sign.

17.46.040 Co-located Publication Boxes.

- A. A Person may install a Co-located Publication Box, at the Person's own expense, in compliance with all of the following conditions:
 1. Placement of the Co-located Publication Box complies with all sections of this Chapter and all required permits have been obtained (per TRN-8.08);
 2. The proposed Co-located Publication Box provides sufficient compartments for distribution of all Publications being distributed within 175 feet of the proposed location for the Co-located Publication Box as of the date of installation of the Co-located Publication Box; and
 3. The Co-located Publication Box permittee agrees in writing as a condition of issuance of a permit to be responsible for ensuring compliance with the maintenance requirements of this Chapter for the Co-Located Publication Box.
 4. A person who installs a Co-located Publication Box may not charge a Distributor for distribution of its Publication from the Co-located Publication Box.
- B. Once a Co-located Publication Box has been installed, no freestanding Publication Boxes may be placed within 175 feet of the Co-located Publication Box. If the Co-located Publication Box is full, a Distributor who wishes to

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distribute a Publication at that location may do so by installing, at its own expense, an additional identical Co-located Publication Box immediately adjacent to the existing Co-located Publication Box. The additional Co-located Publication Box must comply with all other requirements of this chapter for placement of Co-located Publication Box. Once installed the maintenance and management will be the responsibility of the permittee of the existing Co-located Publication Box.

- C.** No permittee of a Co-located Publication Box shall accept anything of value for the display of any speech or image on the Co-located Publication Box. The Distributor may display the publication within the window to which that box is assigned in the Co-located Publication Box. The Distributor may also display any speech or image of its choice, limited to no more than 4 inches in height, on each of the following: the front, side, back and door of the Co-located Publication Box. No other speech or image may be displayed with the exception of the notice required by, Subsection 17.46.050 B.
- D.** Co-located Publication Boxes shall be black in color and the design shall be similar to existing Co-located Publication Boxes installed around Pioneer Courthouse Square. Co-located Publication Boxes within design districts may be subject to Design Review and through that process may be allowed to vary in standard color or other elements.

17.46.050 Maintenance Requirements.

- A.** Each Publication Box charging a fee shall be equipped with a coin return mechanism to permit the person using the machine to secure an immediate refund in the event she/he is unable to receive the Publication paid for. The coin return mechanisms shall be maintained in good working order. (Does not apply to Publication Boxes used for distributing free Publications.)
- B.** Each Publication Box shall have affixed to it in a readily visible place so as to be seen by anyone using the Publication Box a notice setting forth the name and business address of the Distributor and the telephone number of a working telephone service to call to report a violating condition, a malfunction, or to secure a refund in the event of a malfunction of the coin return mechanism. In a Co-located Publication Box the required information shall be for the permittee of the box.
- C.** Each Publication Box shall be sufficiently weighted, or attached to a sign post, street light or signal/utility pole as per, Subsection 17.46.030 B., or to another Publication Box to provide stability and safety.

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- D.** Publication Boxes may not have free-flying materials attached to them, such as balloons, windsocks, papers, etc.
- E.** Each Publication Box shall be maintained in a neat and clean condition and in good repair at all times. Specifically, each Publication Box shall be serviced and maintained so that:
 - 1.** it is reasonably free of dirt and grease;
 - 2.** it is reasonably free of chipped, faded, peeling and cracked paint;
 - 3.** it is reasonably free of rust and corrosion;
 - 4.** it is reasonably free of graffiti, litter and other debris;
 - 5.** clear plastic or glass parts are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
 - 6.** paper or cardboard parts or inserts are reasonably free of tears, peeling or fading;
 - 7.** structural parts are not broken or unduly misshapen.

17.46.060 Enforcement.

- A.** If a Publication Box (including a Co-located Publication Box) is found to be in violation of any section of this Chapter, an attempt will be made to contact the permittee of a Co-located Publication Box, or the Distributor of the Publication Box to provide notification of the violation. In the event the city is unable to contact the permittee or Distributor after 15 days of noted violation, the Publication Box (including a Co-located Publication Box) will be deemed Abandoned.
- B.** Violations that are not corrected within 15 days of notification will be subject to fine per the Transportation Fee Schedule (per TRN-3.450).
- C.** Publication Boxes (including a Co-located Publication Boxes) with violations that go uncorrected for 30 days after notification, as well as Publication Boxes (including a Co-located Publication Boxes) that remain empty for a period of 30 consecutive days, shall be deemed Abandoned and may be removed by the City. The City will store all removed Publication Boxes (including a Co-located Publication Boxes) for 3 months, during which time the permittee of a Co-located Publication Box, or the Distributor of the Publication Box may redeem them after paying any outstanding fines, penalties and storage fees. After 3 months, the City

may auction, sell, or dispose of any Publication Boxes (including a Co-located Publication Boxes) that is not redeemed from storage.

17.46.070 Liability.

- A.** The Distributor of any Publication Box shall be liable for any and all damages to any Person who is injured or otherwise suffers damages resulting from the placement of a Publication Box within the Right-of-Way, or by reason of the Distributor's failure to keep the Publication Box in safe condition and good repair. Said Distributor(s) shall be liable to the City of Portland for any amounts which may be paid or incurred by the City by reason of all claims, judgments or settlements, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of said Distributor(s)' failure to satisfy the obligations imposed by the Charter and Code of the City of Portland to maintain and repair such Publication Box.

- B.** The adjacent property owner shall not be liable for any damages to any Person who is injured or otherwise suffers damages resulting from the placement of a Publication Box directly adjacent to their property.

17.46.080 Appeal.

Any permittee of a Co-located Publication Box, or the Distributor of the Publication Box aggrieved by the City's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of \$250 for any appeal pursuant to this Section. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.

Chapter 17.48

MOVING BUILDINGS

Sections:

- 17.48.010 Permit Required.
- 17.48.020 Application and Fee Deposit.
- 17.48.030 Moving Permit.
- 17.48.040 Regulations.
- 17.48.050 Cutting Wires in Moving Operation.

17.48.010 Permit Required.

(Amended by Ordinance No. 140207, effective Aug. 1, 1975.) It is unlawful for any person to move any building or structure through any street or to occupy any portion of any street for the removal of any building or structure, without first obtaining a permit as provided in this Chapter and paying the fees elsewhere prescribed in Section 17.24.020.

17.48.020 Application and Fee Deposit.

(Amended by Ordinance No. 140207, effective Aug. 1, 1975.) Application for a permit for moving a building or structure shall be in writing, shall state the number of the lot and block upon which the building is located, the size of the building, the number of the lot and block to which it is proposed to remove the same, the route proposed to be taken, the length of time required for moving, and the name of the owner of the building or structure. Each application shall be accompanied by a fee as prescribed in Section 17.24.020. The application fee is nonrefundable and is in addition to the permit issuance fee, which shall be collected prior to the issuance of the permit.

17.48.030 Moving Permit.

(Amended by Ordinance Nos. 140207, 173627, 180917, 182389, 182760, 184957, 184522, 185448, 186053 and 186900, effective January 1, 2015.)

- A.** When a building to be moved does not exceed three stories in height, the Director of the Bureau of Transportation may issue a moving permit, fixing the route to be used for the move, with the prior approval of the Traffic Engineer of the route, and upon the terms as he or she may deem necessary. The Director of the Bureau of Transportation shall keep a copy of the permit so issued.
- B.** When a building to be moved exceeds three stories in height, any permit for moving shall be issued by the Council by ordinance. The Ordinance shall set forth any conditions upon the moving which may be deemed necessary and which are not provided for in this Chapter, and shall set forth the Director of the Bureau of Transportation's estimate of the cost to the City of issuing the permit,

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investigating the application, and supervising the moving, to be paid by the applicant for permit as a part of the fee elsewhere prescribed in Section 17.24.020.

- C.** No moving permit shall be issued until the applicant shall have filed with the Auditor an insurance policy or certificate of insurance and form of policy for public liability insurance naming as additional insured's the City, its officers, agents and employees, in the amounts of at least \$1,000,000 (one million dollars), or the maximum limits of the Oregon Tort Claims Act as subsequently amended, whichever is greater; the insurance shall also contain a provision that it shall not be cancelable during the term of the permit.
- D.** A moving permit shall not be issued until the applicant has deposited with the Treasurer a sum sufficient, in the judgment of the Director of the Bureau of Transportation, to cover the cost of repairing any and all damage or injury to street or streets, or the improvements therein including street trees, which may result from the moving operation, and also such sums as the Bureau of Transportation and Portland Fire & Rescue, and any other City bureau involved, may require to cover the cost of moving, repairing, restoring or replacing any wires, signals, trees or other properties or installations which may be necessary in preparation for or in consequence of any moving operation. Upon completion of the moving operation, the bureau or bureaus which may have required such deposit and the Director of the Bureau of Transportation shall submit to the Treasurer a statement of the costs of any operations, repairs or replacements occasioned by or as the result of the moving operation, and other information as the Treasurer may request, in order to reimburse the proper account from the money so deposited, and shall authorize the Treasurer in writing to refund the remaining portion of such deposit, if any, to the depositor. If the cost exceeds the amount deposited, the depositor shall promptly reimburse the affected bureau or bureaus for such additional cost.

17.48.040 Regulations.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) The moving of a building or structure under a moving permit shall be continuous day-by-day during all the hours specified by the Director of the Bureau of Transportation until completed, with the least possible obstruction to the streets occupied. It is unlawful for any person moving a building or structure under a moving permit to leave said building or structure or any portion thereof stationary in the street, road or highway area for a period in excess of 2 hours during the hours of the day specified by the Director of the Bureau of Transportation, unless an emergency exists by reason of unforeseen difficulties encountered in cutting wires, trees, or removing obstructions in the course of the route selected. Removal and pruning of trees shall be conducted in accordance with the City Forester's requirements including the need to obtain tree permits. All movement in the street area must be completed within an elapsed time of 36 hours unless application is made for a longer period of time and permission specifically granted therefore by the

Chapter 17.52

TREES

(Chapter replaced by Ordinance No. 186900,
effective January 1, 2015.)

Sections:

- 17.52.010 Relationship to Other City Regulations.
- 17.52.020 Tree Tubs.

17.52.010 Relationship to Other City Regulations.

Specifications and responsibilities for maintenance of trees with regard to public improvements are found in Chapter 11.60 of Title 11, Trees.

17.52.020 Tree Tubs.

Any person desiring to place a tub or receptacle for a tree or shrub on top of the paved or hard surfaced portion of street area shall first apply to the Director of the Bureau of Transportation for a permit. The permit may be issued by the Director of the Bureau of Transportation under such safeguards and conditions as the Director of the Bureau of Transportation and the City Attorney may find necessary or appropriate to protect the public safety and to protect the City against claims of liability. The permit may be revoked by the Director of the Bureau of Transportation for any violation of conditions or terms of the permit, or for neglect of the plantings or abandonment of use. After revocation, it is unlawful for the permittee or permittee's successor in Title to the abutting property to allow the tub or receptacle to remain in street area.

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PARKS & RECREATION**

Chapter 20.04

GENERAL PROVISIONS

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

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PERMITS

- 20.08.010 Permits Required for Park Uses.
- 20.08.020 Applications; Reservation Center to Promulgate Policies and Procedures.
- 20.08.030 Permits to be Exhibited.
- 20.08.040 Permits Subject to Ordinances and Regulations.
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- 20.08.060 Prohibited Conduct at Permitted Events.
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PROHIBITED CONDUCT

- 20.12.010 Purpose of Establishing Prohibited Conduct.
- 20.12.020 Soliciting for or Conducting Business.
- 20.12.030 Unlawful Urination or Defecation.
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- 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.
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- 20.12.160 Unlawful Use of River Frontage Along Park Property.
- 20.12.170 Use of Certain Devices or Equipment.
- 20.12.180 Remote Control Vehicles, Aircraft and Watercraft.
- 20.12.190 Emergency Park Closure.
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Chapter 20.50	COLUMBIA SOUTH SHORE SLOUGH TRAIL
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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

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- 5.** Parking areas with 5 parking spaces or fewer AND within 15 feet of a residential property.
- 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.
- 20.12.150 Fishing and Bathing.
- 20.12.160 Unlawful Use of River Frontage Along Park Property.
- 20.12.170 Use of Certain Devices or Equipment.
- 20.12.180 Remote Control Vehicles, Aircraft and Watercraft.
- 20.12.190 Emergency Park Closure.
- 20.12.200 Trespassing and Areas Closed to the Public.
- 20.12.210 Hours of Park Closure.
- 20.12.220 Condition of Parole or Probation or Other Judicial Order.
- 20.12.225 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.

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.)

- 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,

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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 shrub, fern, plant, flower, or other vegetation. No person shall plant, prune, remove, destroy, break, injure, mutilate, or deface in any way in any Park any tree without a permit from the City Forester under the provisions of Title 11. This provision shall not prohibit authorized work done for, by or on behalf of the City.

- 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.

(Amended by Ordinance No. 187020, effective March 20, 2015.)

- 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;

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- 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 smoke or use tobacco in any form in any place in any Park. For purposes of this Section, smoking and tobacco are defined to include, but are not limited to: bidis, cigarettes, cigarillos, cigars, clove cigarettes, e-cigarettes, nicotine vaporizers, nicotine liquids, hookahs, kreteks, pipes, chew, snuff, smokeless tobacco, and marijuana.
 - D. Notwithstanding the prohibitions contained in this Section, golf tournaments may apply for a permit to allow smoking and tobacco use in designated areas at City golf courses.
 - E. The Director, in consultation with the Commissioner in Charge, in a manner consistent with the City's Human Resource Administrative Rules, may establish designated smoking and tobacco use areas for Parks employees for whom there is no reasonably available non-parks property where smoking and tobacco use is allowed.
 - F. Smoking of noncommercial tobacco products for ceremonial purposes in spaces designated for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996, as well as for similar religious ceremonial uses for other cultural groups shall be permitted. "Noncommercial tobacco products" means unprocessed tobacco plants or tobacco by-products used for ceremonial or spiritual purposes by Native Americans.
 - G. Following Portland City Council approval, there will be a five-month grace period to educate the public about the policy. Starting July 1, 2015, while any violation of a City Code is a misdemeanor which could lead to citation, the primary method of enforcement will be education. Patrons who refuse to comply with the policy may also be subject to a parks exclusion. Enforcement will be administered by PP&R staff and other Park Officers who have the authority to enforce park rules.

20.12.140 Animals.

(Amended by Ordinance No. 186008, effective May 31, 2013.)

- 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

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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.
- 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.

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- 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.
- L.** Notwithstanding any other provision of this Code, any person violating Subsections 20.12.120 B., E., F. or H. is subject only to a civil penalty not to exceed \$150 for each violation. Any person assessed a civil penalty under this Subsection may appeal the citation to the Code Hearings Officer in accordance with the provisions of Title 22 of this Code.

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 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,

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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:
 - 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

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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 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 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

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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 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;

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- 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 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

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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 Nos. 139221 and 186275, effective November 1, 2013.) 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/her 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. Employees hired after August 31, 2013 will not be granted this certificate.

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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.

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**

(Chapter repealed by Ordinance No. 186795,
effective October 3, 2014.)

Chapter 20.28

**RENTAL CHARGES FOR CIVIC
STADIUM**

(Chapter repealed by Ordinance No. 186795,
effective October 3, 2014.)

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 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

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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:

- A. Alcoholic beverages served by a licensed and insured caterer; or

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- 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 repealed by Ordinance No. 184522;
delayed by Ordinance No. 185448 and 186053,
effective January 1, 2015.)

Chapter 20.42

TREE CUTTING

(Chapter repealed by Ordinance No. 184522;
delayed by Ordinance No. 185448 and 186053,
effective January 1, 2015.)

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.)

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.

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BUILDING REGULATIONS**

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TITLE 24
BUILDING REGULATIONS

24.15.110 Inspections Manager.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Inspections Manager is the Director's duly authorized representative responsible for the administration of the Inspections Division of the Bureau of Development Services.

24.15.115 Master Permit/Facilities Permit Program.

(Added by Ordinance No. 172431; amended by Ordinance No. 173973, effective January 1, 2000.) The Master Permit/Facilities Permit program is a special alternative inspection program authorized under Oregon Revised Statute 455.190. This program is available to commercial/industrial building owners and building management companies to streamline the approval of maintenance/repair and tenant improvement work on their private facilities.

24.15.120 Owner.

Owner is any person, agent, firm, or corporation having a legal or equitable interest in a property.

24.15.130 Repair.

Repair is the reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

24.15.140 Residential Structure.

Residential structure means any building or other improvements designed or intended to be used for residential purposes.

24.15.150 Requested Inspection.

Requested inspection means any additional inspection which is not part of the City's regular or mandated inspection program.

24.15.160 Service Station Site.

(Amended by Ordinance No. 169905, effective Apr. 1, 1996.) A service station site shall mean premises improved as a Group S, Division 3, occupancy for use as automobile or truck service stations used for supplying fuel, oil, minor accessories, and trailers, excluding body and fender repair for passenger automobiles, trucks, and truck trailers at retail direct to the customer.

24.15.170 Substandard.

Substandard means in violation of any of the minimum requirements as set out in this Title.

24.15.180 Special Inspector.

Definition to be added.

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24.15.190 Subject Structure.

(Amended by Ordinance No. 176955, effective October 9, 2002.) A subject structure is any abandoned, unsafe, or dangerous structure upon which the Bureau of Development Services has commenced abatement proceedings.

24.15.200 Structure.

A structure is that which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.

24.15.210 Swimming Pool.

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

24.15.215 Tree Removal.

(Added by Ordinance No. 168340; amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.) Tree Removal shall have the same meaning as “removal” as defined in Title 11 Trees.

24.15.220 Unoccupied.

(Added by Ordinance No. 162525; amended by 168901, effective June 6, 1970.) Not being used for a lawful occupancy.

24.15.230 Unsafe.

Means:

- A.** Any structure which is structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard or is otherwise dangerous to human life.
- B.** Unsafe use is any use of structures constituting a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment.
- C.** Unsafe appendages are parapet walls, cornices, spires, towers, tanks, statuarities, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Oregon State Structural Specialty and Fire and Life Safety Code.

24.15.240 Unsecured.

(Added by Ordinance No. 162525, amended by 168901, June 7, 1995.) Any building or structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

24.65.020 Number of Sidewalk Vault Openings.

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

24.65.030 Sidewalk Elevators.

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

24.65.040 Operation of Sidewalk Elevator.

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

24.65.050 Plans Required.

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

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Chapter 24.70

CLEARING AND GRADING

(Chapter amended by Ordinance No. 184522, 185448 and 186053,
effective January 1, 2015.)

Sections:

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

24.70.010 General.

(Amended by Ordinance Nos. 165678, 168340, 184522, 185448 and 186053, effective January 1, 2015.) The provisions of this Chapter shall regulate clearing, grading and earthwork construction on private property. Tree removal, whether associated with clearing, grading, earthwork construction or conducted separately shall be regulated pursuant to Title 11, Trees. Erosion control is regulated by Title 10.

24.70.020 Permits.

(Amended by Ordinance Nos. 165678, 168340 172209, 173532, 173979, 184522, 185448 and 186053, effective January 1, 2015.) Permits for clearing and grading are required as specified in this Section. Where a specific activity does not require a clearing or grading permit, a separate tree permit may still be required, as specified in Title 11 Trees. Where a clearing or grading development permit shows trees to be removed and has been reviewed and approved by the City, a separate tree permit is not required in conjunction with the clearing or grading permit. An erosion, sediment and pollutant control plan if required by Title 10 shall be submitted with clearing or grading permit applications. Applicants for permits made in conjunction with land divisions shall be responsible for all clearing, grading, tree removal and erosion control within the land division, even where a specific activity is exempt from an individual permit.

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- A.** Clearing Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for clearing activities in the following areas:
1. The Tualatin River sub-basins, Johnson Creek Basin Plan District, environmental zones, greenway zones, or natural resource management plans; or
 2. Property larger than five acres. Except that no permit shall be required for clearing an area less than 5,000 square feet.
- B.** Grading Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for all grading operations with the exception of the following:
1. Grading in an area, where in the opinion of the Director, there is no apparent danger, adverse drainage, or erosion effect on private/public property, or inspection is not necessary;
 2. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.
 3. Cemetery graves.
 4. Refuse disposal sites controlled by other regulations.
 5. Excavations for wells or tunnels.
 6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
 7. Exploratory excavations under the direction of soil (geotechnical) engineers or engineering geologists.
 8. An excavation which
 - a. Is less than 2 feet in depth, or
 - b. Which does not create a cut slope greater than 5 feet in height and steeper than 1-1/2 horizontal to 1 vertical.

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9. A fill less than 1 foot in depth, and placed on natural terrain with a slope flatter than 5 horizontal to 1 vertical, or less than 3 feet in depth, not intended to support structures, which does not obstruct a drainage course and which does not exceed 10 cubic yards on any one lot.
- C. Tree Removal. Removal of trees six-inches and larger in diameter shall be reviewed with the clearing or grading permits as part of the Tree Plan review pursuant to Title 11. When removing 5 or more trees on a site with an average slope of at least 20 percent, applicants shall provide a geotechnical engineering report that assesses the stability of the site after tree felling and root grubbing operations.
- D. Permits required under this Chapter shall be obtained before the commencement of any tree removal, root grubbing or soil disturbance takes place.

24.70.030 Hazards.

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

24.70.040 Special Definitions.

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

- A. “**Approval**” shall mean a written engineering or geological opinion concerning the progress and completion of the work.
- B. “**As graded**” is the surface conditions exposed on completion of grading.
- C. “**Bedrock**” is in-place solid rock.
- D. “**Bench**” is a relatively level step excavated into earth material on which fill is to be placed.
- E. “**Borrow**” is earth material acquired from an off-site location for use in grading on a site.

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

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

24.70.050 Information on Plans and in Specifications.

(Amended by Ordinance Nos. 173532, 184522, 185448 and 186053, effective January 1, 2015.) Plans and specifications shall be submitted in accordance with Section 24.10.070 and in addition shall comply with the following:

- A.** Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Title and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.
The plans shall include the following information.
 - 1.** General vicinity of the proposed site.
 - 2.** Property limits and accurate contours of existing ground and details of terrain and area drainage for the site and surrounding area.
 - 3.** Limiting dimensions, elevations, or finish contours to be achieved by the grading and the proposed drainage channels and related construction.

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

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- B.** Issuance. Section 24.10.070 is applicable to grading permits. The Director may require that:
- 1.** The amount of the site exposed during any one period of time be limited; and
 - 2.** Grading work be scheduled to avoid weather periods or avoid critical habitat use periods for areas existing on, or adjacent to, the development site.

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

24.70.060 Bonds.

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

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

24.70.070 Cuts.

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

24.70.080 Fills.

- A.** General. Unless otherwise recommended in the approved soil engineering report fills shall conform to the provisions of this Section.
In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures. Such fills shall be subject to review at the discretion of the Director.
- B.** Ground preparation. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top-soil, and other unsuitable materials scarifying to provide a bond with the new fill, and where slopes are steeper than 5

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to 1, and the height greater than 5 feet, by benching into competent material or sound bedrock as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 5 to 1 shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut the bench under the toe of a fill shall be at least 10 feet wide but the cut must be made before placing fill and approved by the soils engineer and engineering geologist as a suitable foundation for fill. Unsuitable soil is soil which in the opinion of the Director or the civil engineer or the soils engineer or the engineering geologist, is not competent to support either soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.

- C.** Fill material. Only permitted material free from tree stumps, detrimental amounts of organic matter, trash, garbage, sod, peat, and similar materials shall be used. Rocks larger than 6 inches in greatest dimension shall not be used unless the method of placement is properly devised, continuously inspected, and approved by the Director.
The following shall also apply:
1. Rock sizes greater than 6 inches in maximum dimension shall be 10 feet or more below grade, measured vertically.
 2. Rocks shall be placed so as to assure filling all voids with fines. Topsoil may be used in the top 12-inch surface layer to aid in planting and landscaping.
- D.** Compaction of fill. All fills shall be compacted to a minimum relative dry density of 90 percent as determined in accordance with ASTM Standard D-1557-78. Field density verification shall be determined in accordance with ASTM Standard D-1556-82 or equivalent and must be submitted for any fill 12 inches or more in depth where such fill may support the foundation for a structure. A higher relative dry density, or additional compaction tests, or both, may be required at any time by the Director.
- E.** Fill slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 2 horizontal to 1 vertical.
- F.** Drainage and terracing. Drainage and terracing shall be provided and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section 24.70.100.

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24.70.090 Setbacks.

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

24.70.100 Drainage and Terracing.

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

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

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

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

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

- D.** Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainageway or approved stormwater management facility, as approved by the Director and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.

Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, unless waived by the Director.

Exception: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

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

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

24.70.110 Erosion Control.

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

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24.70.120 Grading Inspection.

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

Soil engineering and engineering geology reports shall be required as specified in Section 24.70.050. During grading all necessary reports, compaction data, and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Director by the soil engineer and the engineering geologist. The soil engineer’s area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish

slopes, and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.

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

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

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

24.70.130 Completion of Work.

- A.** Final reports. Upon completion of the rough grading work and that final completion of the work the Director may require the following reports and drawings and supplements thereto:
 - 1.** An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and locations and elevations of all surface and sub-surface drainage facilities. He shall provide approval that the work was done in accordance with the final approved grading plan.

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2. A Soil Grading Report prepared by the soil engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. He shall provide approval as to the adequacy of the site for the intended use.
 3. A Geological Grading Report prepared by the engineering geologist including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. He shall provide approval as to the adequacy of the site for the intended use as affected by geological factors.
- B.** Notification of completion. The permittee or his agent shall notify the Director when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted.

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- KKK. Sink.** A fixed basin connected to hot and cold running water and a drainage system and primarily used for the preparation of food and the washing of cooking and eating utensils.
- LLL. Sleeping Room.** Any room designed, built, or intended to be used as a bedroom as well as any other room used for sleeping purposes.
- MMM. Stagnant Water.** Any impoundment of water in which there is no appreciable flow of water through the impoundment and the level of water does not vary during any 48-hour period.
- NNN. Street.** Includes any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, walk, public thoroughfare or public way, and any land over which a right of way has been obtained, or granted and accepted for any purpose of public travel, including all area between property lines, and area dedicated to street use.
- OOO. Structure.** That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.
- PPP. Summary Abatement.** Abatement of a nuisance by the City, or by a contractor hired by the City, without obligation to give prior notice of the abatement action to the owner or occupant of the property.
- QQQ. Supplied.** Installed, furnished or provided by the owner or operator.
- RRR. Swimming Pool.** Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above ground and on-ground swimming pools, hot-tubs and spas.
- SSS. Toilet.** A flushable plumbing fixture connected to running water and a drainage system and used for the disposal of human waste.
- TTT. Toilet Compartment.** A room containing only a toilet or only a toilet and lavatory.
- UUU. Transient Occupancy.** Occupancy of a dwelling unit in a hotel where the following conditions are met:
1. Occupancy is charged on a daily basis and is not collected more than six days in advance;
 2. The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy;

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3. The period of occupancy does not exceed 30 days; and
4. If the occupancy exceeds five days, the resident has a business address or a residence other than at the hotel.

VVV. Two-Family Dwelling. See Dwelling Classifications.

WWW. Unsecured. Any structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

XXX. Vehicle. Any device in, on, upon, or by which any person or property is or may be transported or drawn upon a public highway, except a device moved by human power or used exclusively upon stationary rails or tracks, including but not limited to a body, an engine, a transmission, a frame, or other major part.

YYY. Warehousing. Securing a structure against vandalism, deterioration, and unauthorized entry pending its return to active use or occupancy.

ZZZ. Yard. An open, unoccupied space, other than a court, unobstructed from the ground to the sky, and located between a structure and the property line of the lot on which the structure is situated.

Chapter 29.20

PROPERTY NUISANCES

Sections:

- 29.20.010 Outdoor Maintenance Requirements.
- 29.20.020 Other Endangering Conditions.
- 29.20.030 Nuisance Defined, Summary Abatement Authorized

29.20.010 Outdoor Maintenance Requirements.

(Amended by Ordinance Nos. 176381, 180330, 183534, 184522, 185448 and 186053, effective January 1, 2015.) It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

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- A. Holes, tanks, and child traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.
- B. Unsecured structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any structure so as to prevent access by unauthorized persons through such openings.
- C. Rat harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.
- D. Emergency access routes.** Remove and keep removed all brush, vines, overgrowth and other vegetation located within 10 feet of a structure or within 10 feet of a property line which is likely to obstruct or impede the necessary passage of fire or other emergency personnel.
- E. Thickets that conceal hazards.** Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:
1. Concealing trash and debris; or
 2. Creating rat harborage; or
 3. Creating harborage for people involved in criminal activity or for products used for criminal activity.
- F. Overgrown lawn areas.** Cut and remove and keep cut and removed all weeds and grass that are located in lawn areas and have a prevailing height of more than 10 inches.
- G. Nuisance Plants.** Eradication, as defined in 29.10.020 V., is required of all plants identified on the Nuisance Plants List. The Director shall adopt administrative rules detailing implementation and enforcement of this provision.
- H. Trash and debris.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:
1. All garbage, offal, dead animals, animal and human waste, and waste materials (All garbage shall be stored as specified in Section 29.30.140);

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2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
 3. All dead bushes, dead trees, and stumps with the exception of such material which:
 - a. Is being maintained as part of a naturescaped property;
 - b. Does not result in a nuisance as otherwise defined in this chapter; and
 - c. Is located on a property which is otherwise substantially in compliance with this chapter;
 4. All trees which are dead, dying or dangerous and are determined by the City Forester or a private certified arborist to require removal in order to safeguard people or property per the provisions in Title 11;
 5. Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and
 6. Accumulations of clothing and any other items not designed for outdoor storage.
- I. Storage of non-trash items.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:
1. Accumulations of wood pallets.
 2. Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. Elmwood which is infected with Dutch Elm Disease must be properly disposed of at the direction of the City Forester, per the provisions in Title 11, Trees.
 3. Accumulations of vehicle parts or tires.
 4. All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.

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5. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.
 6. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.
 7. All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.
 8. All other non-trash items which:
 - a. Are of a type or quantity inconsistent with normal and usual use; or
 - b. Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.
- J. Disabled vehicles.** Neither store nor permit the storing of a disabled vehicle for more than 7 days unless the vehicle is enclosed within a legally permitted building or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the City. Removal and disposition of such disabled vehicles shall be in accordance with the provisions of Section 16.30.320, 16.30.340, 16.30.350 and 16.30.500 of the Code to the extent that such provisions are applicable.
- K. Obstructions to sidewalks, streets, and other rights of way.** Keep the adjacent rights of way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, unless specifically authorized by permit or ordinance to do otherwise. This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights of way referenced in this subsection to meet the following minimum clearances:
1. **Sidewalks.** All sidewalks must be clear of obstructions by earth, rock, or vegetation from edge to edge and to an elevation of 7-1/2 feet above sidewalk level. For example, bushes that encroach on or over any part of a sidewalk area must be cut back or removed and limbs of trees that project over the sidewalk area at an elevation of less than 7-1/2 feet above the sidewalk level must be removed. Pruning Street Trees and tree removal is subject to the requirements of Title 11, Trees.

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2. **Improved streets.** On any improved street designated as a Regional Trafficway, Major City Traffic Street, District Collector, or a one-way street where parking has been prohibited, branches must be trimmed to a height of 14 feet above the crown of the street. Moreover any other improved streets must be clear of obstructions to vehicle movement and parking from edge to edge and to an elevation of 11 feet above street level. For example, bushes that encroach on or over any part of a street must be cut back or removed; limbs of trees that project over a street at an elevation of less than 11 feet above street level must be removed; and no wires or other things shall be maintained over the street level at any elevation less than 11 feet. Pruning Street Trees and tree removal is subject to the requirements of Title 11, Trees.
3. **Alleys and unimproved rights of way.** All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.

29.20.020 Other Endangering Conditions.

(Amended by Ordinance Nos. 176381 and 183397, effective January 8, 2010.) It is the responsibility of the owner of any property, improved or unimproved, to remove or repair:

- A. Any damage to or failure of an on-site sewage disposal system, private or common private sewer lines, or rain drain system, and
- B. Any other substance, material or condition that is determined by the Director to endanger neighboring property, the health or safety of the public, or the occupants of the property.

29.20.030 Nuisance Defined, Summary Abatement Authorized.

(Amended by Ordinance No. 180330, effective August 18, 2006.) All conditions in violation of Sections 29.20.010 and 29.20.020 of this Title shall constitute a nuisance. Any person whose duty it is to correct such conditions and who fails to do so shall be subject to charges according to the Fee Schedule approved by the City Council. In cases where the Director determines that it is necessary to take immediate action in order to meet the purposes of this Title, summary abatement of such nuisances is authorized.

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L. Public nuisance.

1. Whenever any structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence; or
2. Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become:
 - a. An attractive nuisance, or
 - b. A harbor for vagrants or criminals.

M. Chronic dereliction. Whenever a derelict building, as defined in this Title, remains unoccupied for a period in excess of 6 months or period less than 6 months when the building or portion thereof constitutes an attractive nuisance or hazard to the public.

N. Violations of codes, laws. Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the Oregon State Structural Specialty Code and Fire and Life Safety Code or any law or ordinance of this State or City relating to the condition, location, or structure or buildings.

29.40.030 Abatement of Dangerous Structures.

All structures or portions thereof which are determined after inspection by the Director to be dangerous as defined in this Title are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Director determines that a structure is dangerous, as defined by this Title, the Director may commence proceedings to cause the repair, vacation, demolition, or warehousing of the structure.

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Chapter 29.50

OTHER REQUIREMENTS

Sections:

- 29.50.010 Permits Required.
- 29.50.020 Inspections Required.
- 29.50.030 Requested Inspections for Residential Structures.
- 29.50.040 Occupancy of Property After Notice of Violation.
- 29.50.050 Illegal Residential Occupancy.
- 29.50.060 Interference with Repair, Demolition, or Abatement Prohibited.
- 29.50.070 Warehousing of Structures.

29.50.010 Permits Required.

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.) No person, firm or corporation shall construct, alter, repair, move, improve, or demolish any structure without first obtaining applicable building permits as required by City code. No person, firm or corporation shall prune or remove a tree without first obtaining applicable tree permits as required by Title 11, Trees.

29.50.020 Inspections Required.

(Amended by Ordinance No. 180330, effective August 18, 2006.) All buildings, structures, or other improvements within the scope of this Title and all construction work for which a permit is required shall be subject to inspection as required by the City Code.

29.50.030 Requested Inspections for Residential Structures.

(Amended by Ordinance No. 176528, effective June 28, 2002.) Requested inspections that are not part of the City's code enforcement program will be made as soon as practical after payment to the Director of the fee specified in the Property Maintenance Regulations Fee Schedule as approved by City Council.

29.50.040 Occupancy of Property After Notice of Violation.

(Amended by Ordinance Nos. 172088, 176381, 176528 and 182488, effective February 21, 2009.)

- A. If a notice of violation of Chapters 29.30, 29.35, or 29.40 has been issued, and if the affected structure or any portion thereof is residential or neighborhood commercial use or becomes vacant, it shall be:
 - 1. Unlawful to re-enter the affected structure or any portion thereof for any purpose if the affected structure or any portion thereof is found to be

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substantially dangerous or unsafe, unless authorized in writing by the Director.

2. Unlawful to re-enter the affected structure or portion thereof for any purpose other than work associated with the correction of violations noted in the Notice of Violation.
- B.** In addition to any civil penalties imposed pursuant to Section 22.05.010 A.5. or Section 29.70.020 D., and as collected through a municipal lien process, any person unlawfully occupying any such affected structure or portion thereof shall upon conviction be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.

29.50.050 Illegal Residential Occupancy.

When a property has an illegal residential occupancy, including but not limited to occupancy of tents, campers, motor homes, recreational vehicles, or other structures or spaces not intended for permanent residential use or occupancy of spaces constructed or converted without permit, the use shall be abated or the structure brought into compliance with the present regulations for a building of the same occupancy.

29.50.060 Interference with Repair, Demolition, or Abatement Prohibited.

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

- A.** The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this Title;
- B.** The abatement of a nuisance pursuant to the provisions of this Title; or
- C.** The performance of any necessary act preliminary to or incidental to such work as authorized by this Title or directed pursuant to it.

29.50.070 Warehousing of Structures.

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

- A.** When the Director determines that a structure is suitable, due to its historic designation or other significant features, the owner may be permitted to warehouse such structure, as defined in this Title, for a period of up to 30 months. An extension for one further period of 1 year may be permitted by the Director, provided that the condition of the warehoused structure is determined by inspection, to be satisfactory.
- B.** The Director shall have the authority to adopt and enforce written rules concerning the maintenance and monitoring of warehoused structures. The

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requirements for the warehousing of each structure under the rules shall be recorded in the files of the Bureau of Development Services.

- C.** All work necessary in warehousing a structure shall be carried out under permits required by City Codes.
- D.** Owners of a warehoused structure shall continue to be subject of the penalties set forth in Chapter 29.70 to pay the Bureau of Development Services for the cost of regular inspections of their buildings during the warehousing period.

Chapter 29.60

ADMINISTRATION AND ENFORCEMENT

Sections:

- 29.60.010 Administration Authority and Responsibility.
- 29.60.020 Authorization to Inspect.
- 29.60.030 Enforcing Compliance.
- 29.60.040 Right of Entry; Inspection Warrants.
- 29.60.050 Notice and Order.
- 29.60.060 Nuisance Abatement; Warrants.
- 29.60.070 Vacating Structures in the Event of Immediate Danger.
- 29.60.080 Referral to the Hearings Officer for Repair or Demolition of Dangerous Structures.
- 29.60.085 Demolition; Warrants
- 29.60.090 Contracts to Repair or Demolish.
- 29.60.100 Exceptions.

29.60.010 Administration Authority and Responsibility.

The Director is hereby authorized to administer and enforce all of the provisions of this Title. In accordance with approved procedures, the Director may employ qualified officers, inspectors, assistants, and other employees as shall be necessary to carry out the provisions of this Title. The authority of the Director to enforce the provisions of this Title is independent of and in addition to the authority of other City officials to enforce the provisions of any other Title of the City Code.

29.60.020 Authorization to Inspect.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Director is authorized to make inspection of property for the purposes of enforcing this Title. Wherever possible, inspections made by the personnel of the Bureau of Development Services or Fire shall be coordinated in order to avoid the issuance of multiple or conflicting orders.

29.60.030 Enforcing Compliance.

To enforce any of the requirements of this Title, the Director may gain compliance by:

- A. Instituting an action before the Code Hearings Officer as set out in Title 22 of City code;
- B. Causing appropriate action to be instituted in a court of competent jurisdiction; or

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- C. Taking other action as the Director in the exercise of the Director's discretion deems appropriate.

29.60.040 Right of Entry; Inspection Warrants.

(Replaced by Ordinance No. 173248; amended by Ordinance Nos. 174225 and 176381, effective May 10, 2002.)

- A. Right of Entry. The Director may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any building regulations, or whenever the Director has reasonable cause to believe that there exists in any structure or upon any property any condition which makes such property substandard as defined in any building regulations. In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:
 - 1. Occupied Property. If any structure on the property is occupied, the Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection warrant;
 - 2. Unoccupied Property.
 - a. If the property is unoccupied, the Director shall contact the property owner, or other persons having charge or control of the property, and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection warrant.
 - b. If structures on the property are unoccupied, the Director shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection warrant; or
 - 3. Open, Unoccupied Property. If any structure on the property is unoccupied and open:
 - a. The Director shall notify the owner of the property's condition and order the owner, or other persons having charge or control of the property, to immediately secure the premises against the entry of unauthorized persons. If the property is not secured within fifteen (15) days from the date notice is sent, the Director may secure the property as provided in PCC Chapter 29.20.

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- b.** If the Director believes that a hazardous condition exists, the Director may immediately secure the property as provided in PCC Chapter 29.20. Following the summary abatement, the Director shall notify the owner, or other persons having charge or control of the property, of the condition of the property and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an inspection or abatement warrant.

B. Grounds for Issuance of Inspection Warrants; Affidavit.

- 1.** Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the property to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.
- 2.** Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is probable cause to believe that a condition of nonconformity with any building regulation exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with building regulations.

C. Procedure for Issuance of Inspection Warrant.

- 1.** Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.
- 2.** Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively

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executed between those hours, that it be executed at any additional or other time of the day or night.

3. Police Assistance. In issuing an inspection warrant on unoccupied property, including abatement warrants pursuant to Section 29.60.060, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the Director or representative of the department inspecting the property in any way necessary to complete the inspection.

D. Execution of Inspection Warrants

1. Occupied Property. Except as provided in subsection 2. of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.
3. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

29.60.050 Notice and Order.

(Amended by Ordinance Nos. 177254 and 180330, effective August 18, 2006.)

- A. **Notification Required.** Except in the case of summary abatement or immediate danger, if the Director finds one or more violations of the provisions of this Title on a property or adjacent right of way, the Director shall notify the property owner to repair, remove or take any other action as necessary to correct the violations. Notification to the property owner shall be accomplished by mailing a notice to the owner, at the owner's address as recorded in the county assessment and taxation records for the property. The notice may be sent via First Class Mail or certified mail at the Director's discretion. Notice to the property owner may

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also be accomplished by posting notice on the property.

In addition to the above notice to the property owner, prior notice before towing a disabled vehicle must be provided by mailing a notice to the registered owner(s) and any other persons who reasonably appear to have an interest in the vehicle within 48 hours, Saturdays, Sundays and holidays excluded, after the notice has been posted on the property. The Director shall also provide notice to the registered owner and other persons who have an interest in the disabled vehicle by posting written notice on the vehicle.

B. Content of the Notice. The notice shall include:

1. The date of posting (if notice was posted at the property);
2. The street address or a description sufficient for identification of the property;
3. A statement that one or more violations of this Title exist at the property with a general description of the violation(s);
4. Disclosure that penalties, charges, and liens may result from a failure to remedy the violations, and in the case of a disabled vehicle, a statement that the City intends to tow and remove the vehicle if the violation is not corrected;
5. Specification of a response period during which the property may be brought into compliance with this Title before penalties, charges, or liens will be assessed; and
6. Disclose the owner's right to appeal the findings of the notice of violation and a description of the time limits for requesting an administrative review or a hearing, as described in Chapter 29.80 of this Title.

C. Notification by Mail. An error in the name of the property owner or address listed in the county assessment and taxation records for the property shall not render the notice void, but in such case the posted notice, if a notice was posted on the property, shall be deemed sufficient.

D. Notification Following Summary Abatement. When summary abatement is authorized by this Title, the decision regarding whether or not to use summary abatement shall be at the Director's discretion. In the case of summary abatement, notice to the owner or occupant of the property prior to abatement is not required. However, following summary abatement, the Director shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a Notice of Summary Abatement shall

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be mailed to the property owner. The Notice of Summary Abatement shall include:

1. The date the nuisance on the property was abated;
2. The street address or description sufficient for identification of the property;
3. A statement of the violations of Title 29 that existed at the property and were summarily abated;
4. Disclosure that penalties, charges and liens will result from the summary abatement;
5. Disclosure of the owner's right to appeal the findings of the notice.

E. Compliance Inspections and Penalties. The Director shall monitor compliance with the notice through periodic tracking and inspection. Once a notice has been mailed, the owner shall be responsible for all enforcement penalties associated with the property, as described in Chapter 29.70, until the violations are corrected and the Director has been so notified. Except in the case of summary abatement, whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the Director.

F. Time Limits for Repair. The Director may set time limits in which the violations of this Title are to be corrected. Failure to comply with the time limits shall be a violation of this Title.

G. Effective Date of Notice. All notices served pursuant to this section shall be considered served as of the date and time of mailing the notice described in subsections A. and C. of this section.

H. Information Filed with County Recorder. If the Director finds violations of this Title on any property, the Director may record with the County Recorder information regarding City code violations and possible liens on the property.

29.60.060 Nuisance Abatement; Warrants.

(Replaced by Ordinance No. 173248; amended by Ordinance No. 176381, effective May 10, 2002.)

A. Abatement. If, within the time limit set by the Director in the notice of violation, any nuisance described in the notice has not been removed and abated, or cause shown, as specified in Chapter 29.80 of this Title, why such nuisance should not be removed or abated, or where summary abatement is authorized, the Director

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may cause the nuisance to be removed and abated, including disposal in an approved manner.

- B.** Warrants. The Director may request any Circuit Court judge to issue a nuisance abatement warrant whenever entry onto private property is necessary to remove and abate any nuisance, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any nuisance which makes such property substandard as defined in any building regulations.
- C.** Grounds for Issuance of Nuisance Abatement Warrants; Affidavit.
- 1.** Affidavit. A nuisance abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal and abatement of the nuisance, the building or property to be entered, the basis upon which cause exists to remove or abate the nuisance, and a statement of the general types and estimated quantity of the items to be removed or conditions abated.
 - 2.** Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for removing and abating nuisances are satisfied with respect to any building or upon any property, or if there is cause to believe that a nuisance violation exists, as defined in this Title, with respect to the designated property.
- D.** Procedure for Issuance of a Nuisance Abatement Warrant.
- 1.** Examination. Before issuing a nuisance abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - 2.** Issuance. If the judge is satisfied that cause for the removal and abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

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

E. Execution of Nuisance Abatement Warrants.

1. Occupied Property. Except as provided in subsection 2. of this section, in executing a nuisance abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing a nuisance abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the nuisance abatement warrant shall be conspicuously posted on the property.
3. Return. A nuisance abatement warrant must be executed within 10 working day of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

- F. Disposal of Nuisance Items Removed.** The Director may cause the nuisance items removed pursuant to the nuisance abatement warrant to be disposed of in an approved manner whenever the Director, in the Director's sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making the above determination, the Director may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances, and all other reasonable and necessary expenses of holding the sale

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29.60.070 Vacating Structures.

(Amended by Ordinance Nos.176381 and 182488, effective February 21, 2009.)

- A. Any structure found to be in violation of Chapter 29.30 or 29.35 to such an extent as to be a hazard or declared a dangerous structure under Chapter 29.40 may be vacated, secured, and maintained against entry by order of the Code Hearings Officer.

- B. If the Director finds violations to the extent that an immediate danger is posed to the health, safety, or welfare of the occupants, or that of the general public, the Director may order part of the structure, or all of the structure, to be vacated or demolished forthwith, if in the Director's discretion, circumstances are found that do not allow time for prior application to the Hearings Officer.
 - 1. The owner or any tenant of the property, who has been affected by the Director's determination to vacate may appeal that determination to the Code Hearings Officer by following the procedure contained in Section 22.20.030 of City code.

 - 2. Upon receipt of a request for hearing pursuant to Section 22.20.030 of City code, the Code Hearings Officer shall schedule and hold an appeal hearing within ten (10) days after the receipt of the request.

- C. Upon vacation of the structure a notice shall be posted at or on each exit of the building. Whenever such notice is posted, the Director shall include in such notice a statement declaring the building unsafe to occupy and specifying the conditions that necessitate the posting.

- D. Unless authorized by the Director, it is unlawful for any person knowingly to enter or remain in any structure that the Director has ordered vacated pursuant to this Section. In addition to any civil penalties imposed pursuant to Section 22.05.010A.5. or Chapter 29.70 of City code, any person knowingly entering or remaining in such a structure shall upon conviction be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.

29.60.080 Referral to the Hearings Officer for Repair or Demolition of Dangerous Structures.

(Amended by Ordinance No. 176955, effective October 9, 2002.) At any time after the Director identifies a property as containing a dangerous structure and has notified the owner as specified in Section 29.60.050, the Director may cause an action to be instituted before the Code Hearings Officer as provided in Title 22 of City code. In the event the owner fails or neglects to comply with any order of the Hearings Officer to repair or demolish a structure, the Hearings Officer may authorize the Bureau of Development Services to carry out such repairs or demolish the structure.

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29.60.085 Demolition; Warrants

(Added by Ordinance No. 174265; amended by Ordinance No. 176381, effective May 10, 2002.)

- A.** Abatement. If, within the time limit set by the Hearings Officer's Order for Demolition, the dangerous structure described in the Order has not been removed and abated, or cause shown, as specified in Chapter 29.80 of this Title, why such dangerous structure should not be removed or abated, or where summary abatement is authorized, the Director may cause the dangerous structure to be removed and abated, including disposal in an approved manner.
- B.** Warrants. The Director may request any Circuit Court judge to issue a demolition warrant whenever entry onto private property is necessary to demolish a dangerous structure.
- C.** Grounds for Issuance of Demolition Warrants; Affidavit

 - 1.** Affidavit. A demolition warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the demolition of the dangerous structure, the building or property to be entered, the basis upon which cause exists to demolish the dangerous structure and a general statement describing the structure to be demolished. In addition, the affidavit shall contain a statement describing the conditions under which the demolition is to be completed, including completion of all work on the property within a thirty-day period.
 - 2.** Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards are satisfied with respect to the demolition of the dangerous structure.
- D.** Procedure for Issuance of a Demolition Warrant.

 - 1.** Examination. Before issuing a demolition warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - 2.** Issuance. If the judge is satisfied that cause for the demolition of any dangerous structure exists and that the other requirements for granting the application are satisfied, the judge shall issue the demolition warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement describing the structure to be demolished and the work to be performed. The warrant

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

3. Police Assistance. In issuing a demolition warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and demolish the dangerous structure.

E. Execution of Demolition Warrants.

1. Execution. In executing the demolition warrant, the person authorized to execute the warrant need not inform anyone of the person's authority or purpose but may promptly enter the designated property if it is or at the time reasonably appears to be a) unoccupied, or b) not in the possession of any person. A copy of the demolition warrant shall be conspicuously posted on the property.
2. Return. A demolition warrant must be executed within 10 working days of its issuance by the judge. The authority to enter into the property and perform the demolition work shall continue for a period of up to 30 days after the date of execution, unless the judge extends this time before it has expired. The executed warrant shall be returned to the judge upon the completion of the demolition or the expiration of the authorized time, whichever occurs first. If the warrant is not executed within 10 days after the issuance by the judge, the warrant shall be void.

- F. Disposal of Demolition Debris.** The Director may cause the debris to be removed pursuant to the demolition warrant and disposed of in an approved manner whenever the Director, in the Director's sole discretion, finds that the fair and reasonable value of the debris would be less than the cost of storing and selling the items. In making the above determination, the Director may include in the costs of sale the reasonable cost of removing debris to a place of storage, of storing the items for resale, of holding the resale including reasonable allowances for costs of staff, and any other reasonable and necessary expenses of holding a sale.

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29.60.090 Contracts to Repair or Demolish.

(Amended by Ordinance No. 176955, effective October 9, 2002.) If the Bureau of Development Services is authorized to repair or demolish a structure by the Hearings Officer pursuant to 29.60.080, the Director is authorized to enter into a contract or contracts for such work on behalf of the City in a sum not to exceed \$18,000 on any single structure.

Repair or demolition contracts in excess of \$18,000 shall be approved by Council by ordinance. Any sums expended by the City for repair or demolition of any structure pursuant to this Chapter shall be a lien upon the structure and/or real property on which the structure is located pursuant to the provisions of Chapter 22.06 of City code.

29.60.100 Exceptions.

(Replaced by Ordinance No. 177254, effective March 14, 2003.)

- A.** The Director may grant an exception when the enforcement of the requirements of this Title would cause undue hardship to the owner or occupants of the affected property, or whenever the Director deems it necessary in order to accomplish the purpose of this Title.
- B.** To carry out the intent of this Section the Director shall establish written policies in the form of waivers to explain the exceptions that are available to property owners. The waivers shall include the following information:
 - 1.** An explanation of the purpose of the waiver;
 - 2.** A list of the requirements the owner must meet in order to qualify for the waiver;
 - 3.** An explanation of the period of time during which the waiver will be in effect;
 - 4.** A list of the actions the owner must perform to fulfill their responsibilities to maintain the waiver and to prevent the waiver from being cancelled.
- C.** The owner must apply for a waiver in writing. This Section shall not be construed so as to evade the provisions of Title 22.

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Chapter 29.70

COSTS AND PENALTIES

Sections:

- 29.70.005 Generally.
- 29.70.010 Enforcement Fees or Penalties for Nuisance, Housing and Dangerous and Derelict Buildings.
- 29.70.020 Costs and Penalties for Abatement of Nuisances, Disable Vehicles, and Re-occupancy in Violation.
- 29.70.030 Building Demolition Costs and Penalties.
- 29.70.040 Chronic Offender.

29.70.005 Generally.

In order to defray the costs of enforcement of, and to encourage compliance with, this Title, the Director shall impose penalties on those properties which are found to be in violation of this Title.

29.70.010 Enforcement Fees or Penalties for Nuisance, Housing and Dangerous and Derelict Buildings.

(Amended by Ordinance Nos. 176528, 181699, 182488 and 183793, effective May 19, 2010.)

- A.** The City may charge a penalty in the form of a monthly enforcement fee for each property found in violation of Chapters 29.20, 29.30, 29.35 or 29.40 of this Title that meets the following conditions:
 - 1.** The property is a subject of a notice of violation of this Title as described in Section 29.60.050; and
 - 2.** A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - 3.** The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- B.** The amount of the monthly enforcement fee shall be charged as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council. If all violations are not corrected within three months from the date of the initial notice

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of violation, subsequent enforcement fees or penalties shall be twice the amount listed in the Enforcement Fee and Penalty Schedule as approved by City Council.

- C. Whenever the property owner believes that all violations have been corrected, the property owner shall so notify the Director. Upon receipt of such notice, the Director shall promptly schedule an inspection of the property and shall notify the property owner if any violations remain uncorrected.
- D. Once monthly enforcement fees or penalties begin, they shall continue until all violations have been corrected, inspected and approved.
- E. When a property meets the conditions for charging an enforcement fee or penalty, the Director shall file a statement with the City Auditor that identifies the property, the amount of the monthly fee or penalty, and the date from which the charges are to begin. The City Auditor shall then:
 - 1. Notify the property owner(s) of the assessment of enforcement fees or penalties and the 10 percent City Auditor charge; and
 - 2. Record a property lien in the Docket of City Liens; and
 - 3. Bill the property owner(s) monthly for the full amount of enforcement fees or penalties owing, plus additional charges to cover administrative costs of the City Auditor; and
 - 4. Maintain lien records until:
 - a. The lien and all associated interest, penalties, charges and costs are paid in full; and
 - b. The Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.
- F. When a property meets the conditions for assessment of fees or penalties as described in this Title, the Director may also cause appropriate collection measures, including legal action in a court of competent jurisdiction, to be instituted against the property owner in order to collect the assessed fees or penalties.

29.70.020 Costs and Penalties for Abatement of Nuisances, Disable Vehicles, and Re-occupancy in Violation.

(Replaced by Ordinance No. 176528; amended by Ordinance Nos. 176955 and 183793, effective May 19, 2010.)

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A. Nuisances.

1. Whenever a nuisance is abated by the City, the Director shall keep an accurate account of all expenses incurred for each nuisance abated including but not limited to abatement costs, civil penalties, fees, administrative costs, recorders fees and title report charges as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council.
2. When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property, owned by the same person, an additional civil penalty as set forth in the Enforcement Fee and Penalty Schedule shall be added to the costs, charges and civil penalties. The additional civil penalty shall be imposed without regard to whether the nuisance abated by the City involved the same real property or are of the same character.
3. Costs and penalties resulting from nuisance abatement shall be assessed as a lien upon the real property as provided in Subsection D.

B. Disabled Vehicles.

1. Whenever a vehicle is removed from real property by the City, the Director shall keep an accurate account of all expenses incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, inspection fees, recording fees, and title report charges as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council.
2. Whenever a vehicle, which has been tagged by the City, is removed from real property and placed on the public right-of-way, the owner of the real property shall be responsible for that vehicle. The Director shall remove the vehicle from the right-of-way and keep an accurate account of all expenses incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, fees, recording fees and title report charges as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council.
3. Costs and penalties resulting from the abatement of disabled vehicles shall be assessed as a lien upon the real property as provided in Subsection D.

C. Occupancy of Property After Notice of Violation.

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1. Whenever a property owner causes or permits a vacant structure or portion thereof to be occupied in violation of this Title, a penalty as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council shall be imposed per structure or portion thereof.
 2. Costs and penalties resulting from the occupancy of property after notice of violation shall be assessed as a lien upon the real property as provided in Subsection D.
- D.** When a property meets the conditions for assessment of fees or penalties as described in Subsections A., B. or C. above, the Bureau of Development Services shall file a statement of such fees or penalties with the City Auditor. Upon receipt of the statement, the City Auditor shall mail an assessment notice to the property owner. The notice shall include the amount due plus 10 percent charges to cover the administrative costs of the City Auditor. At the same time the notice is mailed by the City Auditor, the City Auditor shall enter the amount due or the amount of the unpaid balance, plus charges to cover the administrative cost of the City Auditor, in the Docket of City Liens which shall thereafter constitute a lien against the property. The property owner is responsible for paying all liens assessed against the property.
- E.** When a property meets the conditions for assessment of fees or penalties as described in this Title, the Director may also cause appropriate collection measures, including the legal action in a court of competent jurisdiction, to be instituted against the property owner in order to collect the assessed fees or penalties.

29.70.030 Building Demolition Costs and Penalties.

(Amended by Ordinance Nos. 176528 and 183793, effective May 19, 2010.)

- A.** Whenever a building is demolished by the City, the Director shall keep an accurate account of all expenses incurred for each building demolished, including but not limited to abatement costs, civil penalties, administrative costs, recorders fees and title report charges as set forth in the Enforcement Fee and Penalty Schedule as approved by City Council.
- B.** Costs and penalties resulting from demolition by the City of any structure pursuant to this Title plus 10 percent charges to cover the administrative costs of the City Auditor shall be assessed as a lien upon the real property on which the structure was located pursuant to the provisions of Chapter 22.06 of City code.
- C.** When a property meets the conditions for assessment of fees or penalties as described in this Title, the Director may also cause appropriate collection measures, including legal action in a court of competent jurisdiction, to be

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instituted against the property owner in order to collect the assessed fees or penalties.

29.70.040 Chronic Offender.

(Added by Ordinance No. 181699, effective April 25, 2008.)

- A.** A Chronic Offender is any person whose property has accumulated, within any 12-month period, multiple violations under Title 29 which have a negative impact on the public health or welfare and cause repeat inspections and enforcement efforts by the Director.
- B.** The Director shall adopt policies and procedures setting forth the type and number of Title 29 violations that result in a Chronic Offender designation.
- C.** The Director may pursue any of the following actions against a Chronic Offender:
 - 1.** Refer the Chronic Offender to the Code Hearings Officer, as provided in Title 22 of the City Code, for additional sanctions; or
 - 2.** Refer the Chronic Offender for Criminal Prosecution and criminal penalties of a fine of up to \$500 per violation or six (6) months in jail as provided for in City Code Chapter 1.01.

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Chapter 29.80

APPEALS

Sections:

- 29.80.010 Administrative Review.
- 29.80.020 Appeals to the Code Hearings Officer.
- 29.80.030 Further Appeals

29.80.010 Administrative Review

(Amended by Ordinance Nos. 176381 and 176955, effective October 9, 2002.)

- A.** Whenever an owner has been given a notice pursuant to this Title and has been directed to make any correction or to perform any act and the owner believes the finding of the notice was in error, the owner may have the notice reviewed by the Director. If a review is sought, the owner shall submit a written request to the Bureau of Development Services within 15 days of the date of the notice. Such review shall be conducted by the Director. The owner requesting such review shall be given the opportunity to present evidence to the Director. Following the review, the Director shall issue a written determination.
- B.** Nothing in this Section shall limit the authority of the Director to initiate a proceeding under Title 22.

29.80.020 Appeals to the Code Hearings Officer.

(Amended by Ordinance No. 183793, effective May 19, 2010.) A determination issued pursuant to 29.80.010 may be appealed to the Code Hearings Officer along with the payment of a fee as set forth in the Enforcement Fee and Penalty Schedule, as provided for in Chapter 22.10 of City code.

29.80.030 Further Appeals.

All appeals from the Code Hearings Officer's determination pursuant to 29.80.020 shall be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010 - 34.100.

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Chapter 29.90

HOUSING RECEIVERSHIP

Sections:

- 29.90.010 Purpose and Scope.
- 29.90.020 Authority.
- 29.90.030 Selection of Properties.
- 29.90.040 Notice to Interested Parties and Application.
- 29.90.050 Selection of Receivers.
- 29.90.060 Powers of a Receiver.
- 29.90.070 Plan and Estimate.
- 29.90.080 Record Keeping.
- 29.90.090 Purchasing.
- 29.90.100 Liens.
- 29.90.110 Foreclosure.
- 29.90.120 Termination of Receivership.

29.90.010 Purpose and Scope.

The purpose of this Chapter is to establish authority and procedures for the use of the Oregon Housing Receivership Act (ORS 105.420 to 105.455), and shall apply to all residential property.

29.90.020 Authority.

(Amended by Ordinance Nos. 176955 and 180330, effective August 18, 2006.)

- A.** When the Director finds that any residential property is in violation of Titles 24, 25, 26, 27, 28, 29, 31, or 33 and believes that violation is a threat to the public's health, safety or welfare, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement. As used in this Chapter, abatement shall mean the removal or correction of any condition at a property that violates any provision of Titles 24, 25, 26, 27, 28, 29, 31, or 33 of the City Code as well as the making of other improvements or corrections as are needed to rehabilitate the property or structure. Abatement may include demolition, but does not include securing a structure against entry.
- B.** In administering the provisions of this Chapter, the Director's authority shall include, but is not limited to:
 - 1.** The selection of properties;

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2. The selection of appropriate receivers; and
3. The establishment of written rules and procedures as are deemed necessary for the administration of this Chapter.

29.90.030 Selection of Properties.

(Amended by Ordinance No. 180330, effective August 18, 2006.) In selecting properties where the City may seek appointment of a receiver, the Director shall consider those properties that have, at a minimum, the following characteristics:

- A. A violation of any provision of Titles 24, 25, 26, 27, 28, 29, 31 or 33 that threatens the public health, safety or welfare;
- B. The owner has not acted in a timely manner to correct the violations; and
- C. Abatement of the violations on this property would further the Housing Policy of the City of Portland as articulated in Goal 4 of the City's Comprehensive Plan.

29.90.040 Notice To Interested Parties and Application.

- A. At least 60 days prior to the filing of an application for appointment of a receiver, the Director shall cause a notice to be sent by regular mail to all interested parties.
- B. The notice shall give the date upon which the City has the right to file with the court for the receiver, and in addition shall:
 1. State the address and legal description of the property;
 2. List the code violations which give rise to the proposed application; and
 3. Give the name, address and telephone number of a person who can provide additional information concerning the violations and their remedy.
- C. If no interested party has taken any action to foreclose their security interest within 60 days of the date of the notice, the Director may thereafter apply for the appointment of a receiver.

29.90.050 Selection of Receivers.

In selecting specific receivers, the Director shall choose either the Housing Authority of Portland, a City bureau, an urban renewal agency, or a private not-for-profit corporation, the primary purpose of which is the improvement of housing conditions within the City. In making the selection, the Director shall consider, at a minimum, the following:

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- A. The location of the property relative to other properties owned or managed by the receiver.
- B. The receiver's experience in rehabilitating and managing this type of property.
- C. The receiver's capacity to take on additional property management responsibilities.

29.90.060 Powers of a Receiver.

A receiver appointed by the court pursuant to the Oregon Housing Receivership Act shall have the authority to do any or all of the following, unless specifically limited by the court:

- A. Take possession and control of the property, including the right to enter, modify and terminate tenancies pursuant to ORS Chapters 90 and 105, and to charge and collect rents and apply rents collected to the costs incurred due to the receivership.
- B. Negotiate contracts and pay all expenses associated with the operation and conservation of the property, including, but not limited to all utility, fuel, custodial, repair, and insurance costs.
- C. Pay all accrued property taxes, penalties, assessments, and other charges imposed on the property by a unit of government, as well as any charge of like nature accruing during the pendency of the receivership.
- D. Dispose of all abandoned personal property found on the property pursuant to ORS Chapter 90.
- E. Enter into contracts and pay for the performance of any work necessary to complete the abatement.
- F. Enter into financing agreements with public or private lenders and encumber the property so as to have moneys available to correct the conditions at the property giving rise to the abatement.
- G. Charge an administrative fee at an hourly rate approved by the court or at a rate of 15 percent of the total cost of abatement, whichever the court deems more appropriate.

29.90.070 Plan and Estimate.

Within 30 days after appointment by the court, a receiver shall submit to the Director a written plan for the abatement. The Director shall approve the plan before the receiver commences work on the abatement.

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29.90.080 Record Keeping.

The receiver shall keep a record of all moneys received and expended and all costs and obligations incurred in performing the abatement and managing the property. Records shall be kept in a form as shall be agreed upon by the receiver and the Director, and copies shall be provided to the Director upon request.

29.90.090 Purchasing.

All abatement work done under this Chapter is exempt from the purchasing and contracting provisions of Chapters 5.32 and 5.68 of City code.

29.90.100 Liens.

- A.** All moneys expended and all costs and obligations incurred by the receiver in performing the abatement shall be reviewed by the court for reasonableness and their necessity in performing the abatement. To the extent that the court finds the moneys, costs, or obligations, to be reasonable and necessary, it shall issue an order reciting this fact as well as the amount found to be reasonable and necessary.
- B.** If the costs and obligations incurred due to the abatement have not been paid, the order of the court shall be filed with the county recorder within 60 days of its filing with the court and shall thereafter constitute a lien on the property.

29.90.110 Foreclosure.

In the event that the lien created pursuant to the terms of this Chapter and the Oregon Housing Receivership Act is not paid in a timely fashion, the receiver or their assignee or other successor in interest may bring a suit or action in foreclosure as provided for by law.

29.90.120 Termination of Receivership.

(Amended by Ordinance No. 180330, effective August 18, 2006.) The receivership authorized pursuant to the terms of this Chapter and the Oregon Housing Receivership Act shall terminate only by an order of the court after a showing by an interested party or the receiver that:

- A.** The abatement has been completed;
- B.** The costs and obligations incurred due to the abatement have been paid by an interested party or a lien has been filed pursuant to Section 29.90.100 of this Chapter; and
- C.** The interested party will manage the property in conformance with the applicable provisions of Titles 24, 25, 26, 27, 28, 29, 31 and 33 of City code.

31.20.120 Use of Helicopters.

Notwithstanding any other provisions of this Code, the Fire Bureau may use and land helicopters any place within the City, subject to Federal and State regulations for the purpose of training Fire Bureau personnel and helicopter operators in fire suppression techniques and disaster relief procedures and for the purpose of conducting disaster relief drills subject to the consent of the property owner or in the case of City property, the director of the affected bureau.

Chapter 31.30

DEVELOPMENT AND BUILDING REQUIREMENTS

Sections:

- 31.30.010 Fire Chief Authorized to Establish Access Standards.
- 31.30.020 Removal of On-Street Parking.
- 31.30.030 Fire Chief Authorized to Require Water Supply.
- 31.30.040 Permits and Fees Required.
- 31.30.050 Additional Permit Requirements.
- 31.30.060 Special Inspections.
- 31.30.070 Expiration of Plan Review.

31.30.010 Fire Chief Authorized to Establish Access Standards.

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.)
The Fire Chief shall prescribe standards for streets and roadways that provide access for fire department apparatus. Such standards shall apply to every building hereafter constructed. Standards shall prescribe minimum unobstructed width, turning radius, load capacity, clearance, grade and other criteria deemed necessary for apparatus access. Application of these standards shall include considerations for designing and locating access in a manner that minimizes tree removal and meets the tree protection specifications of Title 11, Trees, to the extent practical. Where practical the adopted standards shall be consistent with development standards for public and private streets.

- A.** The Fire Chief may require an increase in minimum access widths where such width is not adequate for fire or rescue operations.
- B.** Dead-end fire department access roads more than 300 feet in length shall include provisions for turning around fire department apparatus within 150 feet of the closed end.

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31.30.020 Removal of On Street Parking.

- A. The Fire Chief shall have authority to designate any street, whether public or private, or portion of a street as “No Parking” where the street width is less than 32 feet and:
 - 1. The Chief determines that site-specific conditions such as roadway alignment impedes access of fire apparatus, or
 - 2. Actual emergency response experience clearly demonstrates that emergency vehicles cannot reasonably provide service.
- B. When required by the Chief the street shall be marked with permanent “No Parking” signs.

31.30.030 Fire Chief Authorized to Require Water Supply.

The Fire Chief shall have authority to establish and enforce standards for water supply for fire protection. Where required by the Fire Chief, a minimum of two fire pumps independently driven shall be provided and sized for the sprinkler demand or standpipe demand, whichever is greater.

31.30.040 Permits and Fees Required.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. It is unlawful for any person or entity to construct, install, alter, repair, move, demolish or change any fire protection system or equipment, or construct, install, alter, repair, move, demolish or change any equipment, piping or storage container used for flammable or combustible liquids, flammable gases or hazardous materials, for which a permit is required in this Title, without first obtaining such permit from the Fire Marshal. In instances where laws or regulations are enforced by other agencies, joint approval shall be obtained.
- B. All permits issued under this Title shall be presumed to contain the provision that the applicant or the applicant’s agents shall carry out the proposed activity in compliance with all the requirements of this Title and any other federal and State laws and City regulations, and other design guidelines as adopted by City Council that apply, whether specified or not, and in complete accordance with the approved plans and specifications.
- C. A permit issued under this Title shall continue until revoked or for such a period of time as designated therein at the time of issuance. It shall not be transferable and any change in use, occupancy, operation or ownership shall require a new permit.