

UPDATE INFORMATION

Vols. I & II – Portland City Code

June 30, 2016 – Quarterly Update

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Contact the Auditor's Office Council Clerk/Contracts
Section if you have questions: 503-823-4082.

Previous Update Packet March 31, 2016

CODE OF THE CITY OF PORTLAND, OREGON
Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
2nd Quarter 2016 (June 30, 2016)

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CHAPTER 2.02 - GENERAL PROVISIONS

(Chapter added by Ordinance No. 177200, effective
February 21, 2003,)

Sections:

- 2.02.010 Definitions.
- 2.02.020 City Elections Officer.
- 2.02.030 Campaign Finance Regulations.
- 2.02.040 Applicability of State Law; Limitations.
- 2.02.050 Computation of Dates.

2.02.010 Definitions.

(Amended by Ordinance No. 179258, effective June 17, 2005.) As used in this title, unless the context requires otherwise:

- A. **"Auditor"** means the Auditor of the City of Portland, or designee.
- B. **"Candidate"** means an individual whose name is or is expected to be printed on the official ballot.
- C. **"City Elections Officer"** means the Auditor, or designee.
- D. **"Elector"** or **"Eligible Elector"** means a person qualified to vote who is a resident of the City and a legal registered voter of the City and state of Oregon.
- E. **"General Election"** means the statewide election held on the first Tuesday after the first Monday in November of each even-numbered year.
- F. **"Initiative Petition"** means a petition to initiate a measure for which a prospective petition has been filed but that is not yet a measure.
- G. **"Measure"** means any city legislation, advisory question, property tax levy, tax base, or bond measure proposed for adoption, amendment, revision, repeal or referral through the initiative or referendum procedures prescribed by this title.
- H. **"Nonpartisan"** means not representing any national or state political party, committee or convention or acting for any political party. All City elected offices are nonpartisan.
- I. **"Perfecting Petition"** or **"Petition"** means the information, including signatures and other identification of petition signatures, required to be contained in a completed petition.
- J. **"Primary Election"** means the statewide election held the third Tuesday in May of each even-numbered year.

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- K. "Prospective Petition"** means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.
- L. "Referendum Petition"** means a petition to refer a measure for which a prospective petition has been filed but that is not yet a measure.
- M. "Regular Election"** means the biennial statewide primary or general election date.
- N. "Special Election"** means any election at which a measure is submitted to the electors or candidates are nominated or elected on a date other than a regular election date.
- O. "Statement of Understanding"** means a document provided by the Auditor and signed by the Chief Petitioner of a prospective petition indicating receipt of all forms and requirements necessary to file a perfected petition.

2.02.020 City Elections Officer.

- A.** The Auditor, or designee, shall serve as the City Elections Officer.
- B.** The City Elections Officer may accept for filing and verify elections documents, maintain elections registers and historical records, prepare and publish a voters' pamphlet, and prepare and publish an election notice.
- C.** All documents involving filing as a candidate, organizing a principal campaign committee or a political action committee, reporting campaign contributions, filing an initiative, referendum or recall petition, and preparing and forwarding a measure for the election ballot shall be filed with the City Elections Officer.
- D.** The City Elections Officer shall verify the sufficiency of the content and form of the documents and shall immediately stamp the date and time of receipt on the documents. The City Elections Officer's review does not include verification of factual representations contained in submitted documents or verification that filings are free of substantive legal defects.

2.02.030 Campaign Finance Regulations.

(Amended by Ordinance No. 179258, effective June 17, 2005.) Campaign finance regulations, procedures and forms shall be governed by state law and this title.

2.02.040 Applicability of State Law; Limitations.

(Amended by Ordinance No. 179258, effective June 17, 2005.)

- A.** The provisions of this title and the City Charter shall prevail over any conflicting provisions of state law relating to the exercise of initiative and referendum powers and matters subject to legislation by the City.

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- B.** The procedures for nominating and electing city officers shall be as provided by state law, the City Charter, and this title.
- C.** The campaign finance system and reporting requirements for city candidates, political committee, and chief petitioners shall be as provided by state law, the City Charter, and this title.
- D.** All elections for city officers shall be held at the same time and place as elections for state and county officers in accordance with state law, except in the case of a special election to fill a vacancy in office or providing a runoff for two candidates nominated at a general election or special nominating election.
- E.** Except as otherwise provided in the Charter or this title, the Auditor shall maintain and preserve all documents related to an election matter for the retention period prescribed by state law. The Auditor shall retain nominating petitions and declarations of candidacy for six years after the election.
- F.** An emergency ordinance shall not be subject to the referendum process; however, the City Attorney shall be consulted by the Auditor prior to refusal to accept a referendum petition.

2.02.050 Computation of Dates.

- A.** The filing deadline shall be 5 p.m. on the date the document or fee is due unless the deadline falls on a Saturday, Sunday or other legal holiday specified in ORS 187.010, in which case the due date shall be the next business day at 5 p.m. Documents will be accepted after 5 p.m. if the document is physically in the office at 5 p.m.
- B.** In computing the due date for documents due X months prior to an election date, the time is computed by using months; e.g. if the document is due six months prior to an election date which is November 6, it must be filed on or before May 6 at 5 p.m. If May 6 is a Saturday, Sunday or holiday, the provisions in 2.02.050 apply.

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**CHAPTER 2.04 - INITIATIVE AND
REFERENDUM PROCEDURES**

(Chapter replaced by Ordinance No. 163790,
effective February 15, 1991.)

Sections:

- 2.04.030 Pre-election Publication.
- 2.04.040 Submission of Measure to Voters.
- 2.04.050 Prospective Petition.
- 2.04.055 One Subject Determination.
- 2.04.060 Ballot Title; Publication; Legal Effect.
- 2.04.070 Legal Challenge to Ballot Title.
- 2.04.080 Circulation of Petition.
- 2.04.090 Filing Deadlines, Percentage Requirements and Signature Verification.
- 2.04.100 Council Action; Competing Measure and Certification.
- 2.04.110 Measures Proposed by the Charter Commission.
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- 2.04.130 Election Dates; Special Election.
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- 2.04.160 Effective Date.

2.04.010 Definitions.

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

2.04.020 Applicability of State Law; Limitations.

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

2.04.030 Pre-election Publication.

No City voters pamphlet shall be required for an election subject to this chapter unless the Council directs it specifically.

2.04.040 Submission of Measures to Voters.

(Amended by Ordinance Nos. 177200 and 184947, effective November 18, 2011.)

A. Council Submission of Measures

1. A measure may be submitted to the legal voters of the City by resolution of the Council. No petition is required.
2. An advisory question, measure or proposition may be submitted to the voters by resolution of the Council. No petition is required. The vote shall not enact the matter into law, preclude the Council from adopting an

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ordinance enacting the matter into law, or require the Council to enact the measure into law.

B. Elector's Submission of Petition on Legislation

- 1.** A petition initiating or referring city legislation may be submitted by electors. The petition shall comply with the requirements of Section 2.04.050 and meet the signature requirements of Section 2.04.090.

C. Charter Commission Measures

- 1.** A measure proposing a charter amendment that is supported by an affirmative vote of at least 15 members of the Charter Commission after a public hearing process prescribed by the Council shall be submitted to the legal voters of the City in conformance with the Charter and this Chapter.

2.04.050 Prospective Petition.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** The chief petitioner(s) shall file a prospective petition with the Auditor prior to circulating the petition. The petition shall be in a form required by the Auditor.
- B.** State law with regard to the form of the petition shall apply except that the City shall provide on the form a place for the chief petitioners to state at which election date the measure is to be placed on the ballot.
 - 1.** In the case of an initiative petition:
 - a.** The chief petitioners shall specify the date at which the measure shall be submitted to the voters. The specified election date shall be a regular election date within two years and four months of the time the prospective petition is filed with the Auditor.
 - b.** Each signature sheet shall contain the caption of the ballot title.
 - c.** A full and correct copy of the legislation to be initiated must also be submitted with the prospective petition.
 - 2.** In the case of a referendum petition:
 - a.** Each signature sheet shall contain the title, and charter section or ordinance number or section numbers proposed for referral and the date it was adopted by Council.
 - b.** A full and correct copy of the legislation to be referred must also be submitted with the prospective petition.

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- 3. If one or more persons will be paid for obtaining signatures of electors on the petition, each signature sheet shall contain a notice stating: "Some Circulators For This Petition Are Being Paid."
- C. The Auditor shall provide each chief petitioner with a "Statement of Understanding" and with a copy of each of the forms and requirements listed on the Statement. A Statement of Understanding signed by each chief petitioner shall be a prerequisite to acceptance of the petition.
- D. Prospective petitions which meet the requirements of Sections 2.04.050 A., B., and C. shall be accepted by the Auditor. The Auditor shall inscribe the date of filing upon the petition. The Auditor shall forward two copies to the City Attorney for the preparation of a ballot title not later than the sixth business day after the prospective petition is filed with the Auditor.

2.04.055 One Subject Determination.

(Added by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall determine in writing no later than the fifth business day after receiving a prospective initiative petition whether the petition meets the requirements of Section 1(2)(D), Article IV of the Oregon Constitution.
- B. If the Auditor determines that the prospective initiative petition meets the requirements, the Auditor shall publish the ballot title as required in Section 2.04.060, including a statement that the petition has been determined to meet the requirements of Section 1(2)(D), Article IV of the Oregon Constitution.
- C. If the Auditor determines that the initiative petition does not meet the requirements, the Auditor shall immediately notify the petitioner of the determination in writing by certified mail, return receipt requested.
- D. Any elector dissatisfied with a determination of the Auditor under Section 2.04.055 A. may petition the circuit court to overturn the determination as provided by state law.

2.04.060 Ballot Title; Publication; Legal Effect.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. The City Attorney shall prepare a ballot title within five business days after receiving the prospective petition from the Auditor, or in the case of measures referred by Council, within five business days of the request. The ballot title shall comply with the requirements of state law. The purpose of the ballot title is to accurately describe the proposed measure, and does not constitute an opinion as to whether the proposed measure is free of legal defects.
- B. The ballot title shall consist of:

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1. A caption of not more than 10 words which reasonably identifies the subject matter of the petition.
 2. A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote; and
 3. A concise and impartial statement of not more than 175 words summarizing the measure and its major effects.
- C. In the case of a prospective petition, the City Attorney shall transmit the ballot title to the Auditor who shall inscribe the date of receipt on it and shall:
1. Transmit a copy of the petition and the ballot title to one of the chief petitioners; and,
 2. Publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of the ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.
- D. Ballot titles for measures referred by Council shall be published by the Auditor as provided in Section 2.04.120 B.

2.04.070 Legal Challenge to Ballot Title.

(Amended by Ordinance No. 177200, effective February 21, 2003.) A ballot title filed with the Auditor by the City Attorney or adopted by the City Council may be challenged as provided by state law.

2.04.080 Circulation of Petition.

(Added by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall certify the petition to one of the chief petitioners for circulation at the conclusion of the seventh business day after the ballot title is received from the City Attorney or immediately upon final adjudication as prescribed by the court, except a referendum petition which is found by the Auditor to satisfy the provisions of Section 2.04.050 may be circulated prior to the preparation of the ballot title.
- B. The Auditor shall advise the chief petitioner in writing that the preparation of the ballot title by the City Attorney and certification of the petition by the Auditor does not certify that the proposed measure is a proper matter for the initiative or referendum process or that it is legal or free of legal defects.
- C. Each copy of the petition which is circulated shall consist of a cover page including the ballot title and the text of the legislation being initiated or referred backed with the signature sheet. If the text of the legislation is too lengthy to fit on the cover sheet, each person obtaining signatures on the petition shall carry at least one full

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and correct copy of the measure to be initiated or referred and shall allow any person to review a copy upon request.

- D.** Each elector signing the petition shall do so by affixing the elector's signature to the signature sheet. Space shall also be available on the signature sheet for the elector's, printed name, residence address, precinct number, and date of signing.
- E.** No signature sheet shall be circulated by more than one person. Each signature sheet shall contain a certification signed by the circulator that each elector who signed the sheet did so in the circulator's presence and to the best of the circulator's knowledge, each elector signing the sheet is a legal voter of the City and that compensation received by the circulator, if any, was not based on the number of signatures obtained for this petition.

2.04.090 Filing Deadlines, Percentage Requirements and Signature Verification.

(Amended by Ordinance Nos. 177200 and 178799, effective November 5, 2004.)

- A.** The Auditor shall not accept a petition for signature verification which does not satisfy the requirements of this chapter and other applicable law. Petitions shall be verified in the order in which they are filed with the Auditor.
- B.** A petition shall not be accepted for signature verification unless it contains at least 100 percent of the required number of signatures.
- C.** In computing the required number of signatures, the required number shall be a percentage, as provided in this section, of the number of electors registered in the city on the date of the primary municipal election immediately preceding the date the prospective petition is filed.
- D.** An initiative petition shall:
 - 1.** Be filed with the Auditor for signature verification no less than four months before the election date specified on the petition. Failure to meet this filing deadline shall render the petition void.
 - 2.** Be signed by a number of electors equal to or greater than 9 percent of the number of electors registered in the city on the date of the primary municipal election immediately preceding the date the prospective petition is filed.
- E.** A referendum petition shall:
 - 1.** Be filed with the Auditor for signature verification no later than 30 days after passage of the ordinance sought to be referred, however, it must be submitted to the Auditor at least four months before an election date in order to be placed on the ballot for that election. The four months submission requirement may be waived if the Auditor can complete the signature

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verification process and meet the counties' elections filing deadlines, and the provisions of Section 2.04.130 B. are satisfied.

2. Be signed by a number of legal voters equal to or greater than 6 percent of the number of electors registered in the city on the date of the primary municipal election immediately preceding the date the prospective petition is filed, except that a petition signed by 2,000 registered voters shall be sufficient to call a referendum upon any franchise ordinance.
- F. Upon acceptance of the petition, the Auditor shall arrange for verification of the validity of the signatures with the County Elections Officers. Verification may be performed by random sampling in a manner approved by the Secretary of the State of Oregon.
- G. The Auditor shall complete the verification process within 30 days after receipt of the petition and shall advise a chief petitioner whether the petition qualifies to be submitted to the voters.
- H. A date shall be placed on the petition or on a certificate attached to the petition which shows the date the verification process was completed. Measures which qualify for placement on the ballot shall be certified by the Auditor as meeting the requirements of this chapter and shall be submitted to the Council for action as provided by 2.04.100. The Auditor shall certify to the County Elections Offices each measure which qualifies for placement on the ballot, unless the measure has been enacted by the Council.

2.04.100 Council Action; Competing Measure and Certification. (Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall file with the Council each initiative and referendum measure submitted by the electors which qualifies for placement on the ballot for action by the Council as follows:
1. The Council may adopt an ordinance which codifies an initiative measure proposing a change to the City code. The Council shall act by a non-emergency ordinance not later than the 30th day after the measure has been certified by the Auditor for Council action and not later than the date the measure must be certified to the County for placement on the ballot. Approval of the ordinance shall void the initiative petition.
 2. The Council may repeal an ordinance provision which is the subject of a referendum petition. The Council shall act by a non-emergency ordinance not later than the 30th day after the measure has been certified by the Auditor for Council action and not later than the date the measure must be certified to the County for placement on the ballot. Repeal of the referred ordinance provision shall void the referendum petition.

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- B.** All measures involving charter language which qualify for placement on the ballot shall be submitted to the voters.
- C.** The Council may refer a competing measure, however, it shall prepare the measure not later than the 30th day after the measure has been filed with the Auditor for signature verification.

2.04.110 Measures Proposed by the Charter Commission.

(Added by Ordinance No. 184947, effective November 18, 2011.)

- A.** Preparation of Ballot Title
 - 1.** When a measure proposing a charter amendment is supported by an affirmative vote of at least 15 members of the Charter Commission after a public hearing process prescribed by the Council:
 - a.** The Commission shall notify the Auditor and submit to the Auditor the text of a proposed measure.
 - b.** Within seven business days after submission of the proposed measure to the Auditor, the Auditor shall file the measure as a report from the Charter Commission to the Council and place it on the Council agenda.
 - c.** Within two business days after the Charter Commission presents the measure to the Council at a Council meeting, the Auditor shall forward the measure to the City Attorney for preparation of a ballot title and explanatory statement in conformance with the requirements of state law.
 - d.** Within five business days after receiving the measure from the Auditor, the City Attorney shall prepare and transmit to the Auditor the ballot title and explanatory statement.
 - e.** After receiving the ballot title, the Auditor shall publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of the ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.
 - f.** Following completion of the ballot title challenge process, the Auditor shall file the measure, ballot title and explanatory statement with county elections officers.
 - g.** A measure shall be considered referred under this Section as soon as the measure is certified to the ballot. The measure shall be placed on the next primary or general election ballot that is at least 120 days

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after the date the Charter Commission presents the measure to Council. As part of its affirmative vote supporting a measure, the Charter Commission may specify whether the measure shall be submitted to the voters at the primary election or at the general election.

2.04.120 Measures Referred by the Council.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

A. Preparation of Ballot Title and Resolution; Effective Date.

- 1.** Prior to final Council action on a measure to be referred to the electors, an elected City official shall submit a resolution and ballot title to the Council Clerk for placement on the Council agenda. The ballot title may be prepared by:

- a.** the City Attorney at the request of the Council or elected official;
- b.** the Council; or
- c.** an elected City official.

If the City Attorney is asked by the Council or an elected official to prepare the ballot title and resolution, the ballot title and resolution shall be transmitted to the Council or elected official within five business days of the request, unless a longer time period is specified by the Council or elected official.

- 2.** The ballot title shall comply with the requirements of Section 2.04.060 B.
- 3.** A measure shall be placed on the ballot if the Council enacts a resolution directing that a measure be placed on the ballot.
- 4.** A measure shall be considered referred under this section as of the date the Council adopts the resolution directing placement of the measure on the ballot.

- B.** Publication. Upon referral of the measure as outlined in Section 2.04.120 A., the Auditor shall publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of the ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.
- C.** Legal Challenge to Ballot Title. A ballot title adopted by Council may be challenged as provided by state law.

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2.04.125 Advisory Questions Referred by Council.

(Added by Ordinance No. 177200, effective February 21, 2003.)

A. Preparation of Ballot Title and Resolution; Effective Date.

- 1.** Prior to final Council action on an advisory question to be referred to the electors, an elected City official shall submit a resolution and ballot title to the Council Clerk for placement on the Council agenda. The ballot title may be prepared by:

- a.** the City Attorney at the request of the Council or elected official;
- b.** the Council; or
- c.** an elected City official.

If the City Attorney is asked by the Council or an elected official to prepare the ballot title and resolution, the ballot title and resolution shall be transmitted to the Council or elected official within five business days of the request, unless a longer time period is specified by the Council or elected official.

- 2.** The ballot title shall comply with the requirements of Section 2.04.060 B.
- 3.** An advisory question shall be placed on the ballot if the Council enacts a resolution directing that a measure be placed on the ballot.
- 4.** An advisory question shall be considered referred under this Section as of the date the Council adopts the resolution directing placement of the question on the ballot.

B. Publication. Upon referral of the measure as outlined in Section 2.04.125 A, the Auditor shall publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.

C. Legal Challenge to Ballot Title. A ballot title adopted by Council may be challenged as provided by state law.

2.04.130 Election Dates; Special Election.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** An initiative measure shall be placed on the ballot at the primary or general election date specified on the petition.
- B.** A referendum measure shall be placed on the ballot at the next primary or general election unless the Council finds that the public interest in a prompt resolution of

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the question outweighs the costs associated with a special election. If the Council chooses not to place the matter on the ballot at the next primary or general election, the Council may call for a special election at the next available date or call for a special election at an election date when other measures are on the ballot thus reducing the cost.

- C.** A measure or advisory question referred by Council shall be placed on the election ballot specified in the resolution directing the measure or question to be referred to the voters. This shall be a primary or general election date, unless the Council finds that the public interest in a prompt resolution of the question outweighs the costs associated with a special election. If the Council chooses not to place the matter on the ballot at the next primary or general election, the Council may call for a special election at the next available date or call for a special election at an election date when other measures are on the ballot thus reducing the cost. If no date is specified in the Council resolution, the measure shall be placed on the ballot at the next available primary or general election.

2.04.140 Ballot Designations.

(Amended by Ordinance Nos. 177200 and 184947, effective November 18, 2011.)

- A.** Measures referred by the Council shall be designated on the ballot “Referred to the People by the City Council.”
- B.** Advisory questions referred by the Council shall be designated on the ballot "Advisory Question Referred to the People by the City of Portland."
- C.** Measures proposed by referendum petition shall be designated on the ballot “Referred by Petition of the People.”
- D.** Measures proposed by initiative petition shall be designated on the ballot “Proposed by Initiative Petition.”
- E.** Measures proposed by the Charter Commission supported by an affirmative vote of at least 15 members of the Charter Commission shall be designated on the ballot “Referred to the People by the Charter Commission.”

2.04.150 Computation of the Vote.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** No measure shall be adopted unless it receives an affirmative majority of the total number of votes.
- B.** A measure that falls under the requirements of Article 11, Section 11 (8) of the Oregon Constitution shall be adopted only if it receives an affirmative majority of the total number of votes and:
 - 1.** At least 50 percent of registered voters of the City cast a ballot; or

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2. The election is a general election in an even-numbered year.
- C. If there are two or more measures on the ballot on the same subject or containing conflicting provisions, the measure receiving the greatest number of affirmative votes shall be the measure adopted.

2.04.160 Effective Date.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall submit the abstract of votes for each measure from the County Elections office to the Council within 30 days after the date of the election. The Mayor shall issue a proclamation giving the number of votes cast for or against a measure and declare the approved measure as the law on the effective date of the measure. If two or more approved measures contain conflicting provisions, the Mayor shall proclaim which is paramount, as provided by Section 2.04.150 B.
- B. An initiative or referendum measure adopted by the electors shall take effect upon proclamation by the Mayor unless the measure expressly provides a different effective date.

2.04.170 Computation of Dates.

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

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CHAPTER 2.08 - NOMINATION AND ELECTION OF CANDIDATES

(Chapter replaced by Ordinance No. 167654,
effective May 18, 1994.)

Sections:

- 2.08.040 City Offices.
- 2.08.050 Qualifications of Candidates.
- 2.08.060 Filing as a Candidate for Office.
- 2.08.070 Filing by Declaration of Candidacy.
- 2.08.080 Filing by Nominating Petition
- 2.08.090 Withdrawal of Candidate Before certification to County.
- 2.08.100 Register of Candidates for primary Election.
- 2.08.110 Statement of Candidates & Measures for Primary and General Elections Ballots.
- 2.08.120 Post-Election Procedures for Primary and General Election.
- 2.08.130 Tie Vote.
- 2.08.140 Candidate Elected by Write-in Vote.
- 2.08.150 Withdrawal after Nomination.
- 2.08.160 Filling Vacancy in Nomination.
- 2.08.170 Recall.

2.08.010 Definitions.

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

2.08.020 Applicability of State Law.

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

2.08.030 City Elections Officer.

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

2.08.040 City Offices.

(Amended by Ordinance Nos. 177200 and 178799, effective November 5, 2004.)

- A.** All elective city offices shall be nonpartisan. Petitions or declarations of candidacy shall contain no reference to any political party affiliation. No reference to any political party affiliation shall be included in any notice, voters' pamphlet, ballot or other elections publication concerning a city candidate.
- B.** The Mayor, Auditor and Commissioners shall be nominated and elected subject to provisions in Charter Section 2-206 and Charter Chapter 3, Article 1 concerning filling vacancies in office and provisions in Code Chapter 2.08.160 concerning absence of a nominee after the Primary Election. If a City candidate receives a majority of the votes cast for an office at the Primary Election, the candidate shall be elected. If no candidate receives a majority of the votes cast for the office at the Primary Election, the two candidates receiving the highest number of votes for that

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office shall appear on the General Election ballot. The candidate receiving the majority of votes cast at the General Election shall be elected. In case no nomination is made at the Primary Election, nominations may be made at the General Election, and any candidate receiving a majority of votes shall be deemed elected at the General Election.

2.08.050 Qualifications of Candidates.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** Eligible electors filing for city offices shall meet the qualifications for elected officials described in Charter Section 2-202. The candidate shall be a citizen of the United States and of the State of Oregon, and a registered voter in the City of Portland who shall have been a resident of the City of Portland or of an area which has become part of the City prior to filing the declaration of candidacy or petition for nomination, for a period of not less than one year immediately preceding the nominating election.
- B.** In addition to the requirements of Section 2.08.050 A., candidates for Auditor must at the time of filing a declaration of candidacy or a nominating petition, be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected.
- C.** The City Elections Officer shall reject the filing for candidacy if the City Elections Officer finds that a candidate is not a registered voter in the City of Portland, would otherwise be unable to qualify as an officer if elected, or if the filing is not in compliance with the law or the requirements of this Chapter in any other way.

2.08.060 Filing as a Candidate for Office.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** An eligible elector may become a candidate for nonpartisan office by filing a declaration of candidacy accompanied by a filing fee or by filing a nominating petition.
- B.** A nominating petition or declaration of candidacy shall contain the name of only one candidate.
- C.** No person shall file a nominating petition or declaration of candidacy for more than one lucrative office on the ballot at the same time. If a person has filed for another office, the person shall first withdraw the prior filing before a nominating petition or declaration of candidacy shall be accepted.
- D.** A nominating petition or declaration of candidacy shall be filed within the time period prescribed by state law.

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2.08.070 Filing by Declaration of Candidacy.

(Amended by Ordinance Nos. 173369 and 177200, effective February 21, 2003.)

- A.** The Declaration of Candidacy shall be accompanied by the filing fee.
 - 1.** \$50 for the office of the Mayor.
 - 2.** \$30 for the office of Commissioner or Auditor.
- B.** A Declaration of Candidacy shall be on a Filing of Candidacy form provided by the Auditor as prescribed by state law and shall provide qualifications and fees for city candidates. It shall include:
 - 1.** The candidate's name and the manner in which the name should appear on the ballot;
 - 2.** The candidate's residence and mailing addresses and other contact information;
 - 3.** The candidate's county of residence;
 - 4.** The position and position number, if applicable, for which the candidate seeks nomination;
 - 5.** A statement of the candidate's occupation, educational and occupational experience and prior government experience;
 - 6.** A statement the candidate will accept nomination or election;
 - 7.** A statement the candidate will qualify if elected;
 - 8.** A statement the required fee is included with the declaration; and
 - 9.** The candidate's signature.
- C.** The Filing of Candidacy form shall state pursuant to ORS 260.715 that any person who supplies any information on the form, knowing it to be false, is subject upon conviction to imprisonment in the penitentiary for up to five years or to a fine of \$100,000 or both; and pursuant to ORS 249.013 that no person shall file a nominating petition or declaration of candidacy for more than one lucrative office before the date of the primary election unless the person first files a written withdrawal with the officer who accepted the initial filing.

2.08.080 Filing by Nominating Petition.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** As an alternative method of filing as a candidate without the expense of the filing fee, a candidate may file a nominating petition. A nominating petition shall contain no fewer than 100 original signatures of electors registered in the City of Portland.
- B.** Before circulating a nominating petition, the candidate shall file with the City Elections Officer a prospective petition signed by the candidate. The prospective petition shall be a copy of the signature sheet intended for circulation and filing, a statement whether petition circulators will be paid or unpaid, a Filing of Candidacy form. The copy of the signature sheet shall be in the form prescribed by state law and signed by the candidate.
- C.** The Filing of Candidacy form shall be on a form provided by the Auditor as prescribed by state law and shall provide qualifications and signature requirements for city candidates. It shall include the items listed in Section 2.08.070 B. 1. - 7., and 9. and 2.08.070 C. It shall also include a statement that the required prospective petition forms are included with the declaration.
- D.** No petition shall be circulated for signatures without the approval of the prospective petition by the City Elections Officer.
- E.** After circulating the petition, the candidate shall submit to the City Elections Filing Officer the signature sheets including no less than 100 percent of the required signatures and the circulator's signed certification on each signature sheet that all signatures were obtained in the circulator's presence and the circulator believes the signatures to belong to eligible electors.
- F.** Upon receipt of signature sheets containing the required number of signatures, the City Elections Officer shall arrange for verification of the validity of the signatures with the County Elections Officers.
- G.** Upon verification of the validity of 100 signatures, the candidate shall file the perfected petition, including a Declaration of Candidacy labeled "perfected petition" with the City Elections Officer.
- H.** Any eligible elector may sign a nominating petition of any candidate for nonpartisan city office.

2.08.090 Withdrawal of Candidate before Certification to County.

(Amended by Ordinance No. 177200, effective February 21, 2003.) A candidate who has filed a Declaration of Candidacy or nominating petition may withdraw as a candidate provided the withdrawal is made by the deadline prescribed by state law and the withdrawal is made on a form provided by the City Elections Officer and signed by the candidate under

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oath. If the withdrawal is filed before the statutory deadline, the City Elections Officer shall refund any filing fee.

2.08.100 Register of Candidates for Primary Election.

The City Elections Officer shall keep a register of candidates for nomination at the primary election. The register shall contain the title of each office, the name and residence mailing address of each candidate for nomination at the primary election, the date of filing of the prospective petition for nomination of the candidate, the date of filing of the perfected petition for nomination, the date of filing of the declaration of candidacy, and such other information as may aid the City Elections Officer to provide the Multnomah County Elections Officer with information for the official ballot for the primary election.

2.08.110 Statement of Candidates & Measures for Primary and General Elections Ballots.

- A.** The City Elections Officer shall file with the Multnomah County Elections Officer a statement of the candidates' names as they will appear on the ballot, the city offices for which candidates are to be nominated or elected, and city measures to be voted on, including the ballot title for each measure. The City Elections Officer shall file this statement no later than the deadline prescribed by state law for notification to county offices.
- B.** The City shall reimburse the County for expenses incurred in changing the ballot if the City Elections Officer makes changes after the deadline for filing the statement with the County.

2.08.120 Post-Election Procedures for Primary and General Elections.

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** Upon receipt of the abstract of the vote tally for nominated or elected officers and measures from the County, the City Elections Officer shall act as follows no later than 30 days after the election.
- B.** The City Elections Officer shall:
 - 1.** Prepare a register of nominations, including the name of each candidate nominated, the position for which the candidate was nominated, and the date of entry;
 - 2.** Proclaim to the City Council the candidates nominated or elected and the measures approved;
 - 3.** Proclaim which measure is paramount if approved measures contain conflicting provisions; and
 - 4.** Prepare and deliver to each candidate a certificate of nomination or election, provided each candidate has filed financial statements relating to the

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election that the candidate is required to file under ORS 260.058 and 260.068.

- C. The certificate is primary evidence of nomination or election. No candidate shall take the oath of office before receiving a certificate of election from the City Elections Officer. The City Elections Officer shall not grant a certificate of nomination or election to any candidate until the candidate has filed the statements relating to the election that the candidate is required to file under ORS 260.058 and 260.068.
- D. A contested election and recount of votes for any City office shall be determined according to state law regulating these proceedings.
- E. Any write-in candidate for a city office who wishes a tally of votes shall file a written request for the tally with the City Elections Officer. The City Elections Officer shall forward the request to the Multnomah, Clackamas and Washington County Elections Officers. The request shall be filed with the City Elections Officer by the deadline prescribed in state law.

2.08.130 Tie Vote.

After a recount of the vote, if two candidates have an equal and highest number of votes at the General Election, the Auditor shall have the candidates meet publicly to decide by lot who is elected after providing notice to the candidates and public.

2.08.140 Candidate Elected by Write-in Vote.

An individual nominated or elected by write-in votes shall sign and file a form indicating that the individual accepts the nomination or office before the City Elections Officer may issue a certificate of nomination or election. The form shall be provided by the City Elections Officer.

2.08.150 Withdrawal after Nomination.

(Amended by Ordinance No. 177200, effective February 21, 2003.) Any person who has been nominated at a nominating or Primary Election may withdraw from nomination by filing a statement declining the nomination and stating the reasons for withdrawal. The request for withdrawal shall be on a form provided by the City Elections Officer and signed by the candidate under oath before the City Elections Officer no later than the deadline prescribed by state law.

2.08.160 Filling Vacancy in Nomination.

- A. If the only candidate nominated to a nonpartisan office dies, withdraws, is removed or disqualified or becomes ineligible before the deadline for filing statements with the County, the nomination process shall be initiated and candidates for the office shall file nominating petitions in the manner provided for nonpartisan office. The General Election shall serve as the nominating election. The City Elections Officer

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shall consult with the Secretary of State in adopting a schedule for filing nominating petitions and subsequent elections documents.

- B.** If a candidate nominated under the provisions of this Chapter receives a majority of the votes cast for the office at the General Election, that candidate shall be deemed elected. If no nominee receives a majority of the vote at a nominating election held at a General Election, the two candidates receiving the highest number of votes shall be in a runoff election, and the candidate receiving a majority of the votes shall be the winner. Any special runoff election required by this Chapter shall be according to provisions of Charter Section 2-206 for filling vacancies in office.

2.08.170 Recall.

Procedures and forms for a recall petition and election shall be according to state law.

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CHAPTER 2.10 – CAMPAIGN FINANCE
FUND

(Chapter repealed by Ordinance No.
185552, effective September 21, 2012.)

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CHAPTER 2.12 - REGULATION OF LOBBYING ENTITIES

(Chapter added by Ordinance No. 179843, effective
April 1, 2006.)

Sections:

- 2.12.010 Purpose.
- 2.12.020 Definitions.
- 2.12.030 Registration for Lobbying Entities.
- 2.12.040 Quarterly Reporting Requirements for Lobbying Entities.
- 2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.
- 2.12.060 Declaration Required by Lobbyists
- 2.12.070 Reporting Requirements for City Officials.
- 2.12.080 Prohibited Conduct.
- 2.12.090 Verification of Reports, Registrations and Statements.
- 2.12.100 Public Nature of Reports, Registrations and Statements.
- 2.12.110 Auditor to Prescribe Forms, Accept Voluntary Filings and Provide Public Access to Filed Information.
- 2.12.120 Penalties.
- 2.12.130 Severability.

2.12.010 Purpose.

The City finds that, to preserve the integrity of its decision making processes, lobbying entities that engage in efforts to influence City officials, should report their lobbying efforts to the public.

2.12.020 Definitions.

(Amended by Ordinance Nos. 180205, 180620, 180917, 181204, 182389, 182671, 184046, 184882, 185304, 186028 and 186176, effective August 30, 2013.) As used in this Chapter unless the context requires otherwise:

- A. “Calendar quarter” means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. “Calendar year” means the period of January 1 through December 31.
- C. “City director” means the director or individual in charge of the following or its successors: the Bureau of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Neighborhood Involvement, the Bureau of Planning and Sustainability, the Portland Bureau of Emergency Management, the Bureau of Emergency Communications, Portland Fire & Rescue, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of Environmental Services, the Portland Water Bureau, the Bureau of Development Services, the Portland Housing Bureau, the Bureau of Revenue, the City Budget

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Office, the Office of Equity and Human Rights, the Bureau of Fire and Police Disability and Retirement, the Bureau of Human Resources, the Bureau of Internal Business Services, the Bureau of Technology Services and the Portland Development Commission.

- D.** “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Planning and Sustainability Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.
- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:

 - 1. Time spent by an individual representing his or her own opinion to a City official.
 - 2. Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
 - 3. Time spent by a City official or City employee acting in their official capacity as an official for the City.
 - 4. Time spent submitting a bid, responding to related information requests, and negotiating terms on a competitively bid contract or intergovernmental agreement.
 - 5. Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.

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6. Formal appearances to give testimony before public hearings or meetings of City Council.
 7. Work performed by a contractor or grantee pursuant to a contract with or grant from the City.
 8. Time spent by any person holding elected public office, or their specifically authorized representative, acting in their official capacity.
- H.** “Lobbying entity” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group who lobbies either by employing or otherwise authorizing a lobbyist to lobby on that person’s behalf.
- I.** “Lobbyist” means any individual who is authorized to lobby on behalf of a lobbying entity.
- J.** “Person” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group.
- K.** “Gift” means something of economic value given to a City official without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not City officials on the same terms and conditions; and something of economic value given to a City official for valuable consideration less than that required from others who are not City officials. However, “gift” does not mean:
1. Campaign contributions, as described in ORS Chapter 260.
 2. Gifts from family members.

2.12.030 Registration for Lobbying Entities.

(Amended by Ordinance Nos. 180205 and 181204, effective September 7, 2007.)

- A.** Within three working days after a lobbying entity has spent 8 hours or more or estimates that it has spent cumulative 8 hours or more during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
1. The name, address, email, website and telephone number of the lobbying entity;
 2. A general description of the trade, business, profession or area of endeavor of the lobbying entity;

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3. The names, addresses, email, website and telephone number of all lobbyists who are employed by or otherwise authorized to lobby on behalf of the lobbying entity. The list must include:
 - a. Individuals who are paid to lobby for the interests of the lobbying entity.
 - b. Other persons, including lobbying entity employees or volunteers, who are authorized to lobby on behalf of the lobbying entity.
 4. The subjects and any specific official actions of interest to the lobbying entity.
- B.** A business, organization, or association who anticipates registering as a lobbying entity is encouraged to register at the beginning of each calendar year.
- C.** Registrations shall expire December 31 of every year. Lobbying entities shall renew their registrations once the 8-hour threshold has been reached in each calendar year.
- D.** An authorized representative of the lobbying entity must sign the registration required by this Section.

2.12.040 Quarterly Reporting Requirements for Lobbying Entities.

(Amended by Ordinance Nos. 180205, 180620, 181204 and 186176, effective August 30, 2013.)

- A.** A lobbying entity registered with the City Auditor or required to register with the City Auditor shall file a report, if the lobbying entity has spent an estimated 8 hours or more during the preceding calendar quarter lobbying, with the City Auditor, by April 15, July 15, October 15, and January 15, showing:
1. The specific subject or subjects of the official action of interest to the lobbying entity, including but not limited to the names of City officials a lobbying entity met with or contacted through direct mail, email or telephone regarding such subject or subjects, the name of the registered lobbyist representing the entity and the date of the contact
 2. A good faith estimate of total moneys, if the total exceeds \$1,000, expended by the lobbying entity or any lobbyist employed by or otherwise authorized to lobby on behalf of the lobbying entity, for the purpose of lobbying City officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:
 - a. Food, refreshments, travel and entertainment;
 - b. Printing, postage and telephone;

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- c.** Advertising, direct mail and email;
 - d.** Miscellaneous and gifts;
 - e.** Compensation paid to lobbyists; and
 - f.** Reimbursements to lobbyists for their expenses.
 - 3.** The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B.** Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.
- C.** A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D.** A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100.
- E.** An authorized representative of the Lobbying Entity must sign the declaration required by Section 2.12.090 A for each quarterly report.
- F.** Lobbying entities who do not anticipate spending over \$1,000 per calendar quarter for the purpose of lobbying may sign and file a certificate of limited expenditure provided by the Auditor's office in lieu of the financial portion of the quarterly report described in Section 2.10.040 A.2. The certificate affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A.2. If a lobbying entity that files a certificate of limited expenditure spends over \$1,000 in a calendar quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.
- G.** A lobbying entity may amend a quarterly report without penalty if it files the amended report within 25 days after the end of the calendar quarter.

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2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.

(Amended by Ordinance Nos. 180620 and 181204, effective September 7, 2007.) In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A. News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B. Lobbying entities that spent fewer than 8 hours lobbying during every calendar quarter in a calendar year.
- C. Any lobbying entity that satisfies all three of the following requirements:
 - 1. Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
 - 2. Is classified as a non-profit organization, registered with the Oregon Secretary of State Corporation Division; and
 - 3. Is formally recognized by the Office of Neighborhood Involvement or through City Council resolution or ordinance.

2.12.060 Declaration Required by Lobbyists.

(Amended by Ordinance No. 180205, effective June 7, 2006.) Prior to offering public testimony before City officials, at the beginning of any meetings or phone calls with City officials, or in emails and letters to City officials, a lobbyist must declare which lobbying entity he or she is authorized to represent for that communication.

2.12.070 Reporting Requirements for City Officials.

(Amended by Ordinance Nos. 180205 and 180620, effective December 22, 2006.)

- A. City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25.00 received from a lobbying entity or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
 - 1. Name of lobbying entity, and if applicable, name of lobbyist;
 - 2. Subject of lobbying;
 - 3. Value of gift, meal or entertainment; and
 - 4. Date of receipt.

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- B.** City officials shall file written reports after a lobbyist or lobbying entity has agreed to make a donation of personal or real property to the City. Such reports shall include:
 - 1.** Name of lobbying entity, and if applicable, name of lobbyist;
 - 2.** Gift or donation requested;
 - 3.** Purpose of donation; and
 - 4.** Date of request.
- C.** The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials, other than elected officials, are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25.00 or if no gifts or donations have been requested in the calendar quarter.
- D.** Elected officials and City directors shall post their calendars of activities related to official City business to the lobbyist website designated by the City Auditor 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.
- E.** A City Official may amend a quarterly report without penalty if he or she files the amended report within 25 days after the end of the calendar quarter.

2.12.080 Prohibited Conduct.

- A.** No former City elected official, City director or other employee shall, for a period of one year after the termination of the employee's term of office or employment, lobby for money or other consideration a City official, regarding any subject matter on which the employee participated personally and substantially during the employee's term of office or employment; provided, that if the employee exercised contract management authority with respect to a contract, this prohibition shall be permanent as to that contract.
- B.** The prohibitions in this Section shall not apply to:
 - 1.** Prevent any former City elected official or other City employee from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before the City;
 - 2.** The activities of any former City elected official or other City employee who is an elected or appointed officer or employee of any public body, when that former City elected official or other City employee is solely

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representing that agency in his or her official capacity as an officer or employee of the public body;

3. Any ministerial action. For purposes of this subsection, a ministerial action is one that does not require a City official or other City employee to exercise discretion concerning any outcome or course of action.
4. Prevent City officials or other City employees from seeking information or participation from former City elected officials or other City employees where the public interest would be served by the information or participation.

2.12.090 Verification of Reports, Registrations and Statements.

(Amended by Ordinance No. 181204, effective September 7, 2007.)

- A. Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.
- B. No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not reasonably believe to be true and correct to every matter.

2.12.100 Public Nature of Reports, Registrations and Statements.

(Amended by Ordinance No. 186176, effective August 30, 2013.) All information submitted to the City Auditor in any report, registration or statement required by this Chapter is a public record and will be posted on Office of the Auditor website within three business days after receipt, except if the information is subject to amendment under this Chapter, the Auditor will post the information within three business days after the amendment period has closed.

2.12.110 Auditor's Duties.

In carrying out the provisions of this Chapter, the City Auditor:

- A. Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B. Shall accept registrations and reports in an electronic format;
- C. Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D. Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;

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- E.** May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F.** Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

2.12.120 Penalties.

A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$500.00 per violation. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue.

2.12.130 Severability.

If any provision of this Chapter, or its application to any person or circumstance, is held invalid by any court, the remainder of this Chapter and its application to other persons and circumstances, other than that which has been held invalid, shall not be affected by such invalidity, and to that extent the provisions of this Chapter are declared to be severable.

**CHAPTER 2.14 - REPORTING BY
POLITICAL CONSULTANTS**

(Chapter added by Ordinance No. 187689, effective
May 20, 2016.)

Sections:

- 2.14.010 Purpose.
- 2.14.020 Definitions.
- 2.14.030 Registration for Political Consultants.
- 2.14.040 Termination of Registration.
- 2.14.050 Quarterly Reporting by City Elected Official.
- 2.14.060 Public Nature of Reports and Registrations.
- 2.14.070 Prohibited Conduct.
- 2.14.080 City Auditor's Duties.
- 2.14.090 Penalties for Violation of this Chapter.
- 2.14.100 Enforcement.

2.14.010 Purpose.

The purpose of this Chapter is to improve transparency by requiring Political Consultants advising City elected officials to meet certain registration and reporting requirements.

2.14.020 Definitions.

As used in this Chapter unless the context requires otherwise:

- A. "City elected official" means the Mayor, City Commissioners, or Auditor.
- B. "Day" means a calendar day by 5 p.m. unless "business day" is specified. If the computed date for action falls on a Saturday, Sunday or legal City holiday, then the "day" shall be the next business day by 5 p.m.
- C. "Political Consultant" means a person or entity that provides Political Consulting Services to a City elected official or successful candidate for elected office, or a successful candidate's principal campaign committee, registered with the Oregon Secretary of State. The term "Political Consultant" does not include attorneys who provide only legal services, accountants who provide only accounting services, professional fundraisers, or pollsters who provide only polling services. The term "Political Consultant" does not include a person who
 - 1. Does not engage in Political Consulting Services as a trade or profession, or
 - 2. Is a City employee.
- D. "Political Consulting Services" include actions in campaign management and political strategy services, including but not limited to: advocacy and strategy;

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political polling; advising or assisting in voter contact strategies and services; advising in media strategy, buying and advertisement; providing candidate development, policy training, political image consulting, and designing, implementing and analyzing polls and surveys; performing issues research and opposition research; developing, assisting in strategic communication such as news releases, talking points and speech writing; and advising on negative information handling and political crisis management. This Chapter does not regulate the content and viewpoint of the services provided to a City elected official.

2.14.030 Registration for Political Consultants.

- A.** Within 15 days after providing any Political Consulting Services to a City elected official, a Political Consultant must register with the City Auditor.
 - 1.** The registration must include at least the following information:
 - a.** The name, address and contact information of the Political Consultant, including the organization, if applicable, with which the Political Consultant is associated and the address and contact information of that organization if different than that of the Political Consultant.
 - b.** If the Political Consultant is an entity, the names, addresses and contact information of principals, employees and contractors that provide Political Consulting Services to a City elected official.
 - c.** If an entity registers, the individual employees or contractors of the entity do not need to register separately.
 - 2.** The name of the City elected official to whom the Political Consultant provides Political Consulting Services, and the date when services commenced. If services are provided in support of a City referred measure under Chapter 2.08, then the name, address and contact information for the lead representative for the measure, and the date when services commenced.
- B.** A Political Consultant must file an updated statement within 15 days if any previously reported information changes.
- C.** If a person for whom Political Consulting Services has been provided later becomes a City elected official, a Political Consultant must file a statement as required by this Section within 15 days from certification of election results.

2.14.040 Termination of Registration.

When a Political Consultant who is required to register under this Chapter later terminates all Political Consulting Services to a City elected official, the Political Consultant shall file a termination statement on the form required by the City Auditor within 15 days of service termination.

2.14.050 Quarterly Reporting by City Elected Official.

- A.** A City elected official shall file a statement with the City Auditor identifying the Political Consultant who provides or provided services to the City elected official, and the date when services commenced. If a City elected official sponsors a City referred measure under Chapter 2.08, the City elected official shall identify the measure and the Political Consultant that will perform or performed Political Consulting Services for the measure. Sponsorship of a City referred measure by a City elected official shall be determined by the City elected official who signed a resolution filed pursuant to Chapter 2.04.
- B.** The statement in this Section shall be filed with the City Auditor 15 days after the end of the calendar quarter as proscribed in Subsection 2.12.020 A.
- C.** Amendments to statements submitted under this Section may be made without penalty within 25 days after the end of the calendar quarter.
- D.** The City elected official shall file an updated statement within 15 days of change of any information reported.
- E.** If a person through election becomes a City elected official, the person shall file the statement required in this Section at the next quarterly reporting period that follows certification of elections results. If a person is appointed to the position of City elected official pursuant to Charter Section 2-206, the person shall file the statement required in this Section at the next quarterly reporting period following appointment.

2.14.060 Public Nature of Reports and Registrations.

All information submitted to the City Auditor in any statement required by this Chapter will be posted on the City Auditor's website within 3 business days after the receipt, except if the information is subject to amendment under this Chapter, the Auditor will post the information within 3 business days after the amendment period has closed.

2.14.070 Prohibited Conduct.

- A.** A City elected official shall not knowingly utilize a Political Consultant who is in violation of this Chapter.
- B.** A Political Consultant shall not provide Political Consulting Services without reporting as required under this Chapter.
- C.** No person shall submit false, fraudulent or misleading information on statements, including but not limited to misrepresenting the scope or nature of services provided or the identity of clients to whom services are provided.

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2.14.080 City Auditor's Duties.

The City Auditor is authorized to adopt, amend and repeal administrative rules, policies, procedures and forms for the regulation and enforcement of this Chapter, including but not limited to prescribing forms for registration and reporting, determining the method for filing, conducting appropriate inquiry and audit of reports or statements for completeness and accuracy, establishing fees for late filing or non-filing, and imposing civil penalties for non-compliance.

2.14.090 Penalties for Violation of this Chapter.

- A.** A person who fails to report as required by this Chapter shall be subject to a civil penalty and other administrative sanctions until the registration or reporting is complete and in compliance with this Chapter.
- B.** A person who provides false or misleading information may be subject to a civil penalty and other administrative sanctions.
- C.** A person who violates any section of this Chapter may be subject to a civil penalty of up to \$1,000 per violation.

2.14.100 Enforcement.

The City Auditor may request that the City Attorney initiate action in Multnomah County Circuit Court to enforce the provisions of this Chapter, including collection of any unpaid fees or civil penalties. Upon such a request by the Auditor, the City Attorney shall make a determination of whether facts supporting a prima facie enforcement action exist. If so, the City Attorney shall either initiate an enforcement action on behalf of the City or shall retain outside counsel to work with the Auditor to do so. The City may seek enforcement of all provisions of this Chapter in the enforcement action, including but not limited to recovery of all fees and civil penalties assessed under this Chapter as well as enforcement of any other provision of this Chapter. In any enforcement action, the City shall be entitled to recover any costs and attorneys' fees incurred as a result of the violation of this Chapter.

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review criteria for authorization of eligible MBE/FBE participants. Such certification shall be no less often than annually.

3.100.089 Rules and Regulations.

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Purchasing Agent (Bureau of Financial Affairs) shall establish and maintain rules and regulations for administration of the Minority/Female Purchasing Program.

3.100.090 Metropolitan Human Relations Commission Review and Evaluation.

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

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Chapter 3.101

**PROPERTY TAX EXEMPTION FOR
LOW INCOME HOUSING HELD BY
CHARITABLE NON-PROFIT ORGANIZATIONS**

(Chapter added by Ordinance No. 157768,
effective August 29, 1985.)

Sections:

- 3.101.010 Definitions.
- 3.101.020 Eligible Organizations.
- 3.101.030 Eligible Property.
- 3.101.040 Application Procedure.
- 3.101.050 Review of Application.
- 3.101.060 Annual Application Renewal.
- 3.101.070 Assessment Exemption.
- 3.101.080 Termination.
- 3.101.090 Implementation.

3.101.010 Definitions.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.) As used in this Chapter:

A. “Low income” means:

1. For the initial year that persons occupy property for which an application for exemption is filed under ORS 307.545, income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development; and
2. For every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

B. “Eligible property” means land and improvements thereon:

1. Which are either single or multi-family residential units intended for the exclusive occupancy by low-income persons during the tax year for which approval of the application has been granted or properties which are not residential units but which will become residential units through

rehabilitation improvements or new construction to be occupied by low-income persons;

2. Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of Subsections 3.101.030 B. 1.-2. by a charitable organization and non-profit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.540 to 307.548; and
3. Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.

3.101.020 Eligible Organizations.

(Amended by Ordinance No. 185043, effective December 7, 2011.) “Eligible organizations” means only charitable non-profit corporations certified by the Internal Revenue Service of the federal government as a 501 (c) (3) or (4) organization which also provides housing for occupancy by low-income persons as defined by Section 3.101.010 in this Chapter. No other types of non-profit or for-profit organizations are eligible.

3.101.030 Eligible Property.

(Amended by Ordinance Nos. 167356 and 185043, effective December 7, 2011.) As used in this Chapter:

- A. “Eligible property” as defined in Subsections 3.101.010 B. 1.-3. which meets all of the following criteria, pursuant to ORS 307.541, and other conditions of this Chapter shall be exempt from taxation:
 1. The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.541(a);
 2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to the State of Oregon;
 3. The property is occupied by low-income persons as defined by ORS 307.540(2) or held for future development for low income housing pursuant to ORS 307.541(1)(c)(B).

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4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
 5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.
- B.** For the purposes of this Chapter, pursuant to ORS 307.541(2), a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
 2. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.
- C.** Pursuant to ORS 307.541(3), a partnership shall be treated the same as a corporation if the corporation is a general partner of the partnership and responsible for the day-to-day operation of the property that is the subject of the exemption.

3.101.040 Application Procedure.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.)

- A.** To qualify for the exemption the corporation shall file an application for exemption with the Portland Housing Bureau acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application shall be filed on or before March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. The application shall include the following information:
1. The applicant's name, address, and telephone number;
 2. The assessor's property account number for each site;
 3. The number of units and the exempted amount of each property being applied for under this Chapter;
 4. A description of the property for which the exemption is requested;

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5. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 6. A description of how the tax exemption will benefit project residents; and
 7. A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;
 8. A certification of income levels of low-income occupants;
 9. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984;
 10. A description of the development of the property if the property is being held for future low income housing development; and
 11. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter at the time the application is submitted.
- B.** The application shall include the following statements:
1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
 2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income, will qualify for exemption at the time of application approval or within 30 days of the March 1 application deadline;
 3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.
 4. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.
- C.** The applicant shall verify the information in the application, in accordance with Subsections 3.101.040 B. 1. through 3. above, by oath or affirmation.
- D.** Applicants for an exemption under this Chapter shall pay fees for an initial application and any renewals as set by the Portland Housing Bureau. The

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Portland Housing Bureau shall pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Portland Housing Bureau or the County Assessor in processing the application. The Portland Housing Bureau shall collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred.

3.101.050 Review of Application.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.)

- A.** Within 30 days after the March 1 deadline for the application and payment of the application fee, the Portland Housing Bureau shall approve or deny the application. The application shall be approved if the Portland Housing Bureau finds that the property is “eligible property” within the meaning of the paragraphs 1. through 3. of Subsection B. of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter.
- B.** If the application is approved, the Portland Housing Bureau shall send written notice of approval to the applicant.
- C.** The Portland Housing Bureau shall file a certified list of approved properties with the County Assessor on or before April 1.
- D.** If the application is denied, the Portland Housing Bureau shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial. The Portland Housing Bureau shall retain that portion of the application fee which is attributable to its own administrative costs and shall refund the balance to the applicant.
- E.** Upon denial by the Portland Housing Bureau, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the City Council may be taken as provided by law.
- F.** The application shall be assigned an application and receipt number.

3.101.060 Annual Application Renewal.

(Amended by Ordinance Nos. 167356, 178286, 185043 and 187660, effective April 6, 2016.)

- A.** Applicants for property tax exemption must apply each year no later than April 1 in order to be qualified for property tax exemption for the upcoming tax year.

- B.** The annual application renewal fee shall be set by the Portland Housing Bureau.

3.101.070 Assessment Exemption.

(Amended by Ordinance Nos. 167356, 178286 and 185043, effective December 7, 2011.)

- A.** Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning July 1 of the tax year immediately following approval of the exemption, or when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.
- B.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, 2027.
- C.** The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.101.080 Termination.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)

- A.** If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the Portland Housing Bureau finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the Portland Housing Bureau shall give notice in writing to the owner, mailed to the owner's last-known address and to every known lender, by mailing the notice to the last-known address of every known lender, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of the exemption and require the owner to appear before City Council to show cause at a specified time, not less than 20 days after mailing of the notice, why the exemption should not be terminated.
- B.** If the owner does not appear or if he or she appears and fails to show cause why the exemption should not be terminated, the Portland Housing Bureau shall notify every known lender and shall allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any

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noncompliance or to provide adequate assurance that all noncompliance shall be remedied.

- C.** If the owner fails to appear and show cause why the exemption should not be terminated and the lender fails to cure or give adequate assurance of the cure of any noncompliance, City Council shall adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution shall be filed with the County Assessor and a copy sent to the owner at the owner's last-known address and to the lender at the last-known address of the lender, within 10 days after its adoption.
- D.** Upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.216 to 311.232, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by City Council or by a court, in accordance with the findings of City Council or the court as the assessment year in which the exemption is to terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.216 to 311.232. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.101.090 Implementation.

(Amended by Ordinance Nos. 167356, 182671, 185043 and 187660, effective April 6, 2016.) The Portland Housing Bureau shall establish procedures and prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the March 1 filing deadline imposed by ORS 307.545.

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- 5.24.010 Permanent Records to be Kept by Auditor.
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5.24.010 Permanent Records to be Kept by Auditor.

The Auditor shall install and maintain suitable loose-leaf systems in keeping bonded lien accounts and other such bookkeeping accounts which are required to be kept by the provisions of the Charter. Such loose-leaf accounts shall be kept in lock binders and shall be placed in lock book form upon completion of the record of such account. Such loose-leaf system installed in binders shall be deemed a permanent record for all purposes required by the Charter of the City.

5.24.020 Auditor to Report on Balance in Appropriation.

Each month the Auditor shall transmit to the head of each department a statement showing the unencumbered balance in each appropriation.

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CHAPTER 5.30 - COLLECTIONS AND FORECLOSURE PROCESS

(Chapter replaced by Ordinance No. 177246,
effective March 7, 2003.)

Sections:

- 5.30.010 Purpose.
- 5.30.020 Definitions.
- 5.30.030 Applicability and Foreclosure Options.
- 5.30.040 Authorities and Responsibilities.
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5.30.010 Purpose.

This Chapter establishes a process for collecting delinquent liens and foreclosing delinquent liens on properties. The emphasis of the collection program will be to maintain good communication with property owners. However, the City bears responsibility for recovering its costs associated with collecting delinquent liens. Incentives and penalties are established to encourage payment. In addition, special payment plans are provided for persons having difficulties paying liens. Foreclosure should be used as a last resort in most circumstances, to protect the interests of bondholders and taxpayers of the City, and to recover costs incurred by the City in providing services.

5.30.020 Definitions.

(Amended by Ordinance No. 187833, effective June 15, 2016.) The terms used in this Chapter shall be defined as provided in this Section, unless the content requires otherwise.

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- A. **“Adjusted Prime Rate”** means the interest rate as calculated by the higher of either the prime interest rate set by the City’s bank on December 31st of the previous year plus 300 basis points (3%), or twelve percent (12%) per annum.
- B. **“Bonded lien”** means a lien which has been financed under the provisions of state law, City Code or City Charter.
- C. **“City lien docket”** means the official City record maintained by the City Auditor for the entry of fees, charges, penalties or assessments as authorized by state law, City Code or City Charter. The fees, charges, penalties or assessments include, but are not limited to, costs related to the construction of economic or public improvements or for other improvements or purposes authorized by state law, systems development charges, costs of sidewalk repairs, costs of nuisance abatement, penalties assessed by the Code Hearings Office and fees associated with code enforcement.
- D. **“Collection costs”** means the costs associated with the collection of liens, including but not limited to staff, mailing costs, billing and rebilling fees.
- E. **“Delinquent lien”** means a bonded lien that is unpaid more than 30 days after the installment payment due date, or an unbonded lien which has not been paid within 30 days after entry upon the city lien docket.
- F. **“Foreclosure list”** means a list of properties for foreclosure sale. The list contains, at a minimum, a description of each lien and a description of the property on which the lien is assessed.
- G. **“Foreclosure sale”** means the legal process of selling real property, which allows the City to foreclose and to dispose of a delinquent lien through notice and sale.
- H. **“Lien”** means an entry upon the city lien docket in favor of the City of fees, charges, penalties or assessments as authorized by state law, City Code or City Charter.
- I. **“Open lien”** means a lien that has not been or cannot be financed, and that requires payment in full.
- J. **“Redemption”** means the right of the property owner or any person with an interest in the property, excluding the purchaser in a foreclosure sale, to repurchase the foreclosed property by payment of the redemption price during the redemption period.
- K. **“Redemption period”** means one year from the date of a foreclosure sale, commencing on the day after the sale and ending at 5:00 p.m. (PST) on the 365th day thereafter, unless the 365th day falls on a Saturday, Sunday or legal holiday

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specified in ORS 187.010 (2001), in which case the last day for redemption shall be 5:00 p.m. (PST) on the next working day.

- L.** “**Redemption price**” means the sales price plus redemption interest and redemption penalties accrued during the redemption period.
- M.** “**Sales costs**” means all costs, direct and indirect, associated with a foreclosure sale by the City, including but not limited to: county recording fees, title reports or other means of identifying persons with interest in the property, title insurance, service and notification, publication and advertising, posting, sale, and staff salaries, including benefits and overhead.
- N.** “**Sales price**” means a sum equal to or exceeding the greater of:
 - 1.** The amount of the lien principal plus, interest and penalties, together with all collection costs and sales costs associated with the foreclosure sale; or
 - 2.** Seventy-five percent of the total assessed value of the real property, as determined by the assessor of the county in which the land and improvements are located.

5.30.030 Applicability and Foreclosure Options.

- A.** The provisions of this Chapter apply to delinquent liens. This Chapter shall not apply to delinquent Sewer Safety Net liens, which are governed by Chapter 5.31.
- B.** The City shall not be limited to the foreclosure process in this Chapter. The City may elect to use other methods for foreclosure or sale of properties as authorized by the Charter, City Code or state law.

5.30.040 Authorities and Responsibilities.

(Amended by Ordinance Nos. 181483 and 187833, effective June 15, 2016.)

- A.** The Auditor shall maintain the City lien docket; maintain the records related to liens; process bonding contracts; and bill and collect open and bonded liens. As set forth elsewhere in this Chapter, the Auditor is also responsible for processing and approving or denying applications for the Catch-up Payment Program and the Hardship Payment Program; administering the foreclosure process; preparing foreclosure lists; and transmitting the foreclosure lists to the City Council for its review and approval.
- B.** The Treasurer shall administer the foreclosure sale process; withhold or withdraw property from foreclosure sale for purchase by the City; administer the redemption process; and execute deeds conveying the property sold. As provided under Section 3.08.030, the Treasurer may delegate this authority or such other authority as may be assigned under this Chapter.

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- C. Unless otherwise specifically directed by Council, the Bureau of Internal Business Services shall manage, maintain, rent or market for sale properties purchased by the City under this Chapter.

5.30.050 Collection Process.

- A. The Auditor shall establish a collection process for delinquent liens and shall be authorized to:
1. Establish written rules and procedures to carry out the provisions of this Chapter;
 2. Establish fees, including a billing fee and rebilling fee, to recover billing costs and the costs of collecting delinquent lien amounts; and
 3. In addition to the penalties and interest otherwise provided in this Section, establish increases in penalty amounts and the interest rate to encourage early payment of delinquent liens.
- B. The Auditor shall impose a penalty each month until the delinquent lien is brought current, paid in full or the property owner signs a payment plan. The penalty will be calculated as follows:
1. Open delinquent liens shall be charged a penalty equal to one-quarter of one percent (.0025) of the total outstanding principal balance.
 2. Bonded delinquent liens shall be charged a penalty equal to five percent (5.00%) calculated on the total amount of the installment that is delinquent.
- C. The Auditor shall add interest to delinquent liens based on the following methods:
1. For a delinquent open lien, interest shall be assessed at the adjusted prime rate, calculated on the unpaid balance from the assessment date. The annual interest rate shall not be less than 12% for an open lien, except in the Hardship Payment Program. Lien payments made during the 30-day period following the assessment date shall not be charged this interest.
 2. For a delinquent bonded lien, interest shall be calculated daily based on the amount of the unpaid principal balance and the interest rate set by the installment payment contract.
- D. As liens become delinquent, the Auditor shall provide notice of the delinquency to the property owner. Notice(s) shall be sent by registered or certified mail. Notice(s) shall identify the property, the amount owing (principal, interest, penalties and collection costs) and estimate the sales costs that will be charged to the account. In addition, the notices shall identify the type of the delinquent lien

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account and the fact that the property will be placed on the foreclosure list unless the property owner elects to pay under the Catch-up Payment Program or brings the account current.

- E.** The Auditor may waive interest, penalties and collection costs on delinquent liens under the following conditions:
 - 1.** A delay in receiving payment or installment payment contract which is caused by a documented oversight, omission or error by City staff;
 - 2.** A one-time failure in making a payment by the property owner which is caused by a documented financial emergency; or
 - 3.** The sale or transfer of a property that is subject to a delinquent lien to a non-profit organization or government program satisfying the goals of an expressed public purpose.

5.30.060 Adjustment of Open Lien Amounts.

- A.** The Auditor may evaluate individual delinquent open liens to develop recommendations on revising the payment amount of the lien and the payment terms. The Auditor's recommendation shall be based upon the factors set forth in Subsection 5.30.060 D. Delinquent bonded liens may not be reviewed or adjusted.
- B.** The Collections Committee shall be comprised of four members, consisting of a representative from two members of the City Council, one representative from the Bureau of Development Services and one representative from the Office of Management and Finance. These four offices shall each designate their representative to the Committee.
- C.** The Committee shall meet from time to time, as necessary, to review and consider the Auditor's recommendations. The Collections Committee shall make a written determination accepting, revising or rejecting the Auditor's recommendations on adjusting the delinquent open lien payment amount and terms. The Collections Committee's written determination shall be based upon the factors listed in Subsection 5.30.060 D. The Auditor shall notify the property owner in writing of the Collections Committee's determination.
- D.** The factors to be considered when adjusting the payment amount and terms of delinquent open liens include, but are not limited to, the following:
 - 1.** Whether the property owner has committed any prior City Code violation, or has other delinquent liens, regardless of whether any administrative, civil, or criminal proceeding occurred;

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2. The history of the property owner in taking all feasible steps or procedures necessary or appropriate to correct the violation or resolve any delinquencies;
 3. The property owner's financial condition;
 4. The gravity and magnitude of the violation;
 5. Whether the violation was repeated or continuous;
 6. Whether the violation was due to unavoidable accident, other conditions or circumstances beyond the property owner's reasonable control, negligence, or an intentional act of the property owner;
 7. The opportunity and degree of difficulty to correct the violation or resolve any delinquencies;
 8. The economic or financial benefit accrued or likely to accrue to the property owner as a result of the violation;
 9. The property owner's cooperativeness and efforts to correct the violation for which the lien was assessed;
 10. The costs to the City of investigation, enforcement and correction or attempted correction of the violation;
 11. The total costs to the City for principal, penalty, billing, interest and collection charges; and
 12. Any other relevant factors.
- E.** If the property owner accepts the Collections Committee's determination on adjusting the delinquent open lien amount and payment terms, the owner shall enter into a written agreement prepared by the Auditor that contains the adjusted delinquent open lien amount and payment terms.
- F.** If the property owner rejects the Collection Committee's determination, the owner may appeal the determination on adjusting the delinquent open lien amount and payment terms to the Code Hearings Officer as provided for in Chapter 22.10. However, if the owner has previously appealed the lien or the related code violations to the Code Hearings Officer, there shall be no right of appeal.

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5.30.070 Catch-up Payment Program.

(Amended by Ordinance No. 179361, effective July 1, 2005.)

- A.** Under the Catch-up Payment Program, a property owner is allowed to bring a delinquent bonded lien current or pay in full by the end of an established period by increasing the monthly amount, or to pay a delinquent open lien in full by the end of an established period.
- B.** Qualifications. Any property owner with a delinquent lien may participate in the Catch-up Payment Program.
- C.** Administration.

 - 1.** For a delinquent bonded lien, the minimum monthly payment must be equal to the scheduled regular payment, plus an amount necessary to repay the arrears by the end of the individual payment plan. At the conclusion of an individual payment plan, the Auditor shall bill any property owner who has a bonded lien and has complied with the individual payment plan, but has not paid the account in full, according to the Auditor's standard billing procedures. The maximum period under this Program shall not exceed five years.
 - 2.** For a delinquent open lien, the minimum monthly payment must be equal to an amount necessary to pay the account in full by the end of the term of the individual payment plan. The maximum payment period under this Program shall not exceed five years. Interest shall be calculated at the prime interest rate set by the City's bank on December 31st of the previous year plus 300 basis points (3%) per annum. The recalculated interest rate shall be applied to each individual payment plan on the first billing date following December 31st of each year.
 - 3.** A payment for the specified amount in the Catch-up Payment Plan Agreement (CPPA) must be received in the Auditor's Office with the signed CPPA.
- D.** If a property owner fails to make any monthly payment before the completion of an individual catch-up plan, the Auditor may place the property on the foreclosure list in accordance with the priorities in Section 5.30.100.

5.30.080 Hardship Payment Program.

(Amended by Ordinance Nos. 178241 and 179361, effective July 1, 2005.)

- A.** Under the Hardship Payment Program, a property owner may pay only interest and billing charges for a period not to exceed 12 months.

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- B.** Qualifications. A property owner may qualify for the Hardship Payment Program if they meet all of the following criteria:
1. The property must be a single-family residence, occupied by the owner;
 2. The property must be subject to a delinquent lien; and
 3. The property owner is temporarily unable to make monthly payments due to catastrophic financial circumstances. These circumstances may include illness, loss of income or a temporary disability.
- C.** Administration.
1. The Auditor shall administer the Hardship Payment Program.
 2. Applicants must complete a written request form and provide sufficient written documentation to support a determination that the applicant is experiencing catastrophic financial circumstances. Documentation may consist of records such as a lay-off-notice, proof of unemployment or other evidence of loss of income.
 3. The Auditor shall review and approve or deny applications for individual payment plans under the Hardship Payment Program.
 4. If the Auditor determines that a property owner is qualified to participate in the Program, the Auditor shall allow the qualified property owner to make a minimum monthly payment equal to the monthly interest accruing to the delinquent lien, plus the monthly billing charge. Interest shall be calculated at the prime interest rate set by the City's bank on December 31st of the previous year plus 200 base points (2%) per annum. The recalculated interest rate shall be applied to each individual payment plan on the first billing date following December 31st of each year.
 5. The Auditor shall periodically review each individual payment plan to verify the qualifications of the participant.
 6. At the conclusion of an individual payment plan, the Auditor shall bill any property owner who has complied with the individual payment plan, but has not paid the account in full, according to the Auditor's standard billing procedures.
 7. A payment for the specified amount in the Hardship Payment Plan Agreement (HPPA) must be received in the Auditor's Office with the signed HPPA.

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- D.** If the property owner fails to make a monthly payment before the completion of the plan, the Auditor may place the property on the foreclosure list, unless the Auditor finds there is an additional or continuing emergency. In that event the Auditor may authorize a new plan or reinstate the existing plan.

5.30.090 Negotiation of Bonded Lien Payment Contracts.

If the Auditor declares a bonded lien payment contract void prior to the property being placed on the foreclosure list, the property owner and the Auditor may negotiate new installment payment arrangements. If the Auditor offers a new installment payment contract, the terms and conditions must protect the City's financial condition and assure the repayment of associated municipal bonds. The Auditor shall set the interest rate on the negotiated contract at a rate greater than or equal to the interest rate of the original installment payment contract. The Auditor shall prepare a form of agreement for negotiated installment payment contracts.

5.30.100 Preparation of Foreclosure List.

- A.** The Auditor shall be responsible for preparing the proposed foreclosure list. No property shall be placed on the proposed foreclosure list unless:
 - 1.** It is an open lien which is at least 60 days past the due date; or
 - 2.** It is a bonded lien which is at least one year past the installment due date.
 - 3.** The City has provided the property owner or their predecessor in interest at least two written delinquency notices within a three-month period prior to the sale.
- B.** The Auditor shall prioritize which delinquent liens to include on the proposed foreclosure list. Priority shall be given to properties that have the potential to significantly reduce the delinquency rate or help to solve a City public health, safety or welfare objective. Priority may also be given based on factors including, but not limited to, the total amount of delinquency; property owners with multiple delinquencies for one or more properties; or multiple nuisance abatement action by the City.
- C.** The Auditor may determine the number of properties to be placed on the proposed foreclosure list based on current City staffing resources, complexity of accounts, and time and resources necessary to complete timely processing of foreclosing the delinquent liens.
- D.** The Auditor shall:
 - 1.** Submit the proposed foreclosure list to the Council for Council action;

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2. Submit a report to the Council that identifies the properties recommended for purchase by the City from the proposed foreclosure list. The report shall identify the property and the source of the funds to be used to purchase the property; and
3. Determine whether any properties on the proposed foreclosure list are also delinquent in the payment of property taxes. The Auditor shall identify those properties which are likely to be foreclosed upon by the County prior to the City's foreclosure sale and shall make a recommendation to the Council regarding whether any of these properties should be purchased and removed from the foreclosure list.

5.30.110 Council Action on Foreclosure List.

- A. The Council shall decide which properties to include on the foreclosure list and which properties should be purchased by the City. The Council shall approve the foreclosure list by ordinance. The ordinance shall state the provisions for redemption of properties by the prior owners, as provided by state law or City ordinance. After the foreclosure list is approved by Council, the only payment option is to make payment in full.
- B. The foreclosure list shall be transmitted to the Treasurer by the Council Clerk.

5.30.120 Purchase of Property by the City.

(Amended by Ordinance No. 187833, effective June 15, 2016.) Upon Council approval, the City may purchase any property on the foreclosure list for the amount of the lien principal plus interest and penalties, and may do so before, during, or after the sale subject to the following conditions:

- A. Money for purchase has been transferred to the proper City fund for payment of the delinquent lien amount;
- B. In the case of property purchased before the sale, any person having an interest in the property is given an opportunity to pay the lien in full including collection and sales costs, and thereby remove the property from the foreclosure list as provided by Section 5.30.150; and
- C. Any person having an interest in the property may redeem the property as provided by Section 5.30.210.

5.30.130 Recording Notice of Foreclosure Sale.

(Amended by Ordinance No. 178241, effective April 9, 2004.)

- A. The Treasurer shall record a notice of foreclosure sale for each property listed on the foreclosure list in the County records in which the property is located before

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ordering a foreclosure report and before giving notice as required by Section 5.30.140. The recorded notice shall contain the ordinance number approving the foreclosure list; the address and legal description of the property; the time, date and place of the sale; the types and amounts of liens; and, that the property will be sold unless the account is paid in full including all interest, penalties, collection costs and sales costs to date. The recorded notice shall also state a contact name, address and phone number for obtaining additional information from the City.

- B.** Any property which is an asset of a bankruptcy estate shall either be removed from the sale or the City Attorney shall be requested to first seek relief from stay in the Bankruptcy Court.

5.30.140 Notice to Persons on Foreclosure List of Foreclosure Action.

As provided below, the Treasurer shall provide notice to all persons known to have a recorded interest in the properties on the foreclosure list.

A. Individual Notice.

- 1.** The Treasurer shall mail a notice of foreclosure sale to all persons known to have a recorded interest in the property and to all persons having recorded a request for copy of notice of sale. Notice shall be sent at least 60 days prior to the sale by registered or certified mail.
- 2.** The mailed notice shall state that a foreclosure sale will be held and it shall specify the date, time and place. It shall contain the following information: the names of the owners of the property; the legal description of the property; the street address; the amount of the delinquent lien stating both the principal and interest due as well as any penalties and collection costs; the type of the delinquent account; and, the name of the Treasurer and contact information. The notice shall also state that there shall be an additional charge for sales costs to date.

B. Newspaper Notice.

- 1.** The Treasurer shall have printed in a daily newspaper of general circulation a notice of foreclosure sale once a week for four successive weeks.
- 2.** The notice shall contain the information required in Subsection 5.30.140 A.2.
- 3.** A copy of the first of the four published newspaper notices shall be sent to the owner and to the occupant by registered or certified mail.

C. Posted Notice.

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1. The Treasurer shall have notice of foreclosure sale posted on the property at least once, no less than four weeks before the sale.
 2. The posted notice shall contain the information required in Subsection 5.30.140 A.2.
- D.** Other notice. Notice shall be given to the Internal Revenue Service by registered or certified mail, at least 25 days prior to the sale.

5.30.150 Payment of Lien.

At any time prior to the foreclosure sale, a person with a recorded interest in the property may remove the property from the foreclosure list by paying in full the amount of the delinquent lien with penalties, interest, collection costs and sales costs incurred to date. If requested, notice that the property has been removed from the foreclosure sale shall be recorded in the County records in which the property is located.

5.30.160 Presale and Sale Conditions.

A bidder purchases the property “as is.” The City will not provide an opportunity for on-site inspection of the land or buildings.

5.30.170 Conduct of Foreclosure Sale.

(Amended by Ordinance No. 187833, effective June 15, 2016.)

- A.** The Treasurer shall prepare rules governing the conduct of the foreclosure sale. The rules shall be available at least 60 days prior to the foreclosure sale.
- B.** Each property shall be sold separately for its respective sales price.
- C.** Only bids in the amount of the sales price for a property are acceptable. If more than one bid equals or exceeds the sales price, the real property must be sold to the highest bidder.
- D.** If the sum received for the sale of the property under this Section exceeds the lien principal amount, plus interest, penalties and the cost of conducting the sale, the Treasurer shall apply the proceeds of the sale as follows:
 1. To the costs of conducting the sale.
 2. To the unpaid lien principal plus interest and penalties.
 3. To any persons with recorded interest in the property, in order of their priority.
 4. To the debtor or the debtor’s heirs or assigns.

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- E. Property which is not sold may again be offered for sale. The steps in Sections 5.30.130 through 5.30.240 shall be followed.

5.30.180 Waste, Improvements to the Property and Nuisance Abatement Procedures.

- A. The City shall not bear any responsibility or liability for damage or waste to the property or to any structures or fixtures during the redemption period. The purchaser shall assume all risk of such damage or waste.
- B. Any improvements or maintenance to the property made by a purchaser during the redemption period shall be made under a contractual agreement with the owner. The contract shall specifically state the amount owing and the rate of interest, if any.
- C. In the event the property becomes a public nuisance, the City may enforce any applicable nuisance abatement regulations. Nuisance abatement may result in additional assessments against the property, which may become the liability of the purchaser.
- D. The property may also become subject to special assessments.

5.30.190 Certificate of Sale and Notice of Sale to Property Owner.

(Amended by Ordinance No. 187833, effective June 15, 2016.)

- A. After a foreclosure sale, the Treasurer shall promptly deliver a certificate of sale to the purchaser. The certificate of sale embodies the right to own the property at the end of the redemption period. The holder of a certificate of sale has no ownership rights and no possessory interest in the property prior to the completion of the redemption period and holds the certificate of sale subject to the rights of all persons having an interest in the property to redeem it, the right of the City to place additional liens on the property and the right of another unit of government to foreclose upon the property. All liability remains with the persons having an interest in the property until the City issues a deed at the end of the redemption period.
- B. The certificate of sale shall include the following information: a description of the delinquent account for which the property was sold; a description of the property; a statement of the amount for which it was sold; the redemption interest rate and the amount of the redemption penalty; the name of the purchaser; and, a statement that the property is being sold subject to the right of redemption within one year from the date of sale.
- C. The Treasurer shall send to the property owner and all persons known to have a recorded interest in the property a notice of the sale by registered or certified mail, within 10 business days after the sale. The notice shall contain the following information: the name of the purchaser; the right of redemption; the date the

redemption period expires; the redemption price; and, the basis for calculating interest and penalties during the redemption period.

- D.** It shall be the responsibility of the purchaser to maintain a current address on file with the Auditor.

5.30.200 Entry of Collections and Sales.

- A.** The Treasurer shall return to the Auditor the foreclosure list with all collections and sales noted on it within three business days after the sale.
- B.** The Auditor shall enter the collections and foreclosure sales in the City lien docket. Thereafter, no transfer or assignment of any certificate of sale is valid unless such transfer or assignment is reported to the Auditor and recorded in the City lien docket.

5.30.210 Redemption.

- A.** Only persons having a recorded interest in the property, or their legal representative, may redeem the property within the redemption period. Purchasers have no redemption rights.
- B.** Property which has been sold at a foreclosure sale is not eligible for installment payments or a payment plan. Property may be redeemed only by payment in full. Redemption shall be subject to the payment to the Treasurer of the redemption price. The only acceptable form of payment shall be United States legal currency or cashier's check.
- C.** The Treasurer shall issue a receipt to the person redeeming the property and shall report the redemption to the Auditor. Redemption discharges the property from the effect of the sale.
- D.** If redemption is made by a lien creditor, the amount paid for redemption shall thereafter be deemed a part of the judgment, decree, mortgage or tax lien and shall bear like interest and may be enforced and collected as a part thereof.
- E.** Upon receipt of the redemption price, the Treasurer shall issue a check for the sales price amount paid by the holder of the certificate of sale as shown on the lien docket plus any accrued redemption interest. The check shall be delivered to the address provided to the City by the purchaser or any transferee or assignee.
- F.** The interest charged during the redemption period shall be set by ordinance. The redemption interest rate shall be set at a level which attracts bidders. The penalty charged during the redemption period shall also be set by ordinance. The redemption penalty shall be set at a rate to encourage payment by delinquent property owners.

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- G.** If a property is redeemed at any time during the redemption period, the redemption period automatically terminates.

5.30.220 Issuance of Deed.

- A.** Upon expiration of the redemption period, the Treasurer shall execute a deed conveying the foreclosed property. The deed conveys to the grantee the legal and equitable title in fee simple excepting only the liens of the City or of other persons or entities which were not included in the foreclosure sale or other liens as provided by state law. The deed, however, shall not guarantee free or clear title.
- B.** The deed shall contain the following information: a description of the property; the date of sale; a statement of the amount of the delinquent account for which the property was sold; that the account was unpaid at the time of sale; and, that no redemption has been made.
- C.** The grantee shall be entitled to immediate possession upon delivery of the deed.

5.30.230 Payment of Taxes.

Property subject to delinquent property taxes may be sold by the County at a sheriff's sale. In the event the property is sold, the purchaser may lose all interest in the property. Any purchaser of property having delinquent property taxes may elect to pay the property taxes. There shall be no reimbursement from the City in the event of redemption by the property owner.

5.30.240 Sale of Property Purchased by City.

- A.** Any property purchased by the City from the foreclosure list may be sold as directed by the Council in the manner provided by Charter, Code or State law. Proceeds from the sale shall be used to reimburse the fund from which the property was purchased, any liens paid or other expenses incurred. Any remaining proceeds shall be placed in the assessment collection fund unless otherwise designated by Council.
- B.** In selling property as described in Subsection 5.30.240 A., except in situations where the purchaser agrees to accept a quit claim deed, the Treasurer shall purchase title insurance as a precondition of sale and shall pay the cost of the policy.

5.72.120 Reporting Requirements.

- A.** Beginning no later than 12 months following the issuance of bonds by the City, and continuing annually for a period as long as the bonds are outstanding, the Portland Development Commission shall require each project owner of the assisted project to submit a written report which describes:

 - 1.** Number of current employees by job category.
 - 2.** Total assessed value and property taxes paid during the most recent period for the assisted facility or facilities.
- B.** In addition to the foregoing, owners of multi-family projects assisted under this Chapter are required to report annually the number of residential units occupied by individuals or families who, at the date of reporting, have low or moderate incomes.

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**CHAPTER 5.73 - ARTS EDUCATION AND
ACCESS INCOME TAX**

(Chapter added by Resolution No. 36939 (approved
at November 6, 2012 election); effective December
5, 2012.)

Sections:

- 5.73.010 Definitions.
- 5.73.020 Tax Imposed.
- 5.73.030 Net Revenues Distribution.
- 5.73.040 Intergovernmental Agreements.
- 5.73.050 Citizen Oversight Committee.
- 5.73.060 Audits.
- 5.73.070 Effective Dates.
- 5.73.080 Revenue Division Responsibilities.
- 5.73.090 Limitation on Costs.
- 5.73.100 Confidentiality.
- 5.73.110 Frivolous Filing, False Filing and Hacking.

5.73.010 Definitions.

(Amended by Ordinance Nos. 185827, 185960, 187339 and 187610, effective April 1, 2016.) For the purposes of this paragraph, the following definitions apply unless the context requires a different meaning.

- A. “Catchment” means the geographical area from which an elementary school within a District draws its students.
- B. “Charter School” means a school offering a comprehensive institutional program as defined under ORS Chapter 338. The charter school will be included in the School District if sponsored by the School District or the State Board of Education, provided that the School District is the Fiscal Agent for state school funds for the Charter School and the Charter School has both Portland catchment and Portland k-5 students.
- C. “Director” means the Director of the Revenue Division, or authorized designee.
- D. “Gross Revenues” means the total of all revenue received by the City of Portland from the Arts Education and Access Income Tax without regard to collection, administrative or other costs.
- E. “Income-earning resident” means a resident who has income of \$1,000 or more in the tax year.

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- F.** “Net Revenues” means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from Gross Revenues.
- G.** “Portland K-5 Students” means students that reside within the geographical boundary of the City of Portland, Oregon that attend Kindergarten through 5th grade in public schools.
- H.** “Resident” or “resident of the City” means:
- 1.** An individual who is domiciled in this City unless the individual:
 - a.** Maintains no permanent place of abode in the City;
 - b.** Does maintain a permanent place of abode elsewhere; and
 - c.** Spends in the aggregate not more than 30 days in the taxable year in the City; or
 - 2.** An individual who is not domiciled in the City but maintains a permanent place of abode in the City and spends in the aggregate more than 200 days of the taxable year in the City unless the individual proves that the individual is in the City only for a temporary or transitory purpose. For purposes of this Subsection, a fraction of a calendar day shall be counted as a whole day.
- I.** “Resident” or “resident of the City” does not include:
- 1.** An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year;
 - 2.** A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if the spouse has a principal place of abode for the tax year that is not located in the City; or
 - 3.** A resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States.
- J.** “Schools” means those educational institutions defined as schools by the Oregon Department of Education, but do not include on-line schools.
- K.** “School Districts” means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts.

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5.73.020 Tax Imposed.

A tax of \$35 is imposed on the income of each income-earning resident of the City of Portland, Oregon who is at least eighteen years old. No tax will be imposed on filer(s) within any household that is at or below the federal poverty guidelines established by the federal Department of Health and Human Services for that tax year.

5.73.030 Net Revenues Distribution.

(Amended by Ordinance No. 187339, effective October 16, 2015.) Net Revenues will be paid by the Revenue Division to the Arts Education and Access Fund for distribution by the City as follows:

- A.** First, funds shall be distributed to the School Districts for the purpose of hiring certified arts or music education teachers for elementary school students for Kindergarten through 5th grade (K-5). Distribution shall be based on a ratio of one teacher for every 500 K-5 students at schools that serve Portland K-5 students, except that Charter schools shall be funded based on a ratio of one teacher for every 500 Portland K-5 students served by the Charter school. Students attending schools that receive no distribution of funds shall not be counted. In the event that a school has less than 500 K-5 students, or in the case of Charter schools, less than 500 Portland K-5 students, funds shall be distributed on a pro rata basis based on the number of students attending that school. Funds shall not be distributed to:
 - 1.** Elementary schools within the School Districts that have no Portland K-5 students; and
 - 2.** Elementary schools within the School Districts that have Portland K-5 students enrolled, but whose catchment does not overlap with the City of Portland's geographical boundaries.
- B.** Any funds remaining after distribution to the School Districts shall be distributed to the Regional Arts & Culture Council (RACC). The City shall execute a contract amendment with RACC to ensure the funds are spent as follows:
 - 1.** Up to 95 percent of the remaining funds shall be distributed to RACC for grants to support non-profit Portland arts organizations that demonstrate artistic excellence, provide service to the community, show administrative and fiscal competence and provide a wide range of high-quality arts programs to the public. RACC will make the determination as to which arts organizations shall be supported, in accordance with their contract with the City. In the event that RACC distributes less than 95 percent of the funds to non-profit Portland arts organizations, the remaining funds shall be distributed for the purpose of providing grants and programs as described in Subsection 2. below.

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2. A minimum of 5 percent of the remaining funds shall be distributed to RACC for the purpose of providing grants and programs to non-profit arts organizations, other nonprofits and schools that will give access to high-quality arts experiences to Kindergarten through 12th grade students (K-12) and for grants and programs that will make arts and culture experiences available to Portland residents, with particular emphasis on programs directed to communities who are underserved by local arts providers.
3. These funds are in addition to existing and ongoing financial support from the City to RACC.

5.73.040 Intergovernmental Agreements.

The City will execute Intergovernmental Agreements (IGAs) with the School Districts and will amend its contract with RACC and require them to provide independently audited financial statements each year that show how the funds received pursuant to this program are spent.

5.73.050 Citizen Oversight Committee.

(Amended by Ordinance No. 185827, effective December 19, 2012.) The City will appoint a citizen oversight committee that is representative of the City's diverse communities to ensure the Arts Education and Access Fund is being implemented as required, to review expenditures made and to report their findings in a public record to the City Council on an annual basis. The committee shall be comprised of a minimum of 10 and a maximum of 20 members, including, if possible, a member of the Tax Supervising and Conservation Commission.

5.73.060 Audits.

The City will receive copies of annual independent audits or other documentation regarding expenditures by RACC and the School Districts each year. The Arts Education and Access Fund also will be part of the City's independent annual audit report, the results of which will be made available to the public.

5.73.070 Effective Dates.

This tax will be effective beginning with the tax year 2012 and shall continue each year thereafter. Payment of the tax each year is due on the date on which state taxes are due, not including any extensions of time that might be requested or received.

5.73.080 Revenue Division Responsibilities.

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Revenue Division shall:

- A. Receive the Gross Revenues derived from the Arts Education and Access Income Tax and distribute the Net Revenues in accordance with the IGAs and RACC contract;

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- B.** Keep accurate records of the funds;
- C.** Report to the City Council by way of a public record on all funds received and directed to the School Districts and RACC;
- D.** Adopt administrative rules necessary to implement tax collection and administration.
- E.** If necessary, contract with public or private agencies to fulfill any of its duties in regard to this Arts Education and Access Income Tax and the Arts Education and Access Fund; and
- F.** Accept any and all gifts and donations to the Arts Education and Access Fund.

5.73.090 Limitation on Costs.

(Amended by Ordinance Nos. 185960 and 187339, effective October 16, 2015.)

- A.** The Revenue Division's first year start-up costs are capped at \$600,000. Ongoing administrative costs are capped at an average 5 percent or less of Gross Revenues over a five year period.
- B.** The City's contract amendment with RACC will require RACC to:
 - 1.** Limit any additional RACC arts education coordination costs incurred as a result of receiving funds to a maximum of 3 percent of Net Revenues;
 - 2.** Ensure that highly qualified persons will coordinate and work with the School Districts in the provision of high quality arts and/or music education;
 - 3.** Seek additional funds from other sources for arts education and access to supplement the goals of the Arts Education and Access Fund;
 - 4.** Provide quality oversight to the programs of the School Districts as well as the expenditures made by RACC; and
 - 5.** Coordinate between School Districts and arts organizations to ensure high quality arts education for Portland students.

5.73.100 Confidentiality.

(Added by Ordinance No. 185827; amended by Ordinance Nos. 187339 and 187610, effective April 1, 2016.) It is unlawful for any City employee, agent or elected official, or for any person who has acquired financial information pursuant to Chapter 5.73 or the Division's administrative rules to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Arts

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Education and Access Income Tax, unless otherwise required by law. This Section does not prohibit:

- A. Disclosure to the taxfiler or authorized representative of the taxfiler;
- B. Disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- C. Disclosure to the City Attorney's Office to obtain payment on unpaid accounts or to receive legal advice; or
- D. Disclosure to an outside collection agency for collection of any unpaid account balance receivable. Assignment to an outside collection agency permits the Division to collect a reasonable collection fee, above and beyond any amount otherwise owed to the Division;
- E. Disclosure as otherwise required by law.

5.73.110 Frivolous Filing, False Filing and Hacking.

(Added by Ordinance No. 185827, effective December 19, 2012.)

- A. A \$250 penalty will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5)(2) are hereby adopted by direct reference.
- B. A \$250 penalty will be assessed if a taxfiler willfully makes or provides false statements related to their tax return filing.
- C. The provisions of PCC Subsection 7.02.850 regarding Hacking apply.

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**CHAPTER 5.74 - ACQUISITION OF PUBLIC
ART**

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

Sections:

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

5.74.010 Purpose.

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

5.74.020 Definitions.

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

A. As used in this Chapter:

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

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7.02.400 Exemptions.

(Amended by Ordinance Nos. 183727, 185394 and 187339, effective October 16, 2015.)
The Division may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007).
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** The following incomes of an individual:
 - 1.** Income from sales, exchanges or involuntary conversions of a primary residence;
 - 2.** Income from the sale of personal property acquired for household or other personal use by the seller;
 - 3.** Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;
 - 4.** Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- G.** Any person whose only business transactions are exclusively limited to the following activities:

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1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- H.** Gross revenues subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, gross revenue which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

7.02.500 Tax Rate.

(Amended by Ordinance No. 187743, effective June 10, 2016.)

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, except as provided in Subsections B, C. and D. of this Section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.
1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
 2. For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.
 3. For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.
- C.** Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above.

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The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.

1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
4. If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.

D. Heavy Vehicle Use Tax applicable to Tax Years 2016 through 2019. The following tax is imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of this tax are dedicated to supplementing the funding of City of Portland street maintenance and safety and shall be deposited in a Street Repair and Traffic Safety Program of the Transportation Operating Fund where street repair and traffic safety expenditures are recorded.

1. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018 and January 1, 2019, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more Heavy Vehicles on streets owned or maintained by the City of Portland. For purposes of this tax, a Heavy Vehicle is any vehicle that is subject to the Oregon Weight-Mile Tax pursuant to ORS 825.450 et seq. This tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year.
2. The minimum Heavy Vehicle Use Tax due for a tax year is \$100. The minimum tax would be in addition to the \$100 minimum tax described in Section 7.02.545, if applicable.

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3. No penalties or interest for failure to make quarterly estimated payments in the amount of the Heavy Vehicle Use Tax will be charged or imposed for the 2016 tax year only. Thereafter, penalties and interest will be calculated as provided for in the Code.
4. If the Heavy Vehicle Use Tax raises more or less than \$2.5 million plus City costs in the first or second tax year of the tax, the City will adjust the Heavy Vehicle Use Tax rate for subsequent tax years of the tax to reach the four year target of \$10 million plus City costs. The Revenue Division of the Bureau of Revenue and Financial services is authorized to adopt an administrative rule to implement this change, if needed.

7.02.510 Registration Form and Tax Return Due Dates.

(Amended by Ordinance Nos. 183727 and 187339, effective October 16, 2015.)

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

7.02.520 Quarterly Estimates.

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

7.02.530 Schedule for Payment of Estimated Tax.

(Amended by Ordinance No. 187339, effective October 16, 2015.) A taxfiler required under Section 7.02.520 to make payments of estimated business taxes must make the payments in installments as follows:

- A.** One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and
- B.** One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and
- C.** One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and
- D.** The balance of the estimated tax must be paid on or before the 15th day of the twelfth (12th) month of the tax year.
- E.** Any payment of the estimated tax received by the Division for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated taxes due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

7.02.545 Tax Returns.

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

7.02.550 Presumptive Tax.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B.** Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than \$500 per license tax year.
- C.** Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.

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- D.** Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Division will send notice of the determination and assessment to the taxfiler.

7.02.560 Payment Plan Fee.

(Amended by Ordinance No. 187339, effective October 16, 2015.) If a person fails to pay the business tax when due, the Division may establish a payment plan and charge a set up fee pursuant to written policy.

7.02.600 Income Determinations.

(Amended by Ordinance Nos. 183727, 185781, 186331 and 187339, effective October 16, 2015.)

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Division determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Division’s discretion.

- 1.** For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the Owners Compensation Deduction will be indexed as described above.
- 2.** For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.
- 3.** For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.

- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.

- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
 2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.
- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.
1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
 2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.
 3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.

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- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.
 2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
 3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
 4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.

5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

(Amended by Ordinance Nos. 182427, 184597 and 187339, effective October 16, 2015.)

- A. “Jurisdiction to tax” occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer’s business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.
- B. “Business activity” means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.
- C. In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler’s business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- D. In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:
 1. Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
 2. Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.

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- E.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Division regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection will be a single factor gross income apportionment as directed under Subsections 7.02.610 C. and 7.02.610 D. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- F.** If the apportionment provisions of Subsection C. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Division to permit the taxfiler to:

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

7.02.620 Changes to Federal and/or State Tax Returns.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Division within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B.** The Division may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C.** The Division may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of

business taxes as a result of the amended tax return if the amended tax return is not filed with the Division within the time limits set forth in Subsection A.

7.02.630 Income Long Term Construction Contract Methods.

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

7.02.700 Penalties.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

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

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- 3.** The penalty under Subsection B. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
 - 1.** Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
 - 2.** Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
 - 3.** The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.
- D.** A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.
- E.** The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
 - 1.** Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
 - 2.** Failure to pay any tax within 60 days of the Division's original written notice for payment; or
 - 3.** Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Division's original written notice to provide the documents or information; or
 - 4.** Failure to fully complete any form required under this Chapter.
- F.** The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Division gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G.** The Division may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

7.02.710 Interest.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- C.** Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:

 - 1.** The total tax liability of the prior license tax year was less than \$1,000; or
 - 2.** An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or
 - 3.** An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.
- D.** For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Division by the due date of the fourth quarterly payment, the Division may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E.** For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.
- F.** Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G.** Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Division, unless specifically provided for by written policy.

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7.02.715 Payments Applied.

(Amended by Ordinance No. 187339, effective October 16, 2015.) Business taxes received will be applied first to any penalty accrued, then to interest accrued, then to business taxes due, unless the Division determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

7.02.720 Interest on Refunds.

(Amended by Ordinance No. 187339, effective October 16, 2015.) When, under a provision of the Business License Law, taxfilers are entitled to a refund of a portion of the business tax paid to the Division, they will receive simple interest on such amount at the rate specified in Subsection 7.02.710 A., subject to the following:

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

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

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

7.02.800 Refundable Credit.

(Amended by Ordinance No. 187339, effective October 16, 2015.) For tax years beginning on or after January 1, 2005, a maximum of four (4) refundable credits of \$500 each are allowed for qualifying businesses that employ disconnected youth. For the purpose of this credit, the terms used in this section are defined below or as defined in written policies adopted under Section 7.02.210 unless the context requires otherwise.

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- A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.
- B. “Disconnected Youth”** means a youth that is
1. a resident of the City of Portland,
 2. is 16-24 years old on the date on which the youth begins working with the local business,
 3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
 4. one or more of the following apply:
 - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
 - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
 - c. is a custodial parent; or
 - d. is a high school drop-out; or
 - e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.

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- D.** “**Credit Certificate**” means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E.** “**Youth Certifying Agency**” means an agency that has entered into an agreement or other memorandum of understanding with the Division to act as the Youth Certifying Agency for the purpose of this program.
- F.** “**2005 Tax Year**” means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G.** “**2006 Tax Year**” means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H.** “**Non-exempt**” means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

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

- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

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

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

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

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Revenue Division is authorized to collect and remit donations from taxfilers to “Work for Art,” a program of the Regional Arts & Culture Council.

- A.** Taxfilers may donate to “Work for Art” by either
 - 1.** paying a sum above what is owed for their City business taxes, or
 - 2.** by designating that all or some of any refund due to them be instead donated to “Work for Art.”
- B.** To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.

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- C.** Once the tax return is filed with the Division, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Division.

7.02.840 Frivolous Filing.

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

7.02.850 Hacking.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

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

7.02.860 First Year Adjustment Credit.

(Amended by Ordinance Nos. 182427 and 187339, effective October 16, 2015.)

- A. Any taxfiler that was assessed a “First Year Adjustment” fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.
- B. If the amount of the credit cannot be determined from Division records, a rebuttable presumption exists that the credit amount is equal to the amount of the minimum fee payment due for the tax year in which the City assessed the “First Year Adjustment” fee. A taxfiler may present evidence to the Division showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.
- C. Once the credit amount is determined, the Division will apply 100 percent of that amount towards tax payments due and owing for the 2008 license tax year. If that credit amount exceeds the tax amount due for the 2008 license tax year, the City will issue a refund for the difference or credit the overpayment forward to the next tax year if requested by the taxpayer.

7.02.870 Business Retention Credit for Qualifying Investment Management Firms.

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

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

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- a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
 - d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.
- C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:
 1. At least 90 percent of the firm’s gross income for the tax year must consist of fees that are
 - a. Received from Diversified Investing Fund or from persons unrelated to the firm, and
 - b. Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
 2. At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.

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- 3. A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner's Compensation Deduction in Section 7.02.600.
- 4. The firm was physically located within the City of Portland boundaries at the end of the tax year.
- D. The terms "Diversified Investing Fund" and "Qualified Investment Securities" have the meanings as defined by Administrative Rule.
- E. This credit is available for tax years beginning on or after January 1, 2009.

7.02.880 Youth Employment Credit Programs.

(Added by Ordinance No. 184716; amended by Ordinance No. 187339, effective October 16, 2015.)

- A. For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires otherwise.
 - 1. **"Local Business"** means a business operating in the pursuit of profit, gain or the production of income that:
 - a. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 - b. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 - c. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland 's Business License Law and the Multnomah County's Business Income Tax Law.
 - 2. **"Non-exempt"** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.
 - 3. **"Tax Year"** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.

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4. **“Youth Certifying Agency”** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.
- B. Credits issued under a Youth Employment Credit program will have the following features:
 1. Credits will be non-refundable;
 2. There will be a maximum number of credits per tax year per program;
 3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;
 4. No individual credit will exceed \$500; and
 5. Credit certificates or letters will be provided by the Revenue Division to be attached to the tax return claiming the credit(s).
- C. Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

7.02.881 Foster Youth Employment Opportunity Credit.

(Added by Ordinance No. 184716; amended by Ordinance No. 187339, effective October 16, 2015.)

- A. A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).
- B. For each tax year, 25 non-refundable \$500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.
- C. To qualify for the credit, a business must:
 1. Employ a certified foster youth.

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- a. If the foster youth is enrolled in an educational program, the youth must average 12 hours per week and must have worked at least 200 hours in a six month period; or
 - b. If the foster youth is not enrolled in an educational program, the youth must average 25 hours per week and must have worked at least 400 hours in a six month period.
 2. Submit the following documentation no later than one month following the close of the tax year in which the credit is to be claimed. The documentation can be submitted at any time once the youth has worked sufficient hours to qualify for the credit.
 - a. A copy of the youth's DHS certification;
 - b. Sufficient summary payroll records that supports the average hours per week and total minimum hours required; and
 - c. Sufficient documentation of the school or other educational program where the youth was enrolled if claiming the credit based on Subsection 1.a. above.
 3. The Revenue Division will issue either a credit certificate or credit letter authorizing the maximum credit(s) for the tax year.

7.02.882 Youth Career Readiness Credit.

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A. A Youth Employment Credit, known as the Youth Career Readiness Credit, is available for tax years 2011 and 2012 as a pilot program with the goal to increase the number of students who graduate from high school "career-ready" by expanding the number of meaningful career-related learning experiences between the private sector and schools.
- B. For purposes of the Youth Career Readiness Credit:
 1. **"Career-Readiness"** involves three major skill areas: core academic skills and the ability to apply those skills to concrete situations in order to function in the workplace and in routine daily activities; employability skills (such as critical thinking and responsibility) that are essential in any career area; and technical, job-specific skills related to a specific career pathway. These skills have been emphasized across numerous pieces of research and allow students to enter true career pathways that offer family-sustaining wages and opportunities for advancement.

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2. **“Career-Related Learning Experiences”** (CRLEs) are structured student activities in the community, the workplace or in the school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning and also help students to clarify career goals and usually take form as “Career Awareness Activities”, “Career Exploration Activities” and “Career Preparation Activities”.
 3. **“Career Awareness Activities”** include workplace tours and field trips, career and job fairs and guest speakers.
 4. **“Career Exploration Activities”** include job shadowing, informational and mock interviews, career mentoring and enterprise and community-based projects.
 5. **“Career Preparation Activities”** include work experience, internships and apprenticeships.
 6. **“CRLE Certifying Agency”** means the partner agency that has entered into an agreement or other memorandum of understanding with the City to act as the certifying agency for CRLE programs and will issue the credit certificate to each qualifying business program.
- C. For each tax year, 75 non-refundable \$500 credits are available on a first-come, first-served basis, to Local Businesses that provide substantial career-readiness activities to high school students. An individual business can claim credits for each separate career readiness activity, up to a maximum of four (4) credits. However, no more than two (2) credits can be claimed for Career Awareness Activities.
- D. To qualify for the credit, a business must:
1. Provide a Career Awareness, Career Exploration or Career Preparation activities program with direct costs of more than \$2,500 or in-kind value of more than \$5,000.
 2. The CRLE program being provided by the business must be certified by the CRLE Certifying Agency.
 3. Complete the certified program as agreed to obtain the credit certificate from the CRLE Certifying Agency.

CHAPTER 7.03 - TEMPORARY BUSINESSES

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

Sections:

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

7.03.010 Temporary Businesses Exempt from Business License Law.

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

7.03.020 Fees for Revenue.

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

7.03.030 Temporary Businesses Defined.

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

- A.** “Amusement Ride Operator” means an operator of amusement rides not in the same location for more than 14 days.
- B.** “Temporary Structure Vendor” means a vendor not located in a permanent structure for more than 14 days.
- C.** “Promoter” means a promoter of commercial entertainment doing business in the City of Portland for no more than three (3) days in any calendar year.
- D.** “Production Company” means a production company filming in the City of Portland for no more than three (3) days in any calendar year.

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- E.** “Seasonal Vendor” means a vendor operating in a temporary location and conducting limited, seasonal sales (including, but not limited to, Christmas trees and fireworks).
- F.** “Special Events Vendor” means a vendor operating in a temporary location and selling special event-related merchandise (including, but not limited to, sporting events).

7.03.040 License Required; Fees.

(Amended by Ordinance No. 187339, effective October 16, 2015.) Temporary businesses must apply for and obtain temporary business license certificates from the Revenue Division of the City of Portland Bureau of Revenue and Financial Services. Temporary business license fees must be paid as provided below:

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

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CHAPTER 7.04 - ADMINISTRATION

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

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**CHAPTER 7.06 - LICENSE REQUIREMENTS
& APPLICATIONS**

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

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CHAPTER 7.08 - LICENSE FEES

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

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CHAPTER 7.10 - VIOLATIONS

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

**CHAPTER 7.12 - FRANCHISES AND
UTILITY PRIVILEGE TAX LAW**

(Chapter replaced by Ordinance No. 186827,
effective October 31, 2013)

Sections:

- 7.12.010 Definitions.
- 7.12.020 Record of Franchises.
- 7.12.030 Authority to Inspect Franchisee Records and Require Reports.
- 7.12.040 Contents of Franchise.
- 7.12.050 Short Title and Administration.
- 7.12.060 Payment of Privilege Tax Required.
- 7.12.070 Privilege Tax Applicable to Other Cases.
- 7.12.080 Report of Earnings.
- 7.12.090 Time Payment of the Privilege Tax.
- 7.12.100 No Waiver or Estoppel.
- 7.12.110 Credits Allowable.
- 7.12.120 Interest and Penalty Applicable.

7.12.010 Definitions.

As used in this Chapter 7.12, the following terms are defined as provided in this Section:

- A. “Bureau”** means the Bureau of Revenue and Financial Services of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B. “Director”** means the Bureau Director, as defined in Subsection 3.15.060 A., or the Director’s designee.

7.12.020 Record of Franchises.

- A.** Except as otherwise required by the City Charter, the Bureau shall keep a separate record of each franchise granted by the Council, including:
 - 1.** Compliance of franchisees with applicable franchise provisions;
 - 2.** Franchise fee payments made to the City by franchisees; and
 - 3.** Any franchise records and statements required by the City Charter.
- B.** Records and data required under the City Charter, including such information that the Bureau may require the franchisee to furnish to the City. Franchisees shall provide such records and information upon the Bureau’s request, at the franchisees’ own cost and expense.

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7.12.030 Authority to Inspect Franchisee Records and Require Reports.

- A.** The Bureau shall have the right to inspect franchisee records during normal business hours upon reasonable notice, to determine compliance with obligations under applicable franchise provisions, including relevant financial franchise obligations.
- B.** The Bureau shall have the right to require, in writing and upon reasonable notice, reports and information as appropriate to determine whether franchisees are in compliance with their franchises. Franchisees shall cooperate with the Bureau and shall provide such information and documents as necessary for the City to evaluate compliance. The Bureau may specify the form and details of all franchise reports required under applicable franchise provisions.
- C.** In case any franchisee fails to provide access to records, or refuses to furnish information required under this Section when required so to do, on behalf of the City and if so directed by the City Council, the City Attorney may petition the Circuit Court of the State of Oregon for Multnomah County to compel such franchisee to furnish the information and to pay the City's costs of the court proceedings.
- D.** For purposes of this Section 7.12.030, "record" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, summaries or accounts of personal conversations or interviews, reports, notebooks, sketches, summaries or accounts of meetings or conferences, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, photographs and any other writings or recordings of every kind and description, including magnetic media, and all sound recordings, to the extent related to the enforcement or administration of a franchise.

7.12.040 Contents of Franchise.

Each franchise granted by the City shall provide that the legal name and title of the franchisee, including where applicable the names of any members of a co-partnership or association to which any franchise may be granted, shall be kept on file in the Bureau and shall be open to public inspection. Each franchise shall also contain provisions setting forth and requiring that:

- A.** Each franchise granted by the City is subject to the Charter of the City of Portland and general ordinance provisions passed pursuant thereto, affecting matters of general City concern and not materially in conflict with the franchisee's existing contractual rights, then in effect or thereafter made effective.

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- B.** Each franchise granted by the City shall incorporate by reference Sections 10-201 through 10-218, inclusive, of the Charter of the City of Portland (1942 compilation, as revised in part by subsequent amendments), and made a part of such franchise.
- C.** Nothing in any franchise granted by the City shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits, fees to be paid or the manner of construction.
- D.** Franchisees shall comply with all applicable City ordinances, resolutions, rules and regulations adopted or established pursuant to the City's lawful authority.
- E.** Unless specifically otherwise declared by the City Council, nothing in any franchise granted by the City shall be deemed a waiver by the City of the rights of the City under applicable law.

7.12.050 Short Title and Administration.

- A.** Purpose. Section 7.12.050 through Section 7.12.120 shall be known as the Utility Privilege Tax Law. The authority to impose utility privilege taxes is granted to the City by Oregon statutes and is exercised to the fullest extent of the state laws. The revenues generated by the Utility Privilege Tax Law are for general revenue purposes and are not regulatory.
- B.** Administration.
 - 1.** The Utility Privilege Tax Law shall be administered by the Director. The Director may adopt procedures, forms, and written policies for administering the Utility Privilege Tax Law.
 - 2.** Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.
 - 3.** The Director may, upon request, issue written interpretations of how the Utility Privilege Tax Law applies in general or to specific circumstances.
 - 4.** Nothing in the Utility Privilege Tax Law precludes the informal disposition of controversy by the Director in writing, whether by stipulation or agreed settlement.
 - 5.** The Director may implement procedures, forms, and written policies for administering the provisions of the Utility Privilege Tax Law.
 - 6.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Utility Privilege Tax Law.

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- a.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify utilities and telecommunications utilities. Such notice, which may be provided by mail or electronic means, must be distributed to utilities and telecommunications utilities not less than 10 nor more than 30 days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- b.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be posted on the Bureau's website and made available to the public upon request.
- c.** Notwithstanding Subsections a. and b., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

7.12.060 Payment of Privilege Tax Required.

- A. Definitions.** As used in the Utility Privilege Tax, the following terms are defined as provided in this Section:

 - 1. "Gross Revenue"** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, or for the furnishing or sale of communications or associated services, and for use, rental, or lease of operating facilities of the utility engaged in such business. "Gross Revenues" shall not include earnings from interstate business, or earnings from the business of the United States government.

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2. **“Telecommunications Utility”** has the meaning provided in ORS 759.005(9) (2011).
 3. **“Utility”** means any electric cooperative, people’s utility district, privately-owned public utility or heating company.
- B.** Any telecommunications utility using or occupying a street, alley or highway for other than travel within the City without a franchise for a period of 30 days or longer shall pay a privilege tax. The privilege tax imposed upon telecommunications utilities under this Subsection shall be in an amount of 7 percent of the telecommunications utility’s gross revenues earned within the corporate limits of the City for each consecutive 3 month period. For the purposes of this paragraph, “gross revenues” shall mean all revenues derived from exchange access services, as defined in ORS 401.710, less uncollectibles from such revenues. The privilege tax shall be computed as of the commencement of business or upon the expiration of any franchise under which the telecommunications utility formerly operated. The privilege tax shall be due and payable so long as the telecommunications utility operates within the City and uses or occupies the streets, alleys or highways.
- C.** Any utility using or occupying a street, alley, or highway within the City without a franchise for a period of 30 days or longer shall pay a privilege tax for the use and occupancy of any street, alley or highway. The privilege tax imposed under this Subsection shall be in an amount of 5 percent of the utility’s Gross Revenues of the City for each consecutive 3 month period. The privilege tax shall be computed as of 30 days after the commencement of business or 30 days after the expiration of any franchise or other authority under which the utility formerly operated. The privilege tax shall be due and payable so long as the utility operates with the City and uses or occupies the streets, alleys or highways.
- D.** In the event a franchise is granted to any utility subject to the privilege tax under the Utility Privilege Tax Law and the franchise becomes effective, then the privilege tax shall cease to apply from the effective date of the franchise. The franchise holder shall pay the proportionate earned amount of the privilege tax for the current quarterly period. The privilege tax shall in all such cases become immediately due and payable, and if not paid, collectible as provided in Section 7.12.080.

7.12.070 Privilege Tax Applicable to Other Cases.

- A.** The terms of the Utility Privilege Tax shall not apply to any holder of a current, valid franchise granted or issued by the Council.
- B.** The terms of Section 7.12.060 through Section 7.12.120 shall apply to any utility or telecommunications utility using or occupying a street, alley or highway within

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the corporate limits of the City 30 days after the expiration of the utility or telecommunications utility's franchise.

7.12.080 Report of Earnings.

Each utility and telecommunications utility subject to the privilege tax as provided in Section 7.12.060 shall file with the Bureau a report of the revenues earned within the corporate limits of the City for each consecutive 3 month period in the form and manner specified by the Bureau ("quarterly report").

- A.** The first quarterly report shall be filed on or before the first payment date of privilege tax. Subsequent quarterly reports shall be filed on or before February 15, May 15, August 15, and November 15 of each year.
- B.** If a franchise is granted to a utility or telecommunications utility which is otherwise subject to the provisions of the Utility Privilege Tax Law, the utility or telecommunications utility shall file a report with Bureau within 10 days after the franchise becomes effective showing the Gross Revenues earned for the proportionate period of the quarter prior to the franchise being granted.

7.12.090 Time Payment of the Privilege Tax.

- A.** Utilities and telecommunications utilities shall submit quarterly payment of Utility Privilege Taxes under Section 7.12.060 on or before February 15, May 15, August 15, and November 15 of each year and shall be accompanied by the quarterly report of the revenues for that payment period, as provided under Section 7.12.080.
- B.** If a utility or telecommunication utility fails to pay the privilege tax under the Utility Privilege Tax Law, the City Attorney may institute an action in the Circuit Court of the State of Oregon for Multnomah County to recover the amount of the privilege tax due the City, together with any applicable penalties and accrued interest.

7.12.100 No Waiver or Estoppel.

Nothing in the Utility Privilege Tax Law, or in any ordinance granting a franchise or right to any utility or telecommunications utility, nor anything done or performed or monies expended under ordinance, shall estop or prevent the City from requiring the utility or telecommunications utility to cease using or occupying the streets, alleys or highways within the corporate limits of the City upon the expiration or other termination of such franchise or right to use or occupy the streets, alleys or highways.

7.12.110 Credits Allowable.

Any amount which any utility or telecommunications utility may have paid to the City under the terms of any provision of franchise, permit or ordinance in lieu of franchise granted by the City Council shall be credited against the amount or amounts which have accrued or shall have accrued under the Utility Privilege Tax Law.

7.12.120 Interest and Penalty Applicable.

- A.** Interest will be assessed on any unpaid privilege tax at the rate of 0.833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of the payment.

 - 1.** For purposes of calculating interest under Subsection 7.12.120 A., the amount of the privilege tax due shall be reduced by the amount of any privilege tax payments received by the Bureau on or before the due dates established in the Utility Privilege Tax Law.
 - 2.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.
- B.** Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30 days after the statement is required to be filed with the Bureau, fails, neglects, or refuses to file with the Bureau the quarterly statement of Gross Revenues of such person, association or corporation shall be subject to the penalties, including the criminal penalties, provided for violations of Section 7.02.700 Penalties.

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CHAPTER 7.14 - UTILITY LICENSE LAW

(Chapter replaced by Ordinance No. 182432,
effective January 15, 2009.)

Sections:

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

7.14.005 Short Title.

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

7.14.010 Fees for Revenue.

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

7.14.020 License Required.

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

7.14.030 Administration.

- A.** The Utility License Law shall be administered by the Director. The Director may adopt procedures, forms, and written policies for administering the Utility License Law.
- B.** Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.

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- C.** The Director may, upon request, issue written interpretations of how the Utility License Law applies in general or to specific circumstances.
- D.** Nothing in the Utility License Law precludes the informal disposition of controversy by the Director in writing, whether by stipulation or agreed settlement.
- E.** The Director may implement procedures, forms, and written policies for administering the provisions of the Utility License Law.
- F.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Utility License Law.
 - 1.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify Licensees. Such notice, which may be provided by mail or electronic means, must be distributed to Licensees not less than ten nor more than thirty days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
 - 2.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify, it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be posted on the Bureau's website and made available to the public upon request.
 - 3.** Notwithstanding Subsections 1 and 2, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

7.14.040 Definitions.

(Amended by Ordinance Nos. 182527, 184882, 185756, 186827, 187339 and 187717, effective June 3, 2016.)

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- A.** “**Bureau**” means the Bureau of Revenue and Financial Services of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B.** “**Cable Communications Utility**” means a business that provides cable service or telephone service to subscribers, including voice services delivered through the use of Internet protocol, through its own cable system or a cable system owned by another person.
- C.** “**Director**” means the Bureau Director.
- D.** “**Gross revenue**” means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business, or any revenue earned by a Utility within the City from the use, rental, or lease of operating facilities, or any revenue earned within the City for supplying electricity or natural gas. Gross revenues do not include proceeds from:
 - 1.** The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or
 - 2.** Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, “public purpose charges” means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility’s facilities within the City. “Public purpose” includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.
 - 3.** Revenues associated with Universal Service funding requirements under 47 U.S.C. § 254 (2012) or revenues associated with taxes for emergency communications under ORS Chapter 403 (2011).
 - 4.** The calculation of gross revenues for telecommunications utilities for purposes of the Utility License Fee shall not include revenues from any tariffed or non-tariffed charge or service applicable to any connection, circuit or equipment which brings an E9-1-1 call to the appropriate

responding Public Safety Answering Point, regardless of where the E9-1-1 call is originated.

- E. “Internet Service”** means a service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the internet or a proprietary subscriber network. "Internet service" includes provision of internet electronic mail, access to the internet for information retrieval, and hosting of information for retrieval over the internet or the graphical subnetwork called the world wide web. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
- F. “Licensee”** means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.
- G. “Public Safety Radio System”** means a radio system whose licensing and use of radio transmitters by state and local government and non-governmental entities is regulated by the Federal Communications Commission as engaged in public safety activities.
- H. “Telecommunications”** means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, laser, microwave, radio, or similar facilities, with or without benefit of any closed transmission medium, but does not include:
1. cable television services;
 2. private telecommunications network services;
 3. over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto;
 4. direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;
 5. services provided solely for the purpose of providing internet service to the consumer;
 6. public safety radio systems;
 7. mobile service within the meaning of 47 U.S.C. § 153(33) (2012) and

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8. services to devices exclusively utilizing electromagnetic spectrum unlicensed by the Federal Communications Commission.

- I. **“Utility”** means the business of supplying electrical energy, gas, district heating or cooling, water, sewage disposal and treatment, or cable, telecommunications, or other services through or associated with telephone or coaxial cable, and other operations for public service. “Utility” does not include transportation service or railroad operations.

7.14.050 Application and Issuance.

- A. Any person, including any bureaus of the City, operating a utility coming within the provisions of the Utility License Law shall file an application for a utility license on forms supplied by the Bureau.
- B. A person is not required to apply for or obtain a utility license if all its revenues earned from operations as a utility otherwise meet the criteria for deduction under Section 7.14.070. The Director may exercise the authority under Section 7.14.080 to require reports and review records to determine whether revenues are qualified for deduction under Section 7.14.070.
- C. Applications for utility licenses shall be filed with the Bureau on or before December 31 for each subsequent calendar year. In the case of any person operating a utility coming within the provisions of the Utility License Law which commences operations within the City after January 15, 2009, the person operating such utility shall apply for a utility license on or before the date of commencing such operations. The application shall include such information as the Director may require in order to determine whether the utility has paid the license fee owed.
- D. Upon receiving a completed application, together with any payment due, the Director shall issue a utility license to the applicant. A utility license shall be valid for no longer than one year. Each utility license shall expire on December 31 of the year of issuance.
- E. The Director shall prepare application forms and make them publicly available. Failure to receive or secure a form shall not relieve any person from the obligation to obtain a license and pay a license fee under the Utility License Law.

7.14.060 Fees and Payment.

(Amended by Ordinance Nos. 185756 and 186366, effective January 3, 2014.)

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

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

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

- B.** The licensee shall pay the utility license fee to the Bureau on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1 through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year. All such payments shall be subject to the deductions set forth in Section 7.14.070.
- C.** A licensee commencing operations as provided in Subsection 7.14.050 C. shall make the initial payment to the Bureau on or before the payment date following the first quarter year period after commencing operations. In the event a licensee terminates operations which come within the provisions of the Utility License Law, the final payment shall be made on or before the 45th day following the date of such termination.

7.14.065 Limitations.

(Repealed by Ordinance No. 186366, effective January 3, 2014.)

7.14.070 Deductions.

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

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- B.** A licensee may not deduct from the utility license fee the value of any right given to City to use poles, conduits, or ducts to other facilities in common with the licensee. A licensee may not deduct from the utility license fee any permit or inspection fee imposed under any Code provision or ordinance of the City.

7.14.080 Reports and Review of Records.

- A.** Each person paying a utility license fee shall simultaneously file a report to the Bureau in a form satisfactory to the Director. The report shall show the licensee's calculations of the license fee, the licensee's gross revenues earned within the corporate limits of the City, and any deductions against the licensee's gross revenues or the amount of the utility license fee. Such reports shall be verified by the licensee or an authorized agent to the effect that all statements made therein are true.
- B.** If a person asserts that any provision of federal, state or local law imposes a limit upon the amount of utility license fees which the City may impose or require from a licensee, the licensee claiming to be within such limitation shall identify in its utility license fee report the specific federal, state or local law, and the service it provides that it claims is subject to the exception.
- C.** Every person required to be licensed under the Utility License Law shall keep and preserve for not less than three (3) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information required to be reported on the licensee's application and calculation of utility license fee for each license year.
- D.** The Director shall have authority to arrange for and conduct reviews of all financial records relevant to the calculation of a licensee's payments to the City under the Utility License Law. The Director shall make all requests for review in writing. The Director may determine the scope of review in each instance.
 - 1.** The Director may examine any books, papers, records, invoices, and other data needed to determine the accuracy of any license fee due. Such records and documentation shall be open for inspection or examination by the Director or a duly authorized agent. The Director shall have the authority, after notice, to:
 - a.** Require the attendance of any person required to be licensed under the Utility License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Director may designate;
 - b.** Take testimony, with or without the power to administer oaths to any person required to be in attendance. The Director may designate

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employees who shall have the power to administer oaths. Such employees shall be notaries public of the State of Oregon; and,

- c. Require proof for the information sought, necessary to carry out the provisions of the Utility License Law.
2. If a licensee has not provided copies of all information reasonably within the scope of the review to the Director within 30 days from the date of the written request, the licensee shall provide the Director with access to the requested records within the Portland metropolitan region, during normal business hours, upon 48 hours prior written notice.
3. If the Director requests in writing that the licensee provide, or cause to be provided, copies of any information reasonably within the scope of the review, and the licensee fails, refuses or neglects to provide copies within 30 days of receipt of the Director's written request, then the three (3) year periods under Subsections 7.14.080 C. and 7.14.120 A. shall be extended by one day for each day or part thereof beyond 30 days that the licensee fails to provide, or fails to cause to be provided, such requested information.
4. If any licensee fails, refuses or neglects to provide or make records available to the Director for determining the amount of utility license fees due or payable, the Director may determine the amount of the utility license fees due or payable based upon readily-available facts and information. The Director shall notify the licensee in writing of the amount of such fee so determined, together with any penalty or interest due. The total of such amounts shall thereupon become immediately due and payable. The licensee may seek to establish the correct amount by appeal to the Code Hearings Officer under Section 7.14.090. In such an appeal, the licensee shall have the burden of establishing that the Director's determination is incorrect, either in whole or in part.

7.14.085 Refunds by City to Licensee.

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

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7.14.090 Appeals.

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

7.14.100 Interest.

- A.** If a person fails to pay to the City all or any part of the utility license fee on or before the date on which the fee is due, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of payment. Payment of interest charges shall be due at the same time as the unpaid utility license fee is due.
- B.** For purposes of calculating interest under Subsection 7.14.100 A., the amount of the utility license fee due shall be reduced by the amount of any fee payments received by the Bureau on or before the due dates for fee payment established in the Utility License Law.
- C.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.

7.14.110 Civil Penalties.

(Amended by Ordinance No. 187717, effective June 3, 2016.)

- A.** The Director may assess civil penalties for any of the following violations of the Utility License Law:
 - 1.** Any failure to file a license application at the time required under the Utility License Law;
 - 2.** Any failure to pay the utility license fee when due;
 - 3.** Any failure to file a utility license fee report when due;
 - 4.** Any failure to provide or make available all books, financial records, papers, invoices, documents, data and related information when required by the Director; or,

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5. For any person to make any false statement on any license application or utility license fee report or to provide false information in any investigation or audit conducted pursuant to the Utility License Law.
- B. The Director may assess civil penalties for any violation under Subsection 7.14.110 A. of the greater of either a minimum of \$500 per occurrence or up to two percent (2%) of the utility's gross revenues subject to the Utility License Law for the period during which the violation occurred.
- C. The Director may assess a civil penalty of \$500 if a person fails to file a reporting form as required under Section 7.14.080.
- D. In assessing civil penalties under this Section, the Director shall produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making such determination, the Director shall consider the following criteria:
 1. The extent and nature of the violation;
 2. Any benefits to the licensee and any impacts to the City or the general public, financial or otherwise, resulting from the violation;
 3. Whether the violation was repeated and continuous, or isolated and temporary;
 4. Whether the violation appeared willful (characterized primarily by substantial acts of commission) or negligent (characterized primarily by substantial acts of omission);
 5. The magnitude and seriousness of the violation;
 6. The City's costs of investigating the violation and correcting or attempting to correct the violation; and,
 7. Any other factors the Director deems relevant in the particular case.
- E. The Director may impose civil penalties under this Section only after having given written notice of the potential for assessment of civil penalties identifying the violation serving as the basis for the assessment.
- F. The Director may waive or reduce any civil penalty for good cause, according to and consistent with written policies.

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7.14.120 Collection of Delinquencies.

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

7.14.130 Confidential Financial Information.

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

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

**CHAPTER 7.16 - CHARITABLE
SOLICITATIONS**

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

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**CHAPTER 7.18 - LIQUOR LICENSE
RECOMMENDATIONS**

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

**CHAPTER 7.22 - STREET AND SIDEWALK
USE PERMITS**

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

Sections:

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

7.22.010 Purpose.

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

7.22.020 Authorization.

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

- A.** The Street and Sidewalk Use Coordinator of the Portland Bureau of Transportation is authorized to issue street and sidewalk use permits.
- B.** Adoption of Administrative Regulations. The Director of the Portland Bureau of Transportation is authorized to adopt or amend administrative regulations pertaining to use of sidewalks and streets. All administrative regulations shall be in writing.
 - 1.** Prior to the adoption of any administrative regulations the Director of the Portland Bureau of Transportation shall submit the proposed administrative regulations to the Street and Sidewalk Use Review Committee. After consultation with the Street and Sidewalk Use Review Committee, the Director of the Portland Bureau of Transportation shall publish a notice regarding the proposed administrative regulations, and shall make them available for public review and written comments.
 - 2.** No sooner than thirty days from the publication of the notice, the Director of the Portland Bureau of Transportation may adopt the proposed administrative regulations. All administrative regulations adopted by the

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Bureau Director shall be filed in the office of the Portland Bureau of Transportation. Copies of all current administrative regulations shall be made available to the public upon request.

3. Notwithstanding Subsections 1. and 2. of this Section, the Director of the Portland Bureau of Transportation may adopt interim administrative regulations without prior public notice upon the Director's finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for prejudice. Any administrative regulation adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

7.22.030 Permit Required.

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

7.22.040 Revocation of a Permit.

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

7.22.050 Permit Subject to Ordinances and Regulations.

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

7.22.060 Diversion of Traffic.

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

7.22.070 Interference Prohibited.

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

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

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CHAPTER 7.24 - PRIVATE PROPERTY
IMPOUND TOWING

(Chapter replaced by Ordinance No. 185835,
effective January 18, 2013.)

Sections:

- 7.24.010 Towing of Vehicles from Private Property.
- 7.24.020 Administrative Authority.
- 7.24.030 Definitions.
- 7.24.040 Private Property Impound (PPI) Tower Registration.
- 7.24.050 Towing Regulations.
- 7.24.060 Towing and Storage Rates.
- 7.24.070 Conditions.
- 7.24.080 Prohibitions.
- 7.24.090 Remedies.
- 7.24.100 Appeals.

7.24.010 Towing of Vehicles from Private Property.

- A. Short Title.** Sections 7.24.010 through 7.24.100 will be known as the PPI (Private Property Impound) Code.
- B. Purpose.** The purpose of the PPI Code is to require that towing from private parking facilities be performed safely and at a reasonable price. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure that the public safety and convenience are protected.
- C. Conformity to State Laws.** The PPI Code should be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property. The Director shall have authority to adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code.
- D. Savings Clause.** If any provision of the PPI Code is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of the PPI Code.

7.24.020 Administrative Authority.

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

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

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- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
- 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to establish procedures for the conduct of the hearings, to hear evidence, and to preserve order.
 - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
 - 3.** Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Portland Bureau of Transportation and the Office of the City Auditor in compliance with Section 1.07.030. Copies of all current rules are available to the public upon request.
 - 4.** Notwithstanding Subsections 7.24.020 C. 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules will detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph will be effective for a period not to exceed 180 days.
- D.** Rates. The Director is authorized to establish a schedule of maximum rates permissible for all PPI tows from properties located within the city limits of Portland. The jurisdiction of this code section may be expanded by intergovernmental agreement with other agencies.
- E.** Inspection of Records. The City of Portland reserves the right to review and/or copy the records of any PPI tow for purposes of auditing or complaint resolution. Such records will be made available for inspection during normal business hours within 24 hours of written notice by the Director.

7.24.030 Definitions.

(Amended by Ordinance No. 186746, effective August 6, 2014.) For the purposes of the PPI Code and administrative rules adopted by the Director pursuant to the PPI Code, certain terms, phrases, words, abbreviations and their derivations are construed as specified in this

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Section. Words used in the singular include the plural and the plural the singular. Terms, phrases, words, abbreviations and their derivatives used, but not specifically defined in this Section, either have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, have the meanings commonly accepted in the community.

- A. **"Director"** means the Director of the Portland Bureau of Transportation.
- B. **"Dispatching facilities"** means the PPI tower's facilities used for communication with Tow Desk and maintaining radio contact with tow vehicles.
- C. **"Oversized tow vehicle"** means a tow truck equipped to perform towing of automobiles or other vehicles, and which has a maximum gross vehicle weight rating (GVWR) of over 10,000 pounds. Vehicles with maximum GVWR of at least 19,000 pounds are designated as "Class B." Vehicles with maximum GVWR of at least 44,000 pounds are designated as "Class C."
- D. **"Owners agent"** means a person bearing documentation from the registered owner officially authorizing them to possess or operate the vehicle.
- E. **"PPI permit"** means the permit issued to a private towing company signifying that the permit holder has met the requirements of this Chapter and the administrative rules and is allowed to tow vehicles from private property within the City of Portland at the request of the private property facility owner/operator without prior consent of the vehicle owner.
- F. **"PPI Police tow"** means any PPI tow that, upon notification to the local police agency, is found to have been reported stolen, or for any other reason becomes a police tow as defined in the Contract for Vehicle Towing and Storage of the City of Portland, or requires a police release.
- G. **"PPI tower"** means any towing firm duly registered and permitted to perform Private Property Impound tows within the City of Portland.
- H. **"Private parking facility"** means any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking. Private parking facility does not include "proscribed property."
- I. **"Private parking facility owner"** means the owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner authorized to enter into a PPI towing agreement with the tower.
- J. **"Private Property Impound" (PPI)** means the impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee,

manager or person in lawful possession of the private property facility, without the prior consent of the vehicle's registered owner.

- K. "Proscribed property"** means any part of private property:
1. Where a reasonable person would conclude that parking is not normally permitted at all or where land use regulation prohibits parking; or,
 2. That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling, or a duplex, or
 3. Designated as railroad right-of-way.
- L. "Release at Scene" (RAS)** means the fee allowed to be charged when a vehicle owner/owner's agent returns before the PPI tower has departed in tow. Not applicable until the hookup is complete and tow truck is in motion.
- M. "Storage facility"** means a secure area, meeting all requirements of PPI administrative rules, used by PPI tower for storing towed vehicles.
- N. "Storing"** means holding a towed vehicle in an approved secure storage facility until it is redeemed by the registered owner/owner's agent or until a possessory lien is foreclosed.
- O. "Tow Desk"** means the private tow dispatching company contracted with the City of Portland for municipal tow dispatching and data management or any government agency serving this function.
- P. "Towing"** means to draw or pull along a vehicle by means of a tow truck or car carrier.
- Q. "Towing Agreement"** means an agreement between a PPI tower and a private property owner/operator authorizing the PPI tower to tow vehicles from their private property. Such agreement must contain all information specified in PPI administrative rules.
- R. "Towing Coordinator"** means the person designated by the Director to provide direct enforcement and administration of all provisions of this Section and PPI administrative rules.
- S. "Towing firm" or "PPI Tower"** means any entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

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- T.** **"Tow vehicle"** means a tow truck equipped as specified in PPI administrative rules to perform towing of automobiles, motorcycles, or other motor vehicles, and which has a minimum Gross Vehicle Weight Rating (GVWR) of 10,000 lbs.
- U.** **"Vehicle owner"** means the person registered with the Department of Motor Vehicles as the owner of the vehicle, or a person in lawful possession of the vehicle.

7.24.040 Private Property Impound (PPI) Tower Registration.

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

- A.** Initial registration. No PPI tower will tow or store vehicles towed from private parking facilities located inside the City of Portland unless the PPI tower has registered with the Portland Bureau of Transportation, and complied with all provisions of the PPI Code.
 - 1.** Pay and Park and Non-Pay Private Parking facilities. All towing from any property registered as a Pay and Park or Non-Pay facility, must meet the conditions for towing established in Chapter 7.25 Pay and Park and Non-Pay Private Parking Facilities, at all times.
 - 2.** If all conditions specified by Chapter 7.25 for towing from a Pay and Park facility have been met, performance of the subsequent tow is subject to requirements of this PPI Code with regard to PPI permits, fees established by the Director and notices to Tow Desk, including initiation of the tow, completion of the tow and release of towed vehicles.
- B.** Applications. The PPI tower will submit to the Director an application form containing all information specified in PPI administrative rules.
 - 1.** Except for single family or duplex dwellings, PPI towers must register for approval all properties that they wish to designate as "proscribed" in order to exempt them from this Code. The City will provide a form for registration of "proscribed" properties.
 - 2.** A determination will be made within 3 business days of receipt of registration of a proscribed property.
- C.** After December 31, 2012, only those towing companies with a vehicle release office and vehicle storage facility located within the city limits of Portland are eligible to obtain a Portland PPI permit. Such office and storage facility must be staffed during regular business hours and comply with all City PPI standards.
- D.** Reporting Changes. Changes in information contained in the PPI tower's application, including office and/or storage locations, insurance provider,

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employees or additional trucks will be filed with the Director within 3 business days of implementation of such changes.

- E.** Inspection. The PPI tower's towing equipment, dispatching and storage facilities will be inspected prior to issuance of a new PPI permit. If an applicant is currently in good standing as a Tow Contractor with the City of Portland and the storage facility and tow vehicles to be inspected are currently approved for use under the City Tow Contract, the qualifying PPI inspection may be waived by the Director.
- F.** Registration/expiration dates. PPI permits are valid for no more than 1 year, and expire annually on December 31st.
- G.** Renewal. Renewal notices will be sent to all registered PPI towers not less than one month prior to the annual expiration date. A renewal form requesting any changes in the registered information will be provided. Re-inspections are not required for renewal. Any permit not renewed within 30 days after the expiration date is invalid and a new application must be submitted and approved before PPI towing resumes.
- H.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Section is not assignable or otherwise transferable.
- I.** Indemnification and Insurance. PPI towers subject to the PPI Code agree to hold harmless, defend and indemnify the City of Portland, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI permit.

 - 1.** PPI tower will maintain such public liability and property damage insurance as will protect the PPI tower from all claims for damage to property or personal injury, including death, which may arise from operations pursuant to the PPI Code. Such insurance must include a single limit liability policy with coverage of not less than \$1,000,000. PPI tower will also maintain fire and theft insurance (garage keepers insurance) to protect stored vehicles in a minimum amount of \$100,000 and maintain cargo insurance in the minimum amount of \$50,000.
 - 2.** PPI tower will maintain insurance in the limits provided by this Section to cover liability for transportation required by Subsection 7.24.070 H. In no case shall the policy deductible for garage keepers and cargo insurance exceed \$2,500 per event.
 - 3.** The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the permit. The insurance must be without prejudice to coverage otherwise existing.

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4. The insurance shall name as additional insureds the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insureds on the policy.
5. The insurance shall provide that the insurance shall not terminate or be canceled without thirty days written notice first being given to the Towing Coordinator.
6. The adequacy of the insurance shall be subject to the approval of the City Attorney.
7. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the Director.

7.24.050 Towing Regulations.

(Amended by Ordinance No. 187514, effective January 15, 2016.) Except for towing allowed under ORS 98.854(3), a PPI tower may lawfully tow a vehicle without the registered owner's permission from private property in the City of Portland only if:

- A. The PPI tower has express written authorization from the private parking facility owner, or person in lawful possession of the property, in compliance with Chapters 98.812, 98.830 and 98.854 of the Oregon Revised Statutes; and,
- B. The PPI Tower first contacts the private parking facility owner or agent at the time of the tow; and
- C. The private parking facility fully complies with this Chapter and the PPI administrative rules; and,
- D. The vehicle is towed directly to the PPI tower's storage facility within the Portland city limits; and,
- E. The vehicle is not occupied by any person or persons.

7.24.060 Towing and Storage Rates.

- A. The Director will issue a schedule of approved maximum fees for PPI towing and storage at the beginning of each permit period. Such schedule will be published annually and supplied to all applicants with the application materials for new permits and renewals. PPI towers may submit a request for an increase in the approved maximum fees not later than two months before the end of any permit

period. The Director will consider such requests and decide whether such an increase is in the public interest. If changes are made, a public hearing will be held for the purpose of determining fair and reasonable prices prior to making any changes in the PPI rate schedule.

- B.** PPI towers may charge less than the maximum rates allowed. However, PPI towers may not waive the data service fee or City PPI service fee without authorization by the Towing Coordinator.

7.24.070 Conditions.

PPI towers registered under this Section will:

- A.** Perform all PPI tows in a safe manner, taking care not to cause damage to the person or property of others while towing or storing a vehicle; and,
- B.** Practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle; and,
- C.** Cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle; and,
- D.** Issue to the person redeeming a PPI towed vehicle a clearly legible receipt complete with all required information and with all fees and considerations itemized; and,
- E.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing the current list of approved PPI rates; and,
- F.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing a statement of the rights of the vehicle owner; and,
- G.** Be considered in possession of any vehicle towed under this Section, and therefore entitled to charge a Release at the Scene fee, when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward. Until these conditions are met, the PPI tower is not entitled to charge any fee; and,
- H.** Offer to call for or provide transportation to the vehicle owner/operator at a reasonable cost, from within the immediate vicinity of the tow scene to the location of the towed vehicle storage; and,
- I.** Photograph vehicle to be towed and signs posted prior to hookup in order to demonstrate compliance with all PPI regulations and illustrate conditions, such as absence of a parking permit, warranting the tow; and,

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- J.** Have staff or dispatch service available at all times to provide information about the location of a towed vehicle and/or instructions for release of a towed vehicle; and
- K.** Staff the storage facility with an attendant between 10 a.m. and 6 p.m., Monday through Friday, excluding official City holidays, and at all other hours have personnel available at the storage facility to release a vehicle within 30 minutes after an appointment time agreed on by the vehicle owner. Gate fees are not applicable between 8 a.m. and 10 a.m., Monday through Friday; and
- L.** Accept at least the following methods of payment for any fees assessed:
 - 1.** Cash. Adequate cash must be available at all times at the storage facility for the purpose of making change. After hours and on holidays, PPI tower will provide exact change, in person or by mail, not later than the end of the business day following receipt of payment; and,
 - 2.** By any valid credit card or debit card bearing the VISA emblem and issued in the name of the registered owner/owner's agent. PPI tower may also accept credit or debit cards from other issuers.
 - 3.** If for any reason, a PPI tower becomes unable to process payments by credit or debit card, the tower must notify the Towing Coordinator within 24 hours and provide an estimate of when service will resume. During any period when the PPI tower is unable to process credit or debit card payments, the PPI tower must accept personal checks; and,
- M.** At no extra charge, make the vehicle available to the owner/owner's agent for retrieval within 30 minutes of the time of payment, or other time mutually agreed upon; and,
- N.** Notify Portland Police of the intent to tow by a telephone call by the tow driver to the Tow Desk prior to attaching any equipment to a vehicle at a private parking facility; and,
- O.** Notify Portland Police of the location of the vehicle by facsimile transmission to the Tow Desk within one hour after the vehicle is placed in storage; and,
- P.** Provide to Tow Desk all information required for completion of the tow record by facsimile transmission within 60 minutes after the vehicle is placed in storage; and,
- Q.** Notify the local police agency of the release of a vehicle to the registered owner/owner's agent, acceptance of a vehicle title in lieu of payment, or foreclosure of a possessory lien by facsimile transmission to the Tow Desk within 8 hours after the release; and,

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- R.** Review the daily Tow Desk report of PPI tows and releases, and report errors to Tow Desk or the Towing Coordinator within 24 hours of discovery; and,
- S.** Provide verification, or additional information, about a towed vehicle as requested by a police agency within 30 minutes of receiving the request; and,
- T.** Pay a data service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such data service fees are payable to the Tow Desk by the 20th day of each month; and,
- U.** Pay a service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such service fees are payable to the City of Portland by the 20th day of each month; and,
- V.** Accept as proof of ownership vehicle title or registration in addition to valid photo-identification of the person seeking the release. If the registered owner is not available to redeem the towed vehicle, the PPI tower will assist the owner's agent in finding an acceptable alternate proof of ownership, as detailed in PPI administrative rules; and,
- W.** Exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, as detailed in PPI administrative rules.

7.24.080 Prohibitions.

PPI towers will not:

- A.** Perform any PPI tows within the city limits of Portland, or from City-owned/operated property, unless the tower is registered with the City of Portland and in compliance with all provisions of this Chapter and administrative rules.
- B.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- C.** Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed or relieving the PPI tower from responsibility for the condition of the vehicle or its contents.
- D.** Require any vehicle owner/owner's agent to pay any fee, except a gate fee if after hours, as a condition of allowing them to inspect their vehicle or remove an animal or personal belongings of an emergency nature, within 15 days of the tow.
- E.** Solicit PPI towing business by means of payment of a gratuity, commission or any other consideration, except as provided in this PPI Code, to the private property owner, operator, manager or employee. This violation may result in revocation of the tower's PPI permit, at the Director's discretion.

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- F.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- G.** Use predatory practices, as defined in PPI administrative rules, to secure PPI tows.
- H.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.
- I.** Assess or collect a penalty or surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Chapter 7.25 "Pay and Park and Non-Pay Private Parking Facilities."
- J.** Make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this Code.
- K.** Pursuant to ORS 90.485, PPI towers shall not remove a legally parked vehicle because the vehicle's registration has expired or is otherwise invalid.
- L.** Property owners or operators are prohibited from knowingly allowing an unpermitted PPI tower to impound vehicles from any property within the Portland city limits.
- M.** Property owners or operators may not require, solicit or accept payment from any PPI tower, nor from any person acting on behalf of a PPI tower, in exchange for authorization to tow from a property.
- N.** Pursuant to ORS 87.186, possessory liens by PPI towers may be foreclosed only by public auction held within the county in which the vehicle was towed.
- O.** No person shall attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way without consent of the vehicle owner.

7.24.090 Remedies.

Failure to comply with any part of the PPI Code or the administrative rules may be punishable by any or all of the following:

- A.** Suspension. The Director or designee may suspend a PPI tower's permit if investigation reveals any substantial violation of the PPI Code or the PPI administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods have failed to resolve. Suspension may be for a period of up to 14 calendar days. The suspension will be effective from the date of written notice of a suspension. If the violation is not corrected within the 14 day period, the Director may revoke the permit.

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- B.** Revocation. The Director may revoke a permit for any substantial violation of the PPI Code or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. The revocation will be effective immediately upon issuance of written notice by the City of Portland to the PPI tower. No new application will be accepted from any PPI tower with outstanding penalties or who has been revoked within the current term for the remainder of the current permit period. Prior revocation may be grounds for denial of a permit application.
- C.** A private property owner or operator in the City of Portland is subject to civil penalties up to \$700 per tow from their property for violations including, but not limited to:
1. Knowingly authorizing non-compliant PPI towing to be performed on property they own or operate;
 2. Requiring, soliciting or accepting payment from any PPI tower, or from any person acting on behalf of a PPI tower, in exchange for authorization to tow from a property.
- D.** Civil penalty. The Director may impose a civil penalty of up to \$1,000 for any substantial violation of the PPI Code or the administrative rules, including:
1. Towing any vehicle from private property inside the City of Portland or from City owned or operated property without a PPI permit.
 2. Towing from a property without authorization in the form of a current agreement or owner/operator's signature on the tow invoice.
 3. Late payment of data service fees to Tow Desk. The penalty will be \$100 for each incident.
 4. Late payment of service fees to the City of Portland. The penalty will be \$100 for each incident.
 5. Failure to initiate a tow, as required by administrative rule. The penalty will be refund of all fees assessed to the citizen, plus \$300 penalty for each incident.
 6. Failure to notify Tow Desk of the completion of a tow within one hour of its arrival at the storage facility. The penalty will be \$150 for each incident.
 7. Late report or failure to report a release. The penalty will be \$100 for each incident.

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8. Failure to release a vehicle when contacted by the vehicle owner/owner's agent prior to completion of the hookup. The penalty is \$100 per 10 minute delay of release for each incident.
 9. Late response or failure to respond to a police agency's request for information. The penalty is \$150 for each incident.
 10. Late response to a complaint notice without approval of the Towing Coordinator. The penalty is \$100.
 11. Failure to respond to a request for information pertaining to a complaint. The penalty is \$500.
 12. Failure to provide a person redeeming a towed vehicle with an invoice, complete with all required information. The penalty is \$50 per missing item.
 13. Civil penalties are payable to the City of Portland.
- E.** Refund to vehicle owner/owner's agent. Upon a finding of any violation by a PPI tower, the Director may direct release of a vehicle at no charge or a refund of all or part of fees paid by a vehicle owner/owner's agent for towing and storage, in lieu of, or in addition to, civil penalties.
- F.** Civil remedies. Nothing in this Section is intended to prevent any person from pursuing legal remedies.

7.24.100 Appeals.

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

- A.** Any towing firm whose application for initial PPI permit registration or renewal of PPI permit registration has been denied, or whose permit registration has been revoked or suspended, or who has been directed by the Director or director's designee to pay a civil penalty or refund, may appeal such action of the Director or director's designee by submitting a written request for a hearing before the Code Hearings Officer of the City of Portland, within 10 business days of receiving the Director's written findings, as set out in Chapter 22.10.
- B.** PPI Board of Appeals. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the PPI Board of Appeals. The PPI Board of Appeals will hear and resolve protests and appeals arising from adoption of administrative rules by the Director. The findings of the PPI Board of Appeals are final.
1. Composition of the PPI Board of Appeals. The PPI Board of Appeals shall consist of three members. A quorum shall consist of three members. The Commissioner in Charge of the Portland Bureau of Transportation shall

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appoint a representative member from a public agency and a representative member of the general public, and shall approve a representative member from the towing industry selected by the towing industry.

2. Compensation. All members of the PPI Board of Appeals shall serve without pay, except that they may receive their regular salaries during the time spent on Board matters.
3. Procedures and Rules. The Director shall establish rules and procedures for the Board and the Board shall follow those procedures in all matters heard by the Board.
4. Staff. The Portland Bureau of Transportation shall provide staff and assistance to the Board.
5. Powers of the Board. The PPI Appeals Board shall hear protests of administrative rules adopted by the Director. Written notice of the protest must be received by the Towing Coordinator within 30 days after the notice of adoption of the administrative rule. The protest must state the name and address of the PPI tower and an explanation of the grounds for the protest. Requests not received within 30 days of the notice of adoption will not be heard.
6. Written notice of the findings of the Board will be provided to the appellant within 10 business days of the conclusion of the hearing.

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**CHAPTER 7.25 - PAY AND PARK AND NON-
PAY PRIVATE PARKING FACILITIES**

(Chapter added by Ordinance No. 185835,
effective January 18, 2013.)

Sections:

7.25.010	Purpose.
7.25.020	Savings Clause.
7.25.030	Definitions.
7.25.040	Authorization.
7.25.050	Registration as the Operator of a Facility.
7.25.060	Registration of a Facility.
7.25.070	Payment Device.
7.25.080	Signage Requirements.
7.25.090	Assessment of Penalties.
7.25.100	Parking Penalty Notice.
7.25.110	Penalty Payment Letters.
7.25.120	Unlawful to Tow Vehicles.
7.25.130	Complaint Handling Procedures.
7.25.140	Maintenance of Records.
7.25.150	Insurance Required.
7.25.160	Prohibitions.
7.25.170	Remedies.
7.25.180	Appeals.
7.25.190	Locking Parked Cars.

7.25.010 Purpose.

The purposes of this Section are to ensure that the regulation of parking at pay and park and non-pay private parking facilities is applied objectively with proper notice; and to protect fairness and convenience for the parking public.

7.25.020 Savings Clause.

If any provision of this Section is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding has no effect on the validity, legality and enforceability of any other provision of this Section.

7.25.030 Definitions.

(Amended by Ordinance Nos. 186267 and 186746, effective August 6, 2014.) Except where the context requires otherwise, the following words and phrases have the definitions given in this Section:

- A. “**Administrative Fee**” means a fee assessed by a department of motor vehicles for the purpose of determining the registered owner of a vehicle.

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- B. "Boot"** means a mechanical device attached to a vehicle to prevent its movement.
- C. "Director"** means the Director of the Portland Bureau of Transportation or his or her designee.
- D. "Operator"** means any person or entity whose business includes assessing and collecting penalties at registered parking facilities.
- E. "Park"** means to leave a vehicle standing, while the driver has exited the registered parking facility, or to leave a vehicle standing for more than 5 minutes.
- F. "Parker"** means any person in control of any vehicle that is parking at a registered parking facility.
- G. "Payment device"** means any device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
- H. "Penalty"** means an amount assessed for failure to pay, or properly display proof of payment, for parking at a pay and park facility or for unauthorized or over-time parking at a non-pay private parking facility.
- I. "Penalty payment letter"** means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 10 days of the date the penalty notice was affixed to a vehicle.
- J. "Penalty notice"** means the notice affixed to vehicles parked without payment, parked without properly displaying proof of payment or parked without authorization at a registered facility, and which is the initial demand for payment.
- K. "Registered Facility"** means a parking lot or structure that is accessible to the public that has been registered with the Portland Bureau of Transportation and is either:
 - 1.** A non-pay private parking facility at which the free parking or storage of vehicles is limited by time or authorization by the property owner/operator, where the limitations are enforced by issuance of penalty notices; or
 - 2.** A pay and park facility that is open for parking or storage of vehicles by the general public, at which a fee must be paid for parking, where payment of parking fees is enforced by issuance of penalty notices, and where parkers receive a receipt or ticket at the time of payment that has the parking expiration time printed on it.
- L. "Registered Facility"** does not include property used for governmental purposes by any agency or special district.

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- M.** “**Second penalty payment letter**” means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 30 days of the mailing date of the first penalty demand for payment letter.

7.25.040 Authorization.

- A.** Enforcement. The Director is authorized to enforce all provisions of this Chapter.
- 1.** Investigation. The Director has the power to investigate any and all complaints regarding alleged violations of this Chapter.
 - 2.** Inspection. The Director may inspect any operator records required to be maintained pursuant to this Section. Such records must be made available for inspection during normal business hours within 24 hours of notice by the Director.
 - 3.** Delegation. The Director may delegate the authority provided under this Section to any City employee or agent thereof.
- B.** Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Chapter.
- C.** Adoption of rules. The Director may adopt rules pertaining to matters within the scope of this Chapter.
- 1.** Before the Director adopts a rule, a public hearing must be conducted. The Director must give notice of the public hearing in a reasonable manner not less than 10 nor more than 30 days before the hearing. The notice must include the place and time of the hearing; where copies of the full text of the proposed rules may be obtained; and a brief description of the proposed rules.
 - 2.** During the hearing the Director will consider oral and/or written testimony. The Director will adopt, modify or reject the proposed rule based on the testimony received. Unless otherwise stated, all rules are effective upon adoption by the Director and will be kept on file at the Bureau. Copies of all rules will be made available to the public upon request.
 - 3.** Notwithstanding Subsections 1. and 2. above, the Director may adopt an interim rule without prior public notice upon a finding by the Director that failure to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this Subsection will be effective for a period of not longer than 180 days.

7.25.050 Registration as the Operator of a Facility.

(Amended by Ordinance Nos. 186267 and 186746, effective August 6, 2014.) No person may assess any penalty at any facility unless that person is in compliance with the provisions of this Chapter.

- A.** Applications. An applicant for registration as an operator of a facility must submit to the Bureau:
1. The name, address and telephone number of the applicant;
 2. The name, email address and telephone number of the person that will be the point of contact for the Bureau. This person will be available to respond to inquiries, informational requests, or complaints at all times during normal business hours from 9 a.m. to 5 p.m. Monday through Friday;
 3. Proof of valid insurance as described in this Chapter;
 4. A sample copy of the proposed penalty notice;
 5. A sample copy of the proposed penalty payment letters;
 6. The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
 7. Such other information relating to the purposes of this Chapter as the Director may require.
- B.** Penalty notices, penalty payment letters and any subsequent demands for payment must include:
1. The name, address and telephone number of the operator;
 2. The vehicle's make, model, color and license plate number;
 3. The time and date the penalty notice was issued;
 4. The location of the facility, including the street address or the intersection nearest the entrance as provided on the original registration application;
 5. Any facility number that may be assigned by the operator;
 6. The amount of the penalty demanded;
 7. Instructions describing deadlines and acceptable methods of payment;

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8. Warning that an Administrative Fee may be assessed if the payment of the penalty is not received within 10 days of issuance of a penalty notice;
 9. Any additional penalty that may be added if not paid within 30 days; and
 10. A statement that the vehicle owner may submit a written complaint to the Portland Bureau of Transportation if attempts to resolve the complaint with the operator have been unsuccessful anytime within 90 days of the date of the first penalty payment letter. The Bureau's contact and mailing address and website address for complaints must be included on penalty payment letters.
- C. The penalty notice must not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The penalty notice form is subject to review and approval by the City Attorney's Office.
- D. The Bureau must approve all notices and letters. If a proposed penalty notice or penalty payment letter is rejected by the Bureau, it will be returned to the applicant for amendment and resubmission without additional fees. If such documents have previously been approved by the City and if no changes to the Section have been made, it is not necessary to resubmit them with each new location application. Changes to penalty notices and letters proposed by the operator must be approved by the Bureau before they are implemented.
- E. The Director shall reject any incomplete application.

7.25.060 Registration of a Facility.

(Amended by Ordinance No. 186746, effective August 6, 2014.) No operator shall assess any penalties at any facility unless it is registered with the Portland Bureau of Transportation.

- A. Application. To register a facility with the Bureau an operator must submit:
1. A written request from the registered operator that includes the facility's number (designated by the operator) and the facility's address;
 2. A drawing of the facility showing adjacent street names, facility entrances and exits, and location of payment devices;
 3. A nonrefundable registration fee for each facility in an amount as required by Administrative Rule.
- B. As a condition of registering a pay and park or non-pay private parking facility under this Chapter, the operator shall hold the City of Portland and its officers and employees free and harmless, and shall defend and indemnify the City for any

claims for damage to property or injury to person that may be occasioned by any work and/or services furnished or carried on under the terms of registration.

- C.** The Director shall inspect an operator's facility following receipt of the written request for registration, the facility drawing, and the registration fee. If the Director determines that a facility complies with this Chapter's requirements, the Director will issue a registration certificate to the operator for the facility. If the Director determines that the facility does not comply with this Chapter's requirements, the application will be denied and notice will be sent to the operator that lists the requirements the facility failed to meet. If an application is denied, the operator may resubmit the application without payment of additional registration fees at any time within 60 days of the notice date if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of registration fees may be made with respect to each facility. If upon such reapplication the registration is again denied, the operator must file a new facility application accompanied by the required registration fee.
- D.** Facility registrations are valid from the date of issuance until the last day of that same month the following year.
- E.** Reporting Changes. Operators must notify the Director of any changes to the operator's office location, contact information, and insurance provider prior to implementation of the change. Operators must also notify the Director of any changes to a facility that affect a parker's use of the facility including, but not limited to, location of entrances and exits and location of a payment machine. Changed facilities must be reinspected before any penalty notices are issued.
- F.** Renewal. The Bureau will send invoices for facility registration renewal to all operators at least 1 month prior to the expiration date. Registrations will be renewed upon payment of the nonrefundable fee for each facility as required by the Administrative Rules.
- G.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Chapter is not assignable or otherwise transferable.

7.25.070 Payment Device.

Payment devices must be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.

7.25.080 Signage Requirements.

(Amended by Ordinance No. 186267, effective October 25, 2013.) All signs required pursuant to this Section must be unobstructed, reflectorized and visible during all hours of operation. All signs required to be posted at a facility entrance must be no more than 10 feet from the entrance, must be located within 2 feet of the property line, and the center of such sign must be at least 4 feet from the ground.

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A. Pay and Park Signage.

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

B. Non-Pay Private Parking Signage.

- 1.** Non-pay facilities must have a sign posted at each entrance stating:
 - a.** that parking is prohibited, reserved or otherwise restricted;
 - b.** who is authorized to park;
 - c.** all limitations on parking;
 - d.** the hours during which parking is restricted;

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- e. that the facility may be monitored; and
 - f. that parking in violation of posted restrictions may result in assessment of a penalty or towing and storage of a vehicle at the vehicle owner's expense.
- 2. If a private parking facility is shared by more than one business, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.
- C. Notwithstanding Subsection 7.25.080 A. and B., if the Director determines that the requirements are not sufficient to protect the parking public due to a facility's site-specific conditions, configurations, or location, the Director may impose additional facility requirements. These requirements may include, but are not limited to, additional lighting, signage, landscaping, pavement markings, and restrictions on the hours during which penalties may be issued.

7.25.090 Assessment of Penalties.

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

7.25.100 Parking Penalty Notice.

- A. When a vehicle is parked in violation of a registered facility's requirements, the operator may affix to the vehicle, in a prominent location, a penalty notice.
- B. The penalty notice must be processed as follows:

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1. A copy must be affixed to the vehicle,
2. A record of the notice must be retained by the operator for not less than 1 year, and
3. All records of penalty notices must be available to the Director upon request.

7.25.110 Penalty Payment Letters.

(Amended by Ordinance No. 186267, effective October 25, 2013.)

- A. If the operator does not receive payment within 10 days from the day the operator affixed the penalty notice to the vehicle, the operator may mail a penalty payment letter to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle. The letter must be mailed no earlier than 10 days nor later than 30 days from the penalty notice issuance date. The letter must include:
 1. The amount demanded;
 2. Acceptable method(s) of payment;
 3. The schedule of increases for continued non-payment as described in Chapter 7.25;
 4. Space for the recipient to inform the operator that the person to whom the letter was sent is not the current registered owner of the vehicle;
 5. A statement that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve any disputes with the operator have been unsuccessful;
 6. The mailing address of the Bureau, and
 7. A statement to the effect that the Bureau will only investigate complaints by parkers regarding the issuance of a parking penalty notice filed within 90 days of the date of the first penalty payment letter.
- B. Administrative Fees.
 1. If an operator incurs costs from the Department of Motor Vehicles (DMV) in its efforts to obtain the name and address of a vehicle's registered owner, the operator may add a one-time administrative fee in addition to the penalty amount, provided that:
 - a. 10 days have elapsed since the penalty notice issuance;

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- b. The operator indicates the amount assessed as a separate itemized amount on the penalty payment letter;
 - c. The amount assessed is no more than the amount charged to the operator by the DMV.
2. Operators may not demand payment for an administrative fee until they have been charged said fee by the DMV.
3. Although operators may only charge the administrative fee once, the fee may be a combination of more than one DMV charge if the first attempt to obtain registered owner information resulted in invalid information. In no event may an operator charge for more than two attempts.

7.25.120 Unlawful to Tow Vehicles.

It is unlawful for any person to tow any vehicle parked at any registered facility without the permission of the parker unless:

- A.** The vehicle has been parked at the registered facility without the payment of the required parking fees or without authorization for a period in excess of 24 hours after the period for which parking fees have been paid or authorization has been given; or
- B.** The vehicle is parked at the registered facility in such a manner as to clearly impede vehicular ingress or egress to and from designated parking stalls or the facility itself, or is parked in any area that is clearly and conspicuously designated by signs or other traffic control devices as areas in which parking is restricted or forbidden; or
- C.** The vehicle is parked at any of the operator's registered parking facilities, and:

 - 1.** Within the previous 2-year period, the vehicle was parked at any of the operator's registered facilities without payment of parking fees or authorization, three times or more; and
 - 2.** During that time the operator affixed and mailed the notices and payment letters as provided for in this Chapter; and
 - 3.** Three or more penalties remain unpaid; and
 - 4.** The operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle will be towed if the vehicle is again parked at a registered parking facility. The notice must also state the total amount due for outstanding penalties, the issue date and parking facility.

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location for each outstanding penalty, the method(s) of payment accepted, the name, address and phone number of the operator, and that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful. The operator shall retain a copy of each notice for not less than 1 year and make such copies available upon request of the Director. The notice must be in a form approved by the City Attorney's Office; and,

5. Such towing is performed in compliance with Chapter 7.24 Private Property Impound Towing.

7.25.130 Complaint Handling Procedures.

(Amended by Ordinance Nos. 186267 and 186746, effective August 6, 2014.)

- A. Operators responding to the complaints of parkers or registered owners of vehicles must follow these guidelines:
 1. The operator must be available by telephone, fax and e-mail to the public during normal business hours to accept and respond to public complaints. The operator must have voicemail and must respond to telephone messages by the end of the next business day.
 2. The operator must respond in writing to written complaints within 10 days from the date the operator received the complaint.
 3. The operator's written response must include the mailing address of the Portland Bureau of Transportation and a statement that the parker or registered owner of the vehicle may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful.
 4. All efforts to collect the penalty and related amounts must be suspended upon the filing of a complaint with the operator or the Director, pending final resolution.
 5. The operator must respond in writing within 10 days to inquiries from the Director regarding complaints or operations of a registered facility.
 6. Penalties must not increase from the time a complaint is received by the operator or the Director, pending final resolution.
 7. The operator must void the penalty if the parker or registered owner provides evidence within 30 days of issuance of the penalty notice that the parking fee payment was made at the time the vehicle was parked at the facility or that the parker was authorized to park.

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8. The operator must notify appropriate credit agencies immediately upon voiding any penalty.
- B.** Upon receipt of a complaint the Director shall conduct an investigation.
1. Upon a finding by the Director or Bureau staff that a penalty is invalid, the operator must immediately cancel the penalty, cease all efforts to collect the penalty, and refund any payments that have been made.
 2. If the investigation determines that a violation of this Chapter has occurred, the Director will initiate remedies provided in this Chapter.
 3. The Director shall not investigate complaints by parkers regarding the issuance of a notice of demand for payment of penalties filed any time after 90 days from the date of the first mailed penalty payment letter.

7.25.140 Maintenance of Records.

(Amended by Ordinance No. 186267, effective October 25, 2013.)

- A.** The operator shall keep and maintain records of all penalties, any transactions relating to collection of past due accounts, written warnings, requests for vehicle towing, and any other transactions or written complaints relating to penalties or the impoundment of vehicles for a period of at least 1 year from the date the penalty notice was issued.
- B.** For the purpose of investigating complaints and to aid in enforcement of the requirements of this Chapter, the Director may require the operator to report financial and operating data listed in Subsection A. above, in such form as the Director requires.
- C.** The operator must compile the necessary data and submit reports to the Director within 10 days of a written request.

7.25.150 Insurance Required.

Operators must provide and maintain commercial general liability insurance covering any and all claims for damage to property or personal injury, including death and automobile damage that may arise from operations under the registration.

- A.** Such insurance must provide coverage of not less than \$1 million combined single limit per occurrence, with aggregate of \$1 million for bodily injury or property damage.
- B.** The limits of the insurance are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.

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- C.** The insurance must be without prejudice to coverage otherwise existing.
- D.** The insurance must name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance must protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein will operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.
- E.** The coverage must apply as to claims between insureds on the policy.
- F.** The insurance policy must provide that it will not terminate or be canceled without 30 days written notice first being given to the Director.
- G.** The adequacy of the insurance is subject to the approval of the City Attorney.
- H.** Failure to maintain liability insurance is cause for immediate revocation of the registration of the operator by the City.

7.25.160 Prohibitions.

No operator shall:

- A.** Require any person to make any statement or sign any document promising not to dispute the validity of a penalty or relieving the operator from responsibility for the condition of the vehicle.
- B.** Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a facility.
- C.** Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle.

7.25.170 Remedies.

Upon a violation by the operator of any requirements of this Chapter, the Director may exercise the following authority and may apply one or more of the following remedies:

- A.** Suspension or revocation. The Director may suspend a registration of any facility if investigation reveals that the violation has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension will be effective from the operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation will be effective upon the mailing of written notice by the Director.

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- B.** Civil Penalty. The Director may impose a civil penalty of up to \$500 for each violation.

7.25.180 Appeals.

Any operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10.

7.25.190 Locking Parked Cars.

It is unlawful for the operator or an employee of a public parking lot to close and leave the lot without first removing the keys from any vehicle remaining upon the lot. It is unlawful for the operator or employee to close and leave the lot prior to the posted time of closing without locking any vehicle remaining on the lot. If no closing time is posted it shall be unlawful for the operator or an employee to close and leave the lot without locking any vehicle remaining on the lot. The operator of any lot where the operator or employee removes keys to any location other than the lot itself shall post and maintain a sign on the premises stating where and during what hours keys may be obtained when the lot is not attended. The sign shall be placed in a location meeting the requirements of signs giving notice of impoundment fees required by Section 7.25.080 of this Code.

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**CHAPTER 7.26 - REGULATION OF PAYDAY
LENDING**

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

Sections:

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

7.26.010 Purpose.

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

7.26.020 Definitions.

(Amended by Ordinance No. 186746, effective August 6, 2014.) As used in this Chapter unless the context requires otherwise:

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

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- F.** “Principal” means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

7.26.030 Permits.

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

7.26.040 Administrative Authority.

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

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

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1.07.030. Copies of all current rules shall be available to the public upon request.

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

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

7.26.050 Payment of Principal Prior to Payday Loan Renewal.

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

7.26.060 Cancellation of Payday Loan.

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

7.26.070 Payment Plan for a Payday Loan.

- A. A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.
- B. A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals

allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

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

7.26.080 Remedies.

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

7.26.090 Appeals.

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

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7.26.100 Complaints.

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

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

7.26.110 Severability.

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

TITLE 11 - TREES

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TITLE 11 - TREES

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

TITLE 11 TREES

CHAPTER 11.05 - LEGAL FRAMEWORK AND RELATIONSHIPS

Sections:

11.05.010	Purpose.
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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.
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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;
 - 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

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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.
- 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

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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;
 - 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:

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- 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
 - (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

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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.
 - 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.

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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 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.

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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.

**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.

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- 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
- 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.

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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 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

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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

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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 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.

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- 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;
 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.

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- 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.
 - 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.

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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.
 - 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.

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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 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;

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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.

(Amended by Ordinance No. 187216, effective July 24, 2015.) 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:
 - 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.

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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 that are within the scenic corridor setback. See: 33.480.040 B.2.a.	Street all City ≥ 3" Private ≥ 6"	<ul style="list-style-type: none"> • 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 • Street, City, or Private trees up to and including 12 inches diameter provided that replanting per 33.480.040.B.2.h(7) is met [3] 	Street ≥ 6" City ≥ 6" Private ≥ 6"	<ul style="list-style-type: none"> • Trees within the scenic corridor setbacks that do not meet the applicable Title 11 situations listed in this table

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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
Cascade Station/Portland International Center Plan District See: 33.508.340 Only applies 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 • 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
Columbia South Shore Plan District See: 33.515.262 & 33.515.274 Only applies 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 • 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 • Healthy non-native non-nuisance trees that do not meet the applicable Title 11 situations listed in this table
Johnson Creek Basin Plan District 33.537.125 <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. 	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" 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	Street n/a City ≥ 6" Private ≥ 6"	<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
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

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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
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."
- 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.

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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.

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- 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 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.

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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.

**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.

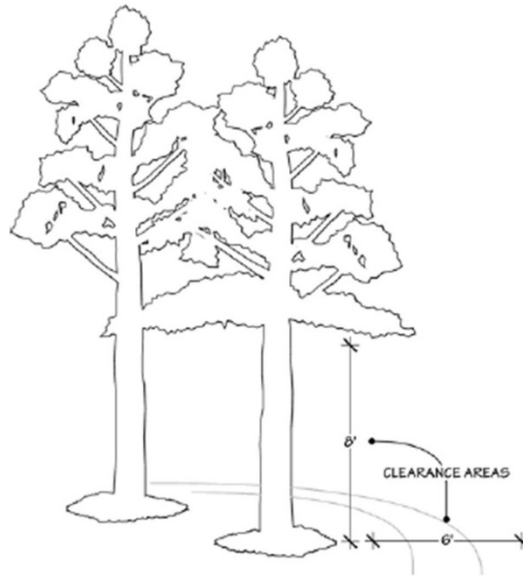
A. Standards and Review Factors for Type A Permits for Private Trees.

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 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.

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- 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.

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- 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:
 - (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:

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.
 - b. If an applicant requests removal of healthy non-nuisance species trees 6 or more inches in diameter, an opportunity for public appeal shall be provided in accordance with Subsection F.2.b.
 - c. For any request, the City Forester may further limit allowed tree removal in order to meet the review factors in Section 11.45.040.
 3. Tree Work Limits. All work conducted under a programmatic permit must be conducted in accordance with proper arboricultural practices.
- E.** Revocation. The City Forester may revoke a Programmatic Permit upon finding the applicant is not adhering to the limitations imposed or is acting beyond the activities

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permitted by the Programmatic Permit. Non compliance with the Programmatic Permit may also be cause for any other enforcement action as stated in this Title.

F. Appeals.

- 1.** Timely Filing. Appeals shall be filed on forms as prescribed by the City within 14 days from the date of the written decision. Such appeals shall specifically identify in writing how the decision-maker erred in his/her decision.
- 2.** Appellant.
 - a.** An applicant may appeal a denial, required conditions or specifications of an approval, or the revocation of any Programmatic Permit. Appeal Hearings will be conducted as specified in Subsections 11.30.040 D. through E.
 - b.** The public may appeal an approval, required conditions or specifications of Programmatic Permits that authorize the removal of healthy non-nuisance species trees 6 or more inches in diameter. Appeal Hearings will be conducted as specified in Subsections 11.30.050 C. through E.
- 3.** Appeal Body Referral. The Appeals Board may refer the appeal request to the full Urban Forestry Commission.

11.45.040 Review Factors.

The City Forester may approve a Programmatic Permit upon finding that the following review factors are met or will be met with conditions:

- 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.

(Amended by Ordinance Nos. 187675, effective May 13, 2016.)

- A.** Where these regulations apply.

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- 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.
- C.** Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in Subsection 11.50.040 C.1. sunset after December 31, 2019. After December 31, 2019 the regulations in effect will be those in effect on January 1, 2015.
- 1.** Private Trees.
 - a.** General tree preservation.

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- (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per Subsection 11.50.040 C.1.a.(2) below. 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.
- (2) Mitigation. For each tree not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11. In cases where more than one tree is proposed for removal in excess of that allowed by Subsection 11.50.040 C.1.a.(1), the mitigation payment required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

**Table 50-1
Required Mitigation**

Size of Tree Removed (inches in diameter)	Required Mitigation
At least 12 and less than 20	The cost of (2) two-inch diameter replacement trees
At least 20 and less than 36	The cost of (4) two-inch diameter replacement trees
At least 36 or more	The cost per inch of tree removed

b. Preservation of trees 36 inches or greater.

- (1) Retention. An applicant shall preserve and protect all non-exempt trees 36 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per Subsections 11.50.040 C.1.b.(2) and 11.50.040 C.1.b.(3), below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in Subsection 11.50.040 C.1.a. above.

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- (2)** Mitigation. For each tree 36 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11.
- (3)** Notice. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by Subsection 11.50.040 C.1.b.(2) above, the property owner or the property owner's representative must post a notice on the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner's representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.

 - (a)** The posted notice must:

 - (i)** Be posted on the site for at least 45 calendar days prior to development permit issuance;
 - (ii)** Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
 - (iii)** Include the date of posting and the date of the end of the notification period;
 - (iv)** Include a site plan at least 8.5 x 11 inches in size showing the location and description of the trees(s) to be removed including diameter inch size(s); and
 - (v)** Include contact information for the property owner or the property owner's representative.
 - (b)** The notices to the Neighborhood Association and District Coalition must:

 - (i)** Be e-mailed or mailed to the Neighborhood Association and District Coalition using the

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contact information maintained by the Office of Neighborhood Involvement. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 45 calendar days prior to development permit issuance;

- (ii) Include a description of the trees(s) to be removed including diameter inch size(s); and
 - (iii) Include contact information for the property owner or the property owner's representative.
 - (4) Exemption of tree preservation mitigation payments for affordable housing developments. Projects are exempt from the mitigation requirements in Subsection 11.50.040 C.1.b.(2) if the development will be an affordable housing development approved for system development charge exemptions under Section 30.01.095. The amount of the mitigation exemption shall be pro-rated to a percentage equal to the percentage of dwelling units on the development site that are approved for the systems development charge exemption in Section 30.01.095. The Director of the Portland Housing Bureau may adopt administrative rules for the administration of Subsection 11.50.040 C.1.b.(4).
- c. Exception for Capital Improvement Projects. Trees on private property that are part of a capital improvement project and within the development impact area are regulated as City and Street Trees.

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.

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- (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.

(Amended by Ordinance No. 187675, effective May, 13, 2016.)

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 50-2. 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 50-2
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	

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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 50-3
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.
 1. This Section applies to projects within or fronting on any City-owned or -managed streets.

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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 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

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- (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;
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.

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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.

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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.

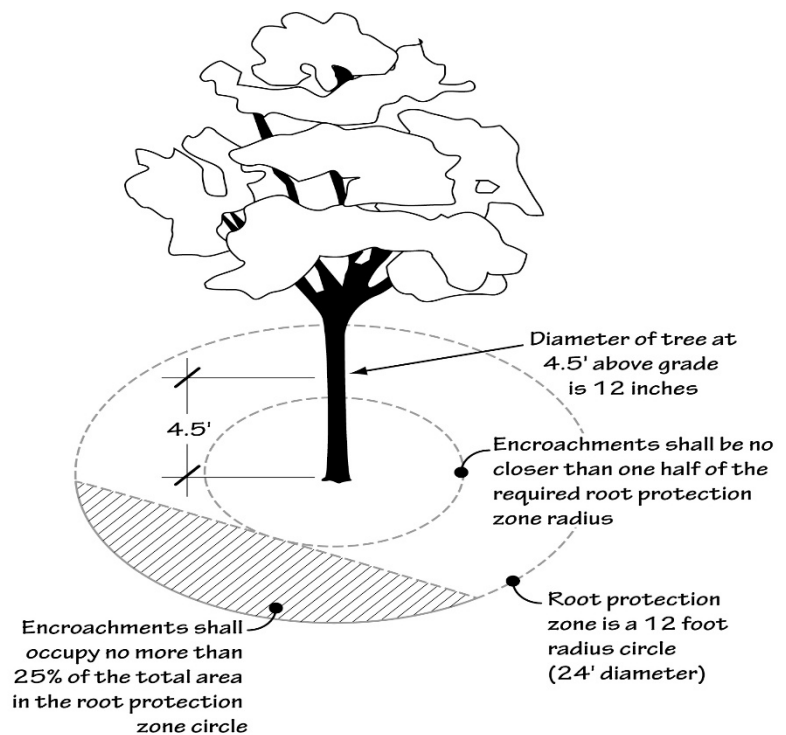
11.60.030 Tree Protection Specifications.

- 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.**
 - 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.

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- (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



- b. Protection fencing consisting of a minimum 6-foot high metal chain link construction fence, secured with 8-foot metal posts shall be established at the edge of the root protection zone and permissible encroachment area;
- c. Signage designating the protection zone and penalties for violations shall be secured in a prominent location on each protection fence;
- d. The following is prohibited within the root protection zone of each tree or outside the limits of the development impact area: ground disturbance or construction activity including vehicle or equipment

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access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities; and

- e.** The fence shall be installed before any ground disturbing activities including clearing and grading, or construction starts; and shall remain in place until final inspection.

2. Performance Path. When the prescriptive path is not practicable, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

- a.** The alternative root protection zone is prepared by an arborist who has visited the site and examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone;
- b.** The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit described above;
- c.** The protection zone shall be marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist;
- d.** If the alternative methods require the arborist be on site during construction activity, the applicant shall submit a copy of the contract for those services prior to permit issuance and a final report 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.

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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.

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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.

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.

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- 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

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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 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.

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- 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

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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;

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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

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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.
- 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

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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 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:

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- 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.
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.

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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 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

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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:

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- (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.
- d. Undertake any other action reasonably necessary to correct the violation or mitigate the effects thereof.
3. Delayed intake of applications for development permits or land use reviews. When a violation of this Title has occurred on a site, the BDS Director may refuse land use or development permit applications until the violation has been satisfactorily resolved.
4. Disqualification from City contracts. At their discretion, the City Forester or Responsible Engineer may refuse to consider any arborist, builder, landscaper, contractor, or tree service that has been cited for any tree activity in violation of this Title or submitted a falsified report for the criteria required in this Title, as a responsible bidder for any City contracts for a period of 2 years from the date of violation or falsified report.
5. Removal from City's list of local tree care providers. The City Forester may remove any arborist, builder, landscaper, contractor, or tree service that refuses to correct a violation, has been fined for any tree violation of this Title, or submitted a falsified report for the criteria required in this Title, from the list of contractors providing related services for a period of 2 years from the date of violation or report.
6. Abatement. Whenever a responsible party or property owner conducts a prohibited action per Section 11.70.050, the City may pursue abatement proceedings to remove the nuisance. Whenever the City has declared that such nuisance exists, the property liable for the nuisance will be directed to abate the nuisance by following the notice and abatement procedures outlined in this Chapter.
7. Stop Work Orders. When any work is being conducted in violation of this Title, and public health or safety is threatened, the City Forester or BDS

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Director may issue a stop work order as stated in the requirements of Section 3.30.080.

8. Enforcement penalty.

- a.** The City may charge a penalty in the form of a monthly enforcement penalty for each property found in violation 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 11.70.070;
 - (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;

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- (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 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

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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.

- 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

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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.

**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.

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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
 - 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.

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- 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.

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- 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".
 - 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.

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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.
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

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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.
 - 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".

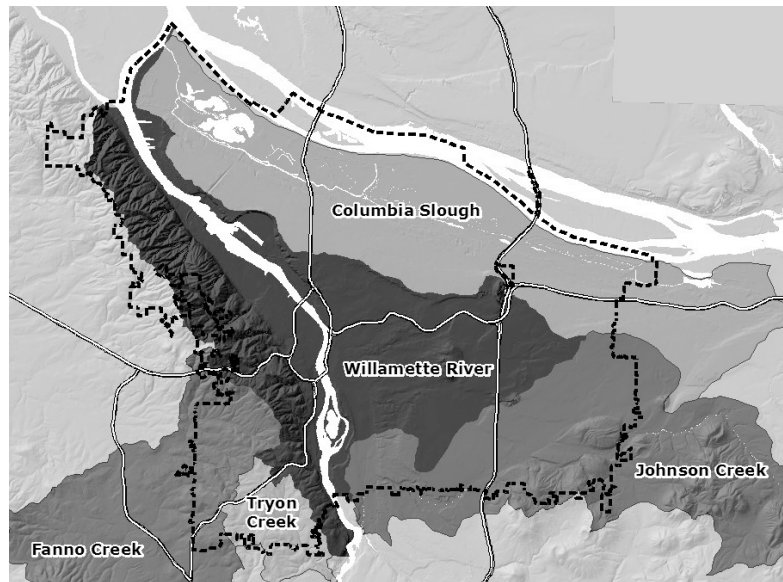
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- i. "Protected Tree" is a tree that shall be retained and protected because of a condition of approval on a land use review, a tree plan, or because it is a Heritage Tree.
 - j. "Private Tree" is a tree on property that is not owned or managed by 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:

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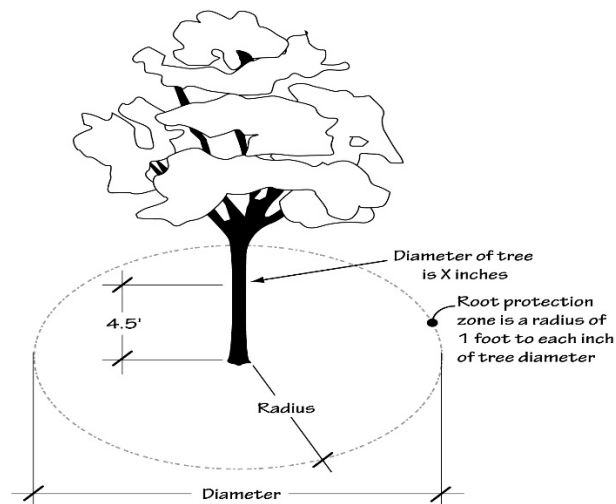
- a. Columbia Slough – sites on Hayden Island are included in this watershed
- b. Willamette River – sites in Northwest Portland that are west of the Willamette River watershed are included in this watershed
- c. Fanno Creek/Tryon Creek – these two watersheds are managed as a single watershed unit
- d. Johnson Creek – all sites within the Johnson Creek watershed

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.

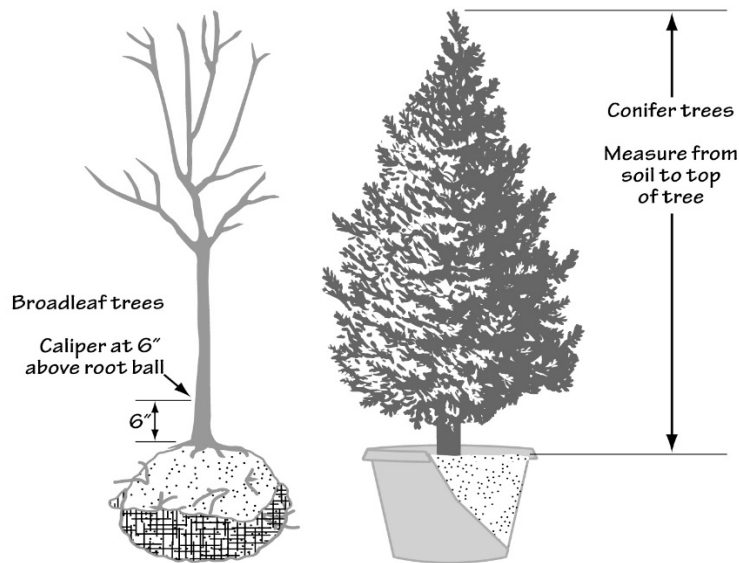
**Figure 80-2
Root Protection Zone**



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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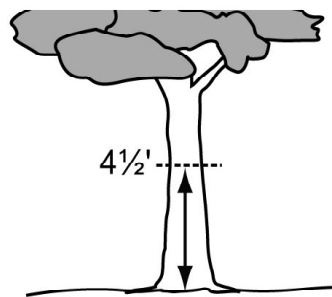
Figure 80-3
Measuring Tree Size for New Trees



b. Existing trees.

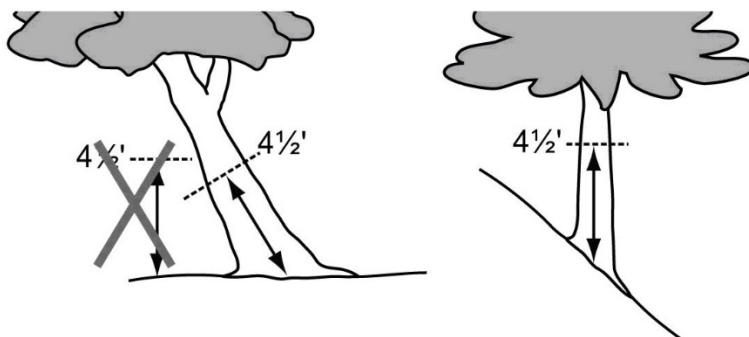
- (1) Existing trees are generally measured in terms of diameter inches at a height of 4-1/2 feet above the ground. See Figure 80-4. The diameter may be determined by measuring the circumference of the tree trunk and dividing by 3.14.

Figure 80-4
Measuring Tree Size for Existing Trees



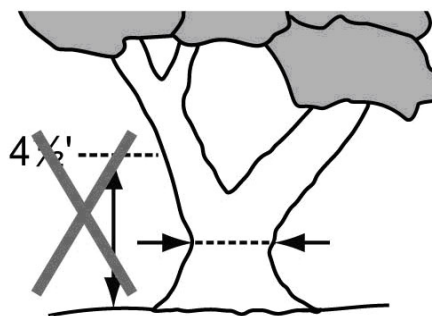
- (2) When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the trunk 4.5 feet along the center of the trunk axis, so the height is the average of the shortest and the longest sides of the trunk; see Figure 80-5.

**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.

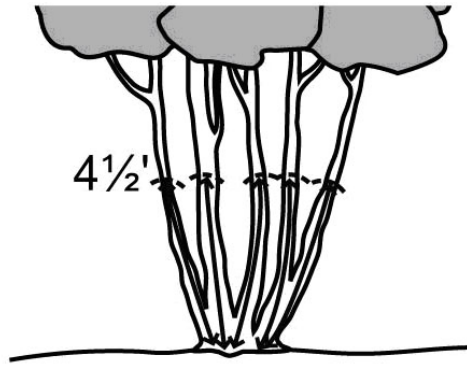
**Figure 80-6
Measuring Split Trunk Tree**



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

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Figure 80-7
Measuring Multi-stemmed Trees



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Chapter 17.23

**SPECIAL TRAFFIC CONTROL
DISTRICT**

(Chapter replaced by Ordinance No. 184957,
effective November 25, 2011.)

Section:

- 17.23.010 Application.
- 17.23.020 Definitions.
- 17.23.030 Designated Boundary.
- 17.23.040 Special Jurisdiction.
- 17.23.050 Permits Required.
- 17.23.060 Traffic Standards.
- 17.23.070 Revocation.

17.23.010 Application.

This Chapter shall apply to any use of the street area within the Special Traffic Control District described in Section 17.23.030.

17.23.020 Definitions.

(Amended by Ordinance No. 185397, effective July 6, 2012.) As used in this Chapter, the following terms shall have the following definitions:

- A. “Curb” shall mean the stone or concrete edging along a street or sidewalk.
- B. “Maintenance” shall mean the function of protecting existing facilities within the street area so as to keep those facilities in safe and convenient operating condition. Under this definition, the work would be of a routine nature and would not involve cutting the pavement.
- C. “Emergency” shall mean any unscheduled repair of existing facilities within the street area 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.

17.23.030 Designated Boundary.

The following described Special Traffic Control District will mean and include the following streets in the City:

The Special Traffic Control District shall be bounded by Naito Parkway to the east and

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the I-405 Loop to the west, south, and north. In addition to said boundary, the Special Traffic Control District shall include the following boundaries: beginning with the intersection of the west line of SW 18th and the south line of SW Salmon, running thence easterly along said south line of SW Salmon Street to the west line of SW 14th Avenue, running thence southerly to its intersection with the north line of SW Jefferson, thence easterly to the east line of SW 14th Avenue, thence northerly along the east line of SW 14th Avenue to its intersection with the north line of West Burnside; thence westerly along the north line of West Burnside to its intersection with the west line of SW 18th Avenue; thence southerly along the west line of SW 18th to the place of beginning. And, beginning with Naito Parkway to the west, the Willamette River to the east, SW Clay Street to the north, and SW River Parkway to the south.

17.23.040 Special Jurisdiction.

Within the Special Traffic Control District, the Director of the Bureau of Transportation shall have the authority to require temporary street closure permits. Such permits may allow for construction, repair, or maintenance of facilities within the street area and use of the street area to facilitate work on private property. The Director of the Bureau of Transportation shall have the authority to secure information from and coordinate the activities of all parties requesting use of the street area. The authority of the Director of the Bureau of Transportation shall not repeal the authority of the Building Bureau as outlined in Chapters 44 and 45 of the Uniform Building Code or as outlined in Section 17.44.020 of the Code of the City of Portland, Oregon.

17.23.050 Permits Required.

(Amended by Ordinance No. 187632, effective April 15, 2016.)

- A.** Any party desiring to perform work in the street or make use of the street area to perform work on private property shall first obtain a temporary street closure permit as prescribed in Chapter 17.24 of the Code of the City of Portland, Oregon, and pay the permit fees set forth in Chapter 17.24.
- B.** Any party performing emergency work shall notify the Director of the Bureau of Transportation at the time work is commenced and when finished. Emergency work may be performed without first obtaining the temporary street closure permit outlined in Subsection A. above or without complying with the requirements of Subsection A. above.
- C.** Any party desiring to perform work that utilizes the street area in the Special Traffic Control District shall obtain approval from the Director of the Bureau of Transportation to schedule their work. Any party desiring to perform work shall distribute notice of work to adjacent businesses five days in advance of proposed work dates. A written schedule of work dates and proof of notification to adjacent businesses shall be submitted to the Director of the Bureau of Transportation prior to final approval being granted.

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- D.** The Director of the Bureau of Transportation may waive minimum notification requirements as listed above in Subsection C. if work is deemed to have minimal impact to the transportation system.
- E.** Notwithstanding the other provisions of this Section, the Director of the Bureau of Transportation shall have the authority to implement additional requirements for permits in the Special Traffic Control District when conditions in the downtown require more stringent regulations.
- F.** Nothing contained herein shall limit the authority of the Director of the Bureau of Transportation in maintaining public peace and safety and upon request from the Director of the Bureau of Transportation the party performing any work in the street area shall reopen the street area to its normal use within two hours of notification from the Director of the Bureau of Transportation.

17.23.060 Traffic Standards.

Since the intent of this Code Section is to minimize traffic congestion in the Special Traffic Control District, permits issued within the Special Traffic Control District in accordance with Sections 17.23.050 and 17.24.010 must conform to traffic standards established by the City Traffic Engineer. Within the special control district, the Director of the Bureau of Transportation is hereby authorized and directed to enforce the traffic standards or such other traffic control plans as may be required as a condition of the permit. The Director of the Bureau of Transportation or City Traffic Engineer may require any party requesting to use the street area to submit a traffic control plan for review as a condition of granting a permit.

17.23.070 Revocation.

The Director of the Bureau of Transportation in carrying out the provisions set forth herein may enforce conditions set forth in permits issued under Section 17.23.050. The Director of the Bureau of Transportation may revoke any permit issued under Section 17.23.050 at any time in the event the public's need requires it, the permittee fails to comply with the conditions of the permit, or for any reason which would have been grounds for denial of the initial permit application.

Chapter 17.88

STREET ACCESS

Sections:

- 17.88.001 Purpose.
- 17.88.010 Definitions.
- 17.88.020 For Building and Planning Actions.
- 17.88.030 Location of Multiple Dwellings.
- 17.88.040 Through Streets.
- 17.88.050 Transportation Impact Study.
- 17.88.060 Dedication Prior to Permit Approval.
- 17.88.070 Routes of Travel in Park Areas.
- 17.88.080 Special Requirements for East Corridor Plan District.
- 17.88.090 Local Transportation Infrastructure Charge Required.

17.88.001 Purpose.

(Added by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) The purpose of this chapter is to describe the requirements for a transportation impact study, to ensure an adequate level of street connections to serve land uses, and to ensure that improvements to these streets are made in conjunction with development consistent with fire, life safety, and access needs.

17.88.010 Definitions.

(Replaced by Ordinance No. 177028; amended by Ordinance No. 187681, effective May 13, 2016.) As used in this Chapter, the following terms shall have the following definitions:

A. "Exceptional Habitat Quality" for connectivity purposes:

1. Riparian-associated wetlands protected with environmental zones;
2. Locally or regionally rare or sensitive plant communities;
3. Important forest stands contributing multiple functions and values to the adjacent water feature habitats of sensitive, threatened or endangered wildlife species; or
4. Habitats that provide unusually important wildlife functions, such as (but not limited to) a major wildlife crossing/runway or a key migratory pathway.

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- B. "Mixed-Use Area"** is compact development that allows a mix of uses, either within buildings or among buildings, and includes residential development as one of the potential components. Mixed-use areas include all commercial zones (CN1 and 2, CO1 and 2, CM, CS, CG, and CX), the EX, Central Employment Zone, and the IR, Institutional Residential Zone, All other employment zones, industrial zones, and the Open Space Zone are not included.
- C. "Significant alterations"** are changes to property that are 35 percent or greater than the assessed value of all improvements on the site. Mandatory improvements for fire, life safety and accessibility do not count toward the threshold.
- D. "Single-family residential zone"** means any of the Single-Dwelling Zones identified in Title 33 of the City Code.
- E. "Frontage"** means the length of public right-of-way adjacent to a property, measured in feet, but does not apply to collectors, arterials, or alleyways.
- F. "Unimproved street"** means any local street without a curb other than a local street that has been formally accepted by the Bureau of Transportation as having been fully built to an adopted Residential Shared or Residential Separated City street standard that does not require a curb.
- G. "Local street"** means any street classified as a Local Service Street in the City's adopted Transportation System Plan.
- H. "Subdivision"** means a division of land into four or more lots.
- I. "Local Transportation Infrastructure Charge"** is a charge collected to fund improvements to the City's network of unimproved local streets and adjacent or related transportation facilities.

17.88.020 For Buildings and Planning Actions.

(Replaced by Ordinance No. 177028; amended by Ordinance Nos. 182760, 184957 and 187681, effective May 13, 2016.) All building permits and planning actions are subject to the following:

- A.** No single family, multiple dwelling, industrial or commercial building shall be constructed, or altered so as to increase its number of occupants, or make significant alterations to a building without resulting in increased occupancy, on property that does not have direct access by frontage or recorded easement with not less than 10 feet width of right-of-way to a street used for vehicular traffic.

- B.** If a street adjacent to a property described in Subsection A. above does not have a standard full-width improvement, including sidewalks, the owner, as a condition of obtaining a building permit, conditional use, zone change, land partition or adjustment, shall provide for such an improvement or a portion thereof as designated by the Director of the Bureau of Transportation in accordance with provisions elsewhere in this Title. The payment of a Local Transportation Infrastructure Charge will satisfy the requirements of this Subsection.
- C.** Based on findings that a standard improvement is not feasible, the Director of the Bureau of Transportation may allow a temporary improvement appropriate for the circumstances, on the condition that the City will not maintain said temporary improvement and the owner will provide the City with a notarized document, approved as to form by the City Attorney, to be filed with the County in which property is located, stating that the present and future owners will be counted in favor of any proposed standard improvement of said street. Fee for said filing and any other expense of the City incidental to accomplishing the temporary improvement shall be paid by the owner.

17.88.030 Location of Multiple Dwellings.

(Replaced by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) Unless permitted as part of an approved Planned Development the Council permits by ordinance, no multiple dwellings or accessory building shall be so located on any lot, block, tract or area within the City that any portion of the dwelling or building will be more than 250 feet from a dedicated street abutting the lot or block or that portion of a tract or area on which the multiple dwelling or accessory building shall have direct access to such street by way of an approved roadway.

17.88.040 Through Streets.

(Replaced by Ordinance No. 177028; amended by Ordinance No. 184957, effective November 25, 2011.) Street connectivity provides access to adjacent properties and reduces out-of-direction travel. New or expanding development must include the following:

- A.** Through streets as required by the Director of the Bureau of Transportation connecting existing dedicated streets, or at such locations as designated by the Director of the Bureau of Transportation, shall be provided for any development or redevelopment.
- B.** Partial-width streets as required by the Director of the Bureau of Transportation where full-width streets could reasonably be provided in the future with the development or redevelopment of abutting property.
- C.** New residential development or development in existing or future mixed-use areas that will require construction of new street(s) must:

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1. Respond to and expand on the adopted street plans, applicable to the site or area, or in the absence of such plan, as directed by the Director of the Bureau of Transportation;
 2. Provide for street connections no further apart than 530 feet, except where prevented by barriers such as topography, railroads, freeways, pre-existing development, or natural features where regulations do not allow construction of or prescribe different standards for streets;
 3. Provide bicycle and/or pedestrian connections when full street connections are not possible, no further apart than 330 feet except where prevented by barriers as noted above;
 4. Limit the use of cul-de-sac or closed street systems; and
 5. Include street cross section(s), as directed by the Director of the Bureau of Transportation.
- D.** Street and pedestrian/bicycle spacing standards may be modified in areas of exceptional habitat quality to the following standards:
1. Where streets must cross over protected water features, provide crossings at an average spacing of 800 to 1,200 feet, unless exceptional habitat quality or length of crossing prevents a full street connection.
 2. Pedestrian and bicycle connections that cross protected water features should have an average spacing of no more than 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.

17.88.050 Transportation Impact Study.

(Replaced by Ordinance No. 177028, effective December 14, 2002.) The traffic impacts of dividing or developing land may warrant a transportation impact study. The purpose of a transportation impact study is to assess the effects of development in the vicinity of a site on traffic conditions and operations; transit, pedestrians, and bicycle movement; and neighborhood livability. A transportation impact study may be required under the following situations:

- A.** Where approval criteria for a land use review include a requirement of adequacy of transportation services and the development proposed through the review meets or exceeds the following thresholds:

1. Trip generation threshold. More than 100 new vehicle trips will be generated in the peak direction (inbound or outbound) during the site's peak traffic hour; or
 2. Neighborhood traffic threshold. More than 250 new trips will be generated per day that are likely to use predominately residential Local Service Traffic Streets.
- B.** Safety or operational impacts. Where the City Engineer has identified potential safety or operational concerns that may be impacted by the layout of a site or the location or size of driveways for a proposed development.

17.88.060 Dedication Prior to Permit Approval.

(Added by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) No permit shall be issued for the construction of any dwellings or buildings upon any lot, block, tract or area within the City until required dedications, as outlined in this Chapter, are complete.

17.88.070 Routes of Travel in Park Areas.

(Added by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) The Bureau of Transportation, may, upon the request of the Commissioner In Charge of the Bureau of Parks and Recreation, take over and perform the construction, reconstruction, maintenance and repair of any boulevards, roadways, drives, paths, trails, walks or other routes of travel in park areas of the City. The transfer of such responsibility to the Bureau of Transportation shall not operate to remove the routes of travel from the jurisdiction and control of the Bureau of Parks and Recreation, and the planning and location of new routes shall remain the responsibility of, and in the jurisdiction of the Bureau of Parks and Recreation.

17.88.080 Special Requirements for East Corridor Plan District.

(Added by Ordinance No. 178424; amended by Ordinance No. 182760, effective June 5, 2009.) East Corridor Plan District. Until a master street plan is adopted in the Transportation Element of the Comprehensive Plan for the East Corridor Plan District, as shown in Title 33, Map 526-1, street connectivity for the area should generally be based on a block size of 400 by 200 feet and connect to the surrounding street grid consistent with the prevailing block pattern.

17.88.090 Local Transportation Infrastructure Charge Required.

(Added by Ordinance No. 187681, effective May 13, 2016.)

- A.** An applicant for a new, single-family, residential, building permit for a project of one or two units or for approval to create multiple lots other than as part of a subdivision on real property within a single-family residential zone must pay a Local Transportation Infrastructure Charge.

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- B.** The Bureau of Transportation will assess a Local Transportation Infrastructure Charge according to the total number of linear feet of unimproved street frontage. The charge will be based on the average, location-specific, actual cost to the City to build local street improvements to City standards at the time of application.
- C.** Payment of a Local Transportation Infrastructure Charge will exempt the property subject to the application from future Local Transportation Infrastructure Charges.
- D.** Local Transportation Infrastructure Charges will be collected and administered by the Bureau of Transportation. The Director of the Bureau of Transportation may establish rules and procedures for the Local Transportation Infrastructure Charge.
- E.** An applicant may not appeal under Chapter 17.06 of this Code the City's calculation of a Local Transportation Infrastructure Charge.

Chapter 17.105

MOTOR VEHICLE FUEL TAX

(Chapter added by Resolution 37185 (approved at May 17, 2016 election);
effective May 17, 2016.)

Sections:

- 17.105.010 Tax Imposed.
- 17.105.015 Temporary Tax of 4 Years.
- 17.105.020 Use of Tax Revenues.
- 17.105.025 Definitions.
- 17.105.030 License Requirements.
- 17.105.035 License Applications and Issuance.
- 17.105.040 Failure to Secure License.
- 17.105.045 Amount and Payment of Tax.
- 17.105.050 Revocation of License.
- 17.105.055 Cancellation of License.
- 17.105.060 Remedies Cumulative.
- 17.105.065 Billing Purchasers.
- 17.105.070 Failure to Provide Invoice or Delivery Tag.
- 17.105.075 Transporting Motor Vehicle Fuel in Bulk.
- 17.105.080 Exemption of Weight Receipt Holders.
- 17.105.085 Exemption of Export Fuel.
- 17.105.090 Exemption of Motor Vehicle Fuel Sold or Distributed to Dealers.
- 17.105.095 Payment of Tax and Delinquency.
- 17.105.100 Monthly Statement of Dealer or Seller.
- 17.105.105 Failure to File Monthly Statement.
- 17.105.106 Refunds.
- 17.105.110 Examinations and Investigations.
- 17.105.115 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.
- 17.105.120 Examining Books and Accounts of Carriers of Motor Vehicle Fuel.
- 17.105.125 Records to be Kept by Dealer and Seller.
- 17.105.130 Records to be Kept 3 Years.
- 17.105.135 Citizen Oversight Committee; Annual Audits.
- 17.105.140 Tax Effective If Passed.
- 17.105.145 Administrative Rules.

17.105.010 Tax Imposed.

A Motor Vehicle Fuel Tax is hereby imposed on every Dealer or Seller. The tax imposed shall be paid monthly to the City. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and

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administration of the Motor Vehicle Fuel Tax, including all powers specified in ORS 319.010 to 319.430, and ORS 310.510 to 310.990.

17.105.015 Temporary Tax of 4 Years.

This Chapter will be in full force and effect upon enactment. The Motor Vehicle Fuel Tax established in Section 17.105.045 shall be imposed beginning on the tax implementation date established by the Tax Administrator and shall sunset 4 years after the tax implementation date. The tax implementation date shall not be earlier than September 1, 2016. The Tax Administrator is authorized to collect amounts receivable under this Chapter for taxes and penalties accrued prior to the termination of the Motor Vehicle Fuel Tax.

17.105.020 Use of Tax Revenues.

- A.** For the purpose of this Section, Motor Vehicles Fuel Tax net revenues means the revenue from the tax and penalties imposed by this Chapter remaining after interest, collection, administrative, other costs, refunds, and credits are deducted from Motor Vehicle Fuel Tax revenues.
- B.** The City shall use Motor Vehicles Fuel Tax net revenues only for construction, reconstruction, improvement, repair, maintenance, operation and use of public Highways, roads and streets as described in the Oregon Constitution, Article IX, Section 3a.
- C.** The type of projects to be completed will be those approved and undertaken out of the Street Repair and Traffic Safety Program, and will include but not be limited to projects in the following categories:
 - 1.** Street Repair
 - 2.** Safe Routes to Schools
 - 3.** Sidewalk Completion
 - 4.** High Crash Corridor Safety Improvements
 - 5.** Reducing Bicycle/Car conflicts
 - 6.** Intersection Safety Improvements

17.105.025 Definitions.

As used in this Chapter, unless the context requires otherwise, the following words and phrases shall mean:

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- A.** **City** means the City of Portland.
- B.** **Dealer** means any Person who:
1. Imports or causes to be imported Motor Vehicle Fuel for sale, use or Distribution in the city, but Dealer does not include any Person who imports into the city Motor Vehicle Fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a Dealer hereunder if that Dealer assumes liability for the payment of the applicable Motor Vehicle Fuel Tax to the City and Dealer does not include terminal storage facilities; or
 2. Produces, refines, manufactures or compounds Motor Vehicle Fuel in the city for use, Distribution or sale in the city; or
 3. Acquires in the city for sale, use or Distribution in the city Motor Vehicle Fuel with respect to which there has been no Motor Vehicle Fuel Tax previously incurred.
- C.** **Distribution.** In addition to its ordinary meaning, the delivery of Motor Vehicle Fuel by a Dealer or Seller to any Service Station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which Motor Vehicle Fuel is withdrawn directly for sale or for delivery into the fuel tanks of Motor Vehicles whether or not the Service Station, tank or storage facility is owned, operated or controlled by the Dealer or Seller.
- D.** **Highway** means every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.
- E.** **Motor Vehicle** means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of Motor Vehicle Fuel.
- F.** **Motor Vehicle Fuel** includes gasoline, diesel, mogas, methanol and any other flammable or combustible gas or liquid, by whatever name such gasoline, diesel, mogas, methanol, gas or liquid is known or sold, usable as fuel for the operation of Motor Vehicles, except gas, diesel, mogas, methanol or liquid, the chief use of which, as determined by the Tax Administrator, is for purposes other than the propulsion of Motor Vehicles upon the Highways.
- G.** **Person** means any natural Person, association, firm, partnership, corporation, joint venture or other business entity.
- H.** **Seller** means

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1. A person that sells Motor Vehicle Fuel to a user of vehicles; or
 2. If the Motor Vehicle Fuel is dispensed at a non-retail facility, the person that owns the users accounts and bills the users for Motor Vehicle Fuel purchased at a non-retail facility.
- I. Service Station** means any place operated for the purpose of retailing and delivering Motor Vehicle Fuel into the fuel tanks of Motor Vehicles.
- J. Street Repair and Traffic Safety Program** means the City of Portland program in the Transportation Operating Fund where Motor Vehicle Fuel Tax net revenue pursuant to this chapter is deposited and street repair and traffic safety expenditures are recorded.
- K. Terminal Storage Facility** means any fuel storage facility that has marine or pipeline access.
- L. Tax Administrator** means the City Council, the City Council's designees, or any Person or entity with whom the City Council contracts to implement the Motor Vehicle Fuel Tax program or a portion thereof.
- M. Weight Receipt** means a receipt issued by the Oregon Department of Transportation, stating the combined weight of each self-propelled or motor-driven vehicle.

17.105.030 License Requirements.

No Dealer or Seller shall sell, use, or distribute any Motor Vehicle Fuel until he/she has secured a Dealer's or Seller's license as required herein.

17.105.035 License Applications and Issuance.

- A.** Every Person, who is a Dealer or Seller of Motor Vehicle Fuel in the City of Portland, shall make application to the Tax Administrator for a license authorizing such Person to engage in business as a Dealer or Seller in the City of Portland.
- B.** Applications for the license shall be made on forms prescribed by the Tax Administrator.
- C.** Applications shall include, among other items as may be required by the Tax Administrator:
1. The business name under which the applicant transacts business.

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2. The address of applicant's principal place of business and location of distributing stations in and within three miles of the city.
 3. The name and address of the managing agent, the names and addresses of the several Persons constituting the firm or partnership or, if a corporation, the name under which the corporation is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.
- D.** If an application for a Motor Vehicle Fuel Dealer's license or Seller's license is complete and accepted for filing, the Tax Administrator shall issue to the Dealer or Seller a license in such form as the Tax Administrator may prescribe to transact business in the city. A license issued hereunder is not assignable, and is valid only for the Dealer or Seller in whose name it is issued.
- E.** The Tax Administrator shall retain all completed applications together with a record of all licensed Dealers and Sellers.

17.105.040 Failure to Secure License.

- A.** If a Dealer or Seller sells, distributes, or uses any Motor Vehicle Fuel without first filing the application and obtaining the license required by Section 17.105.035, the Motor Vehicle Fuel Tax on all Motor Vehicle Fuel sold, distributed or used by that Dealer or Seller shall be immediately due and payable.
- B.** The Tax Administrator shall determine, from as many available sources as the Tax Administrator determines reasonable, the amount of tax due, shall assess the Dealer or Seller for the tax due together with a penalty of 100 percent of the tax. In any suit or proceeding to collect the tax or penalty or both, the assessment shall be prima facie evidence that the Dealer or Seller therein named is indebted to the City in the amount of the tax and penalty stated.
- C.** Any tax or penalty assessed pursuant to this Section may be collected in the manner prescribed in Section 17.105.095 with reference to delinquency in payment of the fee or by an action at law.
- D.** In the event any suit or action is instituted to enforce this Section, if the City is the prevailing party, the City shall be entitled to recover from the Person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

17.105.045 Amount and Payment of Tax.

In addition to any fees or taxes otherwise provided for by law, every Dealer or Seller engaging in the city in the sale, use or Distribution of Motor Vehicle Fuel shall:

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- A.** Not later than the 25th day of each calendar month, submit a report to the Tax Administrator on forms prescribed by the Tax Administrator of all Motor Vehicle Fuel sold, used or distributed by him/her in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or Distribution the Dealer or Seller has assumed liability for the applicable Motor Vehicle Fuel Tax during the preceding calendar month.
- B.** Pay a Motor Vehicle Fuel Tax computed on the basis of 10 cents per gallon of such Motor Vehicle Fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this Code or Administrative Rules promulgated in accordance with this Chapter.

17.105.050 Revocation of License.

- A.** The Tax Administrator may revoke the license of any Dealer or Seller who fails to comply with any provision of this Chapter. The Tax Administrator shall mail, by certified mail addressed to the Dealer or Seller at his/her last known address appearing in the files of the Tax Administrator, a notice of intent to revoke. The notice of revocation shall provide the reason(s) for revocation which include, but are not limited to, failure to register for a license, failure to remit the tax, failure to file required reports or any information as required by the Tax Administrator, or failure to pay any penalty or interest assessments.
- B.** A Dealer or Seller has the right to protest a notice of revocation to the Tax Administrator in writing within 14 days. The Tax Administrator must forward the appeal, including the reasons for the determination, to the Business License Appeals Board within 30 days. The Tax Administrator may prescribe by Administrative Rule procedures for the protest and appeal of license revocations. The license revocation shall become effective when the local protest and appeal process provided in Administrative Rules is completed and a final decision has been issued.

17.105.055 Cancellation of License.

- A.** The Tax Administrator may, upon written request of a Dealer or Seller, cancel a license issued to that Dealer or Seller. The Tax Administrator shall, upon approving the Dealer's or Seller's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the license shall no longer be effective.
- B.** The Tax Administrator may, after 30 days' notice has been mailed to the last known address of the Dealer or Seller, cancel the license of Dealer or Seller upon

finding that the Dealer or Seller is no longer engaged in the business of a Dealer or Seller.

17.105.060 Remedies Cumulative.

Except as otherwise provided in Sections 17.105.095 and 17.105.105, the remedies provided in Sections 17.105.040, 17.105.050, and 17.105.055 are cumulative. No action taken pursuant to those sections shall relieve any Person from the penalty provisions of this Code.

17.105.065 Billing Purchasers.

Dealers in Motor Vehicle Fuel shall render bills to all purchasers of Motor Vehicle Fuel. The bills shall separately state and describe the different products sold or shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Tax Administrator are maintained.

17.105.070 Failure to Provide Invoice or Delivery Tag.

No Person shall receive and accept Motor Vehicle Fuel from any Dealer, or pay for the same, or sell or offer the Motor Vehicle Fuel for sale, unless the Motor Vehicle Fuel is accompanied by an invoice or delivery tag showing the date upon which Motor Vehicle Fuel was delivered, purchased or sold and the name of the Dealer in Motor Vehicle Fuel.

17.105.075 Transporting Motor Vehicle Fuel in Bulk.

Every Person operating any conveyance for the purpose of hauling, transporting or delivering Motor Vehicle Fuel in bulk shall, before entering upon the public Highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such Motor Vehicle Fuel, an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The Person hauling such Motor Vehicle Fuel shall, at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

17.105.080 Exemption of Weight Receipt Holders.

Motor Vehicle Fuel sold to holders of a Weight Receipt shall not be charged the Motor Vehicle Fuel Tax.

17.105.085 Exemption of Export Fuel.

- A. The Motor Vehicle Fuel Tax imposed by Section 17.105.010 shall not be imposed on Motor Vehicle Fuel:
 - 1. Exported from the city by a Dealer; or

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2. Sold by a Dealer for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a Motor Vehicle, but every Dealer shall be required to report such exports and sales to the city in such detail as may be required
- B. In support of any exemption from Motor Vehicle Fuel Taxes claimed under this Section other than in the case of stock transfers or deliveries in the Dealer's own equipment, every Dealer must execute and file with the Tax Administrator an export certificate in such form as shall be prescribed, prepared and furnished by the Tax Administrator, containing a statement, made by some Person having actual knowledge of the fact of such exportation, that the Motor Vehicle Fuel has been exported from the city, and giving such details with reference to such shipment as the Tax Administrator may require. The Tax Administrator may demand of any Dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Tax Administrator may, in a case where the Tax Administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate. Any Motor Vehicle Fuel carried from the city in the fuel tank of a Motor Vehicle shall not be considered as exported from the city.
- C. No Person shall, through false statement, trick or device, or otherwise, obtain Motor Vehicle Fuel for export as to which the Motor Vehicle Fuel Tax has not been paid and fail to export the same, or any portion thereof, or cause the Motor Vehicle Fuel or any portion thereof not to be exported, or divert or cause to be diverted the Motor Vehicle Fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the Tax Administrator and the Dealer from whom the Motor Vehicle Fuel was originally purchased of his/her act.
- D. No Dealer, or other Person shall conspire with any Person to withhold from export, or divert from export or to return Motor Vehicle Fuel to the city for sale or use so as to avoid any of the fees imposed herein.
- E. In support of any exemption from taxes on account of sales of Motor Vehicle Fuel for export by the purchaser, the Dealer shall retain in his/her files for at least 3 years, an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Tax Administrator. This certificate shall be prima facie evidence of the exportation of the Motor Vehicle Fuel to which it applies only if accepted by the Dealer in good faith.

17.105.090 Exemption of Motor Vehicle Fuel Sold or Distributed to Dealers.

- A. Notwithstanding Section 17.105.095 of this Chapter, if the first sale, use or distribution of motor vehicle fuel is from one licensed Dealer to another licensed

Dealer, the selling or distributing Dealer is not required to pay the Motor Vehicle Fuel Tax imposed in this Chapter. When the purchasing or receiving Dealer first sells, uses or distributes the fuel, that Dealer shall pay the Motor Vehicle Fuel Tax regardless of whether the sale, use or distribution is to another licensed Dealer.

- B.** A Dealer who renders monthly statements to the Tax Administrator as required by this Chapter shall show separately the number of gallons of Motor Vehicle Fuel sold or delivered to Dealers.

17.105.095 Payment of Tax and Delinquency.

- A.** The Motor Vehicle Fuel Tax imposed by this Chapter shall be paid to the Tax Administrator on or before the 25th day of each month.
- B.** Except as provided in Subsections 17.105.095 C. and E., if payment of the Motor Vehicle Fuel Tax is not paid as required by Subsection 17.105.095 A., a penalty of 1 percent of such tax shall be assessed and be immediately due and payable.
- C.** Except as provided in Subsection 17.105.095 E., if the payment of the tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in Subsection 17.105.095 B. and shall be immediately due and payable.
- D.** If the Motor Vehicle Fuel Tax imposed by this Chapter is not paid as required by Subsection 17.105.095 A., interest shall be charged at the rate of .0329 percent per day until the tax, interest and penalties have been paid in full.
- E.** Penalties imposed by this Section shall not apply if a penalty has been assessed and paid pursuant to Section 17.105.040. The Tax Administrator may for good cause shown waive any penalties assessed under this Section.
- F.** If any Person fails to pay the Motor Vehicle Fuel Tax, interest, or any penalty provided for by this Section, the Tax Administrator shall commence and prosecute in any court of competent jurisdiction an action at law to collect the amounts due. Such action may be taken on the sole authority of the Tax Administrator.
- G.** In the event any suit or action is instituted to collect the Motor Vehicle Fuel Tax, interest, or any penalty provided for by this Section, if the City is the prevailing party, the City shall be entitled to recover from the Person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

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17.105.100 Monthly Statement of Dealer or Seller.

Every Dealer or Seller in Motor Vehicle Fuel shall provide to the Tax Administrator on or before the 25th day of each month, on forms prescribed, prepared and furnished by the Tax Administrator, a statement of the number of gallons of Motor Vehicle Fuel sold, distributed or used by the Dealer or Seller during the preceding calendar month. The statement shall be signed by the Dealer or Seller or the Dealer's or Seller's agent.

17.105.105 Failure to File Monthly Statement.

If a Dealer or Seller fails to file any statement required by Section, the Tax Administrator shall determine from as many available sources as the Tax Administrator determines reasonable the amount of Motor Vehicle Fuel sold, distributed or used by such Dealer or Seller for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of fuel sold, distributed or used. The Tax Administrator shall assess the Dealer or Seller for the Motor Vehicle Fuel Tax upon the amount determined, adding a penalty of 10 percent of the tax for non-reporting. The penalty shall be cumulative to other penalties provided in this Code.

17.105.106 Refunds.

Refunds on the Motor Vehicle Fuel Tax will be made pursuant to any refund provisions of Chapter 319 of the Oregon Revised Statutes, including but not limited to ORS 319.280, 319.320, and 319.831. Claim forms for refunds may be obtained from the Tax Administrator's office.

17.105.110 Examinations and Investigations.

The Tax Administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of Dealers, Sellers, Service Stations and other Persons engaged in storing, selling or distributing Motor Vehicle Fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of this Chapter. If the examinations or investigations disclose that any reports of Dealers, Sellers, or other Persons filed with the Tax Administrator pursuant to the requirements herein, have shown incorrectly the amount of gallonage of Motor Vehicle Fuel distributed or the tax accruing thereon, the Tax Administrator may make such changes in subsequent reports and payments of such Dealers, Sellers, or other Persons, or may make such refund or credit, as may be necessary to correct the errors disclosed by its examinations or investigation. The Dealer or Seller shall reimburse the City for the reasonable costs of the examination or investigation if the action discloses that the Dealer or Seller paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of .0329 percent per day from the date the original tax payment was due.

17.105.115 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.

- A.** Except as otherwise provided in this Code, any credit for erroneous overpayment of tax made by a Dealer or Seller taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a Dealer or Seller must be taken or filed within 3 years after the date on which the overpayment was made to the City.
- B.** Except in the case of a fraudulent report or failure to make a report, every notice of additional tax proposed to be assessed under this Code shall be served on Dealers and Sellers within 3 years from the date upon which such additional taxes become due or were paid, whichever is later, and shall be subject to penalty as provided in Section 17.105.095.
- C.** In the case of the filing of a false or fraudulent report, a failure to file a required report, or willful refusal to remit the tax, an assessment may be made, or a proceeding for the collection of such assessment may be commenced, at any time.

17.105.120 Examining Books and Accounts of Carriers of Motor Vehicle Fuel.

The Tax Administrator or duly authorized agents of the Tax Administrator may at any time during normal business hours examine the books and accounts of any carrier of Motor Vehicle Fuel operating within the city for the purpose of enforcing the provisions of this Code.

17.105.125 Records to be Kept by Dealers and Sellers.

Every Dealer and Seller in Motor Vehicle Fuel shall keep a record in such form as may be prescribed or approved by the Tax Administrator of all purchases, receipts, sales and Distribution of Motor Vehicle Fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the Tax Administrator or authorized officers or agents of the Tax Administrator.

17.105.130 Records to be Kept 3 Years.

Every Dealer and Seller shall maintain and keep, for a period of 3 years and 6 months, all records of Motor Vehicle Fuel used, sold and distributed within the city by such Dealer or Seller, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Tax Administrator. In the event such records are not kept within the state of Oregon, the Dealer or Seller shall reimburse the Tax Administrator for all travel, lodging, and related expenses incurred by the Tax Administrator in examining such records. The amount of such expenses shall be assessed in addition to the tax imposed by Section 17.105.010.

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17.105.135 Citizen Oversight Committee; Annual Audits.

- A.** The City will appoint a citizen oversight committee that is representative of the city's diverse communities to ensure the Motor Vehicle Fuel Tax is being implemented as required, to monitor revenues and review expenditures made, and to report their findings in a public record to the City Council on an annual basis. The committee will be comprised of a minimum of 8 and a maximum of 20 members.
- B.** The use of Motor Vehicle Fuel Tax net revenues will be audited annually.

17.105.140 Chapter Effective If Passed.

Chapter 17.105 of this Code does not take effect unless Measure 26-173 is approved by the people according to elections results for the election held in the City on May 17, 2016.

17.105.145 Administrative Rules.

The Tax Administrator has authority to promulgate administrative rules in accordance with this Chapter which shall have the same force and effect as any other provision of Chapter 17.105.

**CHAPTER 23.10 - REMOVING BARRIERS
TO EMPLOYMENT**

(Chapter added by Ordinance No. 187459, effective
December 25, 2015.)

Sections:

- 23.10.010 Purpose.
- 23.10.020 Definitions.
- 23.10.030 Use of Criminal History in Employment Decisions.
- 23.10.040 Exceptions.
- 23.10.050 Administrative Rules Implementing this Chapter.
- 23.10.060 Enforcement.
- 23.10.070 Confidentiality and Nondisclosure.
- 23.10.080 Public Education and Outreach.
- 23.10.090 Severability.
- 23.10.100 Application.

23.10.010 Purpose.

The purpose of this Chapter is to remove barriers to employment so that people with criminal histories can provide for themselves and their families; to reduce disparate impacts on people of color that result from the use of criminal history information in hiring and employment decisions; and to reduce recidivism through the reintroduction of formerly incarcerated persons into community life.

23.10.020 Definitions.

(Amended by Ordinance No. 187678, effective May 13, 2016.) For purposes of this Chapter, the following definitions apply:

- A. “City” means the City of Portland as defined in Title 1 of the Code of the City of Portland.
- B. “Employer” means any person or entity who directly or through an agent employs another for a position being performed a majority of the time within the City of Portland, but does not include:
 - 1. The United States Government;
 - 2. The State of Oregon and any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary;
 - 3. Any political subdivision of the State of Oregon or any county, city, district, authority, public corporation or public entity other than the City of Portland;
or

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- 4. Employers with fewer than six employees.
- C. “Employ” means to engage or use the personal service of another person on a full-time, part-time, temporary or seasonal basis, where the Employer reserves the right to control the means by which such service is performed.
- D. “Conditional Offer of Employment” means any offer for a position that is conditioned solely on:
 - 1. The results of an Employer’s inquiry into or gathering of information about a person’s arrest or conviction history; and/or
 - 2. Some other contingency expressly communicated to the applicant at the time of the offer.

23.10.030 Use of Criminal History in Employment Decisions.

- A. It is an unlawful practice for an Employer to exclude an applicant from consideration solely because of the applicant’s criminal history.
- B. An Employer may consider an applicant’s criminal history in the hiring process only after making a Conditional Offer of Employment. An Employer violates this Chapter if an Employer accesses an applicant’s criminal history prior to making a Conditional Offer of Employment.
- C. It is not an unlawful practice for an Employer to rescind a Conditional Offer of Employment based upon an applicant’s criminal history if an Employer determines in good faith that a specific offense or conduct is job related for the position in question and consistent with business necessity.
- D. In making the determination of whether an applicant’s criminal history is job related for the position in question and consistent with business necessity, an Employer must conduct an individualized assessment of:
 - 1. The nature and gravity of the criminal offense;
 - 2. The time that has elapsed since the criminal offense took place; and
 - 3. The nature of the Employment held or sought.
- E. Nothing in this Section prevents an employer from considering an applicant’s criminal history after making a conditional offer of employment, except that an employer shall not consider:
 - 1. An arrest not leading to a conviction, except where a crime is unresolved or charges are pending against an applicant;

sufficiently to remove any hazards to the public. Such period of time is not to exceed 30 days. For regulations on the use of public streets and protection of pedestrians during demolition see Chapter 24.40 of this Title.

24.55.150 Definitions.

(Added by Ordinance No. 187017, effective April 19, 2015.)

- A.** Demolition. Demolition means removal of the entire superstructure down to the subflooring, such that none of the existing superstructure is maintained. Demolition includes removal of all exterior walls. It also includes alteration, abandonment or removal of all of the existing perimeter foundation.
- B.** Major Residential Alteration or Addition. Major alteration or addition means doing any of the following:

 - 1. adding any new story, including a basement or other below-grade structure. Raising a structure to meet the required headroom in a basement is considered the same as creating a basement,
 - 2. increasing or replacing 50 percent or more of the exterior wall area on any floor. If the subflooring under an exterior wall is removed, it will be treated as if the wall was removed,
 - 3. adding total new floor area to the existing structure that exceeds 800 square feet, or
 - 4. adding an area exceeding 100 percent of the existing foundation footprint area of the structure.
- C.** Recognized organization. Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Neighborhood Involvement.
- D.** Subflooring. Subflooring means the bottom-most structural floor laid as a base for a finished floor.
- E.** Superstructure. Superstructure means the part of the building or construction entirely above its foundation or basement.

24.55.200 Residential Demolition Delay - Housing Preservation.

(Amended by Ordinance Nos. 171455, 176955, 187017 and 187711, effective May 4, 2016.)

- A.** Purpose. The residential demolition delay provisions are intended to allow an adequate amount of time to help save viable housing in the City while recognizing a property owner's right to develop or redevelop property. The regulations provide

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an opportunity for public notice of impending residential demolitions and coordination of the efforts of various City bureaus. The regulations also encourage seeking alternatives to demolition. The provisions accomplished this through a two part process:

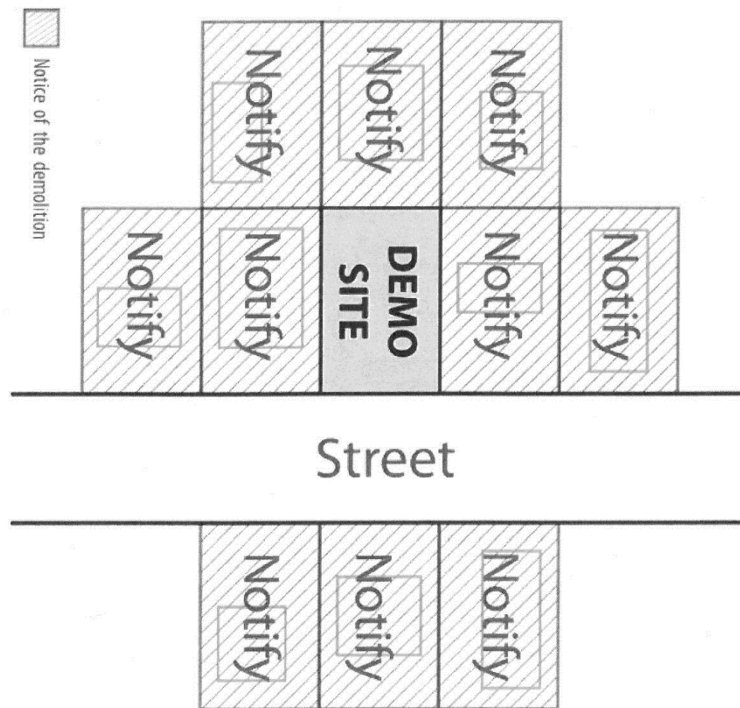
1. a 35 day notice period during which demolition is delayed, and
 2. a possible 60-day extension of the demolition delay period.
- B.** Where the delay applies. The residential demolition delay regulations of this Section (24.55.200) apply to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for demolition of residential structures. They do not apply to demolitions of accessory structures such as garages or other outbuildings.
- C.** Application for building permit for demolition.
1. Signed statement. The application for a building permit for demolition must include a statement signed by the owner(s) of the property. The statement must acknowledge that the owner(s) are aware of the primary uses permitted under the current zoning on the site without a conditional use, zone change, Comprehensive Plan Map amendment, or other land use approval and that such an approval will be required before other uses will be permitted on the site. The statement may be on forms that the Director may make available.
 2. Delay in issuing. The building permit for demolition will not be issued except as provided for in this Section (24.55.200).
- D.** Notification.
1. Mailed notice. Within 5 days of receipt of a complete application for a residential demolition permit, the Bureau of Development Services will mail written notice of the demolition request to all properties within 150 feet of the site to be demolished, to the recognized organization(s) whose boundaries include the site, to the Architectural Heritage Center/Bosco-Milligan Foundation, Inc., and to the Historic Preservation League of Oregon, dba Restore Oregon. A complete application means when the Bureau of Development Services has received a complete permit application, project plans and the intake, review and notice fees have been paid. The notification letter will contain at least the following information.
 - a. Notice that the site has been proposed for demolition,
 - b. The date the application for demolition was received,

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- c.** Notice that there is a demolition delay period of 35 days which may be extended upon request from the recognized organization(s) whose boundaries include the site or an interested party,
 - d.** The contact information of the applicant,
 - e.** The last day that requests for extended delay may be submitted, and
 - f.** The location where more information is available.
- 2.** Posted notice. Five full days before demolition activity commences, the applicant must post door hangers provided by the Bureau of Development Services on the properties abutting and across the street from the site of the demolition. See Figure 200-1. The notice must contain all of the following information.
 - a.** Notice that the site has been proposed for demolition,
 - b.** The demolition permit number,
 - c.** The approximate date demolition activity will commence,
 - d.** Contact information of the agencies that regulate asbestos and lead-based paint,
 - e.** Contact information for the applicant, and
 - f.** The location where more information is available.

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FIGURE 200-1



- E.** 35-day notice period. The building permit for residential demolition will not be issued during the 35-day notice period. The notice period begins on the day the complete permit application is received and all intake fees have been paid. If no written request to extend the demolition delay is received during the 35-day notice period as provided in Subsection 24.55.200 F. below, then the Bureau of Development Services will issue the building permit for demolition.
- F.** Requests for extension of demolition delay period. Requests to extend the demolition delay period may be made as follows:
- 1.** Who may request. Requests to extend the demolition delay period an additional 60 days may be made by a recognized organization whose boundaries include the site or any other interested party.
 - 2.** How to request. The request to extend the demolition delay period must be made in writing, on forms provided by the Bureau of Development Services. The request must be submitted to the Bureau of Development Services by 4:30 p.m. on the last day of the initial 35-day notice period. The request must be accompanied by an appeal of the demolition permit application submitted to the Bureau for a hearing before the Code Hearings Officer, as provided in Subsection 24.55.200 H. below, along with the appeal fee or a

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waiver of the fee and all documents the appealing party wants in the record to support the appeal. A fee waiver will only be granted to recognized organizations whose boundaries include the site.

- G.** 60-day extension of residential demolition delay period. If a signed request for extension of the demolition delay is received as provided in Subsection 24.55.200 F. above, issuance of the building permit for demolition will be stayed until the Code Hearings Officer has rendered a decision of the appeal filed as provided in Subsection 24.55.200 H. below.
- H.** Appeal of the residential demolition permit application. An interested party may appeal issuance of the demolition permit by completing an appeal application on forms provided by the Bureau. The appeal application must be accompanied by the appeal fee or a fee waiver, along with all documents the appealing party wants in the record to support the appeal. Appeals will be forwarded to the Code Hearings Officer and will be governed by the provisions in Chapter 22.10, unless there is a conflict between Chapter 22.10 and this Section, in which case this Section shall apply. The provisions of Chapter 22.03 shall not apply to appeals under this Section, except for Sections 22.03.050 (Hearing Procedure), 22.03.080 (Evidence), and 22.03.110 (Orders). The appeal may be filed any time within the initial 35-day delay period. The demolition permit may not be issued from the time the Bureau receives an appeal application and the fee or fee waiver, until the Code Hearings Officer has rendered a decision or the 60-day extension period has expired. If the fee waiver is denied, the appealing party must submit the appeal fee to the Bureau within three business days of the denial or the appeal will be rejected. The appealing party has the burden of proving that it is actively pursuing an alternative to demolition and must demonstrate all of the following:
1. The requesting party has contacted the property owner or property owner's representative to request a meeting to discuss alternatives to demolition by sending a letter to the property owner by registered or certified mail, return receipt requested;
 2. The particular property subject to the demolition permit application has significance to the neighborhood. Evidence of the significance may include, but is not limited to, architectural significance, the age and condition of the structure or other factors;
 3. The requesting party has a plan to save the structure; and
 4. The requesting party has a reasonable potential to consummate the plan within 95 days of the date the Bureau accepted the complete demolition permit application by providing a pro-forma budget and either evidence of funds on hand or a fund raising plan sufficient to meet the financial requirements of that budget

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- I.** Moving as an alternative. If the applicant decides to move the structure instead of demolishing it, then the demolition notice period and/or extended delay period becomes moot. The demolition delay period is automatically terminated when a building permit to move the structure from the site and a building permit to relocate the structure to another site are issued.
- J.** Findings of the Code Hearings Officer. If the Code Hearings Officer finds that the requesting party has demonstrated that it is actively pursuing an alternative to demolition and has met all of the criteria in Subsection 24.55.200 H. (1. – 4.) above, the Code Hearings Officer may grant an extension of the demolition delay for up to 60 additional days from the date the initial 35 day delay period has expired. If the Code Hearings Officer finds that the requesting party has not met its burden, then the Bureau may issue the demolition permit immediately upon receipt of the decision, provided that all other requirements for issuing the demolition permit have been satisfied.
- K.** End of the extension period. If the Code Hearings Officer has not rendered a decision within the 60-day extension period as provided in Subsections 24.55.200 H. and J. above, the building permit for demolition may be issued any time after 60 days have elapsed since the expiration of the initial 35-day notice period. In no event will the permit issuance be delayed more than 95 days from the date the Bureau received the complete demolition permit application if all other requirements for issuing the demolition permit have been satisfied.
- L.** Exceptions to demolition delay.
 - 1.** The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition that are required by the City to remove structures because of a public hazard, nuisance, or liability. The structure must be subject to a demolition order from the City, or be the subject of enforcement proceedings for demolition and be stipulated by the owner as a dangerous building, in order to be exempt from the demolition delay provisions.
 - 2.** The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition of structures that are subject to the demolition review or demolition delay review provisions of Title 33. In these situations, the provisions of Title 33, Planning and Zoning, apply to the application. Any application not subject to the demolition review or demolition delay review provisions of Title 33 are subject to the demolition delay provisions of this Section (24.44.200).

24.55.210 Major Residential Alterations and Additions. (Added by Ordinance No. 187017, effective April 19, 2015.)

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- A.** Purpose. The delay provisions are intended to provide notice of a major residential alteration or addition to recognized organizations and to surrounding neighbors.
- B.** Where the delay applies. The major residential alteration and addition delay applies to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for major alteration and additions of residential structures. They do not apply to accessory structures such as garages or other outbuildings.
- C.** Delay in issuing. The building permit for a major residential alteration or addition will not be issued except as provided for in this Section (24.55.210).
- D.** Notification.
 - 1.** Emailed notice. At least 35 days before a building permit is issued for a major residential alteration or addition, the applicant for the permit must email a letter to the recognized organization(s) whose boundaries include the site that contains at least the following information.
 - a.** Notice that an application for a major alteration or addition has been or will be submitted to the Bureau of Development Services,
 - b.** The date the application was filed, if applicable,
 - c.** A general description of the proposed alteration or addition,
 - d.** Notice that there is a delay period of 35 days from the date the notice is sent, and
 - e.** The contact information of the applicant.
 - 2.** Posted notice. At least 35 days before the building permit is issued for the major residential alteration or addition, the applicant must post door hangers provided by the Bureau of Development Services on the properties abutting or across the street from the site of the project. See Figure 200-1 in Section 24.55.200. The notice must contain all of the following information.
 - a.** Notice that an application for a major alteration or addition has been or will be submitted to the Bureau of Development Services,
 - b.** The permit application number, if an application has already been filed,
 - c.** The approximate date the construction activity will commence,

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- d. Contact information of the agencies that regulate asbestos and lead-based paint, and
 - e. Contact information for the applicant.
- E. Required information prior to permit issuance. Prior to issuing a major alteration or addition permit, the delay period must expire and the applicant must submit to the Bureau of Development Services:
 - 1. A copy of the sent email and a list of the names and email addresses of all recognized organizations that received the notification and the date the notifications were emailed, certified by the applicant or the owner or owner's agent, and
 - 2. A copy of the door hanger and a list of addresses of all properties that received the notification and the date the notifications were posted, certified by the applicant or the owner or owner's agent.
- F. End of the delay period. The building permit for the major alteration or addition may be issued any time after the end of the 35-day notice period.
- G. Expiration of permit application. If for any reason, the permit application for a major residential alteration or addition expires prior to issuance of the permit or if an issued permit expires prior to the project being commenced, a new permit application, notification and delay period will be required.

24.55.250 Enforcement.

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

24.55.300 Referral to the Hearings Officer.

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

24.55.350 Appeals.

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

24.55.400 Rehabilitation and Repair under Direction of Council.

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

24.55.450 Contracts to Repair or Demolish.

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

24.55.500 Warehousing of Structures.

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

24.55.550 Interference with Demolition or Repair Prohibited.

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

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24.55.600 Demolition - Debris - Barricades - Nuisances.

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

24.55.650 Demolition Permits - Investigations.

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

24.55.700 Demolition Delay - Housing Preservation.

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

24.55.750 Administrative Review.

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

24.55.800 Appeals to the Code Hearings Officer.

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

24.55.850 Dangerous Building Enforcement Fees.

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

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CHAPTER 24.60 - FENCES

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

Sections:

24.60.020 Barbed Wire Fencing.

24.60.010 Fences Around Swimming Pools.

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

24.60.020 Barbed Wire Fencing.

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

TITLE 28 - FLOATING STRUCTURES

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(Title added by Ordinance No. 163535, effective November 3, 1990.)

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CHAPTER 28.01 - PURPOSE AND SCOPE

Sections:

- 28.01.010 Statement of Purpose and Intent.
28.01.020 Scope.

28.01.010 Statement of Purpose and Intent.

(Amended by Ordinance No. 181437, effective December 21, 2007.) It is the purpose of Title 28 to promote the public's health, safety and welfare through the regulation of floating structures and their appurtenances. The City of Portland recognizes the River Community as an important part of the City's overall vitality and livability, and that Floating Structures by their nature are a "Water Dependent Activity".

These regulations recognize that waterborne structures, by their very nature, confront different environmental factors than do structures located on land. Furthermore, it is recognized that waterborne structures have distinctive design requirements such that strict adherence or application of the land-oriented Specialty Codes is not always appropriate and that modifications or exceptions should be made in appropriate circumstances in the application of those codes.

28.01.020 Scope.

(Amended by Ordinance Nos. 178745, 181437 and 183597, effective April 9, 2010) Permits may be required for, among other activities, the construction, reconstruction, relocation, alteration, repair, maintenance and siting of floating structures and related structures located within the City of Portland as provided by Title 28 and limited thereto. Chapter 33.236 regulates the location, use and development of floating homes and floating home moorages. New, relocated or replacement floating structures on sites located within the Portland International Airport Noise Impact overlay zone, as identified in the City of Portland's zoning maps, are subject to the noise insulation, noise disclosure statement, and noise easement requirements of Chapter 33.470.

Title 28 does not apply to the construction, maintenance, or operation of boats, except as provided in Section 28.06.050.

Title 28 does not apply to any buildings or structures located on land above the mean high water mark. Such buildings or structures, including but not limited to parking lots, carports, club houses, sales or business offices, shall be constructed in compliance with the applicable State Specialty Codes and Portland City Code (PCC) Title 24 Building Regulations.

Except as specifically provided in Title 28 the State Specialty Codes, PCC Title 24 Building Regulations, PCC Title 31 Fire Regulations and PCC Title 19 Harbors, are the base codes for the design and construction and maintenance of floating structures. Recognizing the unique history and traditions associated with floating structures, alternatives to the requirements of the base codes are included in Section 28.06.055 and elsewhere in Title 28. Due to the history and tradition, the Director shall give additional consideration to prior interpretations, rulings, permitting and appeals.

Should any conflicts arise between the requirements specified in the base codes and the requirements specified in Title 28, the requirements of Title 28 shall control. Where two requirements of Title 28 are in conflict the most restrictive requirement shall apply. If,

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after taking into consideration the nautical application of the codes, the application of the specific code requirement is deemed to be overly restrictive, the Director may refer the question to the Floating Structures Board of Appeal for interpretation.

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CHAPTER 28.02 - DEFINITIONS

Sections:

- 28.02.010 General.
28.02.020 Definitions.

28.02.010 General.

(Added by Ordinance No. 181437, effective December 21, 2007.) For the purpose of Title 28 certain words, phrases, terms and their derivatives shall be construed to have the meaning as specified in this Chapter and elsewhere in Title 28.

Where words, phrases, or terms are not defined in this Title, their meaning shall be as defined in the Specialty Codes. If not defined in the Specialty Codes, the words, phrases, or terms shall have their ordinarily accepted meanings within the context of their use.

28.02.020 Definitions.

(Amended by Ordinance Nos. 181437, 183597 and 187664, effective May 6, 2016.)

- A. **Addition:** An increase in the floor area or height of a floating structure or an expansion of walkways, piling or other similar structural portions of a moorage or marina.
- B. **Alteration:** Any change or modification of existing construction.
- C. **Barge-home:** A floating structure, without a means of self-propulsion, which is primarily for occupancy as a one or two family dwelling which is constructed on a floatation system that is designed and constructed as a boat and which is directly connected to electrical, sanitary sewer, and/or potable water supply. For the purposes of Title 28 a Barge-home shall be considered to be a Floating Home and shall be required to meet all design and construction requirements of a Floating Home as specified in Title 28. This requirement also applies to the floatation system and its connection to the moorage structure. (See Chapter 28.06)
- D. **Berth:** A waterside area defined by floating walkways and fingerfloats, for the wet storage of a boat, or mooring of a floating home, combo-structure or boathouse; mooring site.
- E. **Boarding Float:** A floating structure located on or adjacent to a boat ramp that provides pedestrian access to and from a boat in the water.
- F. **Boat:** A vessel or watercraft, other than a Floating Home, Tender House, Boathouse, Combo-Structure or other Floating Structure as defined in Title 28 and ORS 830.005 (2005), that may or may not be equipped with a means for self propulsion and may or may not be licensed and titled by the State or documented by the U.S. Coast Guard for operation on inland, coastal or international waterways and whose intended primary use is as a means of transport on the water for the transport of passengers or cargo or to engage in commerce.

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- G. Boathouse:** A covered floating structure used for the wet or dry storage of a private boat(s) or personal watercraft of the owner or lessee of the boathouse. A boathouse may contain a work area which is used for maintenance and repair of the boat(s) or personal watercraft stored in the boathouse. Sanitation facilities consisting of a toilet, lavatory and shower may be provided as part of the work area. A boathouse shall not contain a kitchen or any facilities, equipment or furnishing that allow for overnight sleeping.
- H. Boatwell:** A mooring site or berth contained within the structure of a boathouse or combo-structure for the storage of the private boat or personal watercraft of the owner of the boathouse or combo-structure.
- I. Certified Structural Inspector:** An inspector certified as a building inspector in the state where inspections of the floating structure are performed, by the authority having jurisdiction to grant such certifications; or an inspector who has been certified by a recognized national organization such as the International Code Council (ICC) as a building inspector. Such inspectors shall be knowledgeable in all aspects of City building codes, including Title 28 and shall be approved to:
1. Perform the required inspections on residential or commercial floating structures to insure compliance with all applicable codes
 2. Inspect floats for floating structures constructed in compliance with Section 28.06.030 A of Title 28 and the structures supported on those floats, or inspect any structure installed on an engineered float:
 - a. With the assistance of a Certified Floating Structure Inspector or
 - b. After training and approval as a Certified Floating Structure Inspector.
- J. Certified Floating Structure Inspector:** An individual, who through training and experience, is knowledgeable about the design, construction and maintenance of floating structures and moorage facilities. BDS shall be responsible for certifying such inspectors through a process established by BDS in consultation with the River Community Advisory Committee. Such inspectors shall be approved to inspect floats and walkways for floating structures and their connections, as defined in Title 28, within the jurisdiction of the City of Portland. Such inspector must either possess all qualifications set forth in Subsections 1. and 2. below or possess all of the qualifications of Subsection 1. and successfully complete an approved training program for the inspections of floats and walkways for floating structures and their connections:
1. At least 10 years of verifiable experience in the construction industry, of which at least 5 years of verifiable experience may be from any combination of the following:

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- a. Experience as a hands-on craftsman doing building construction or repair
 - b. Experience as a supervisor for building construction or repair
 - c. Experience as a design professional (architect, structural or civil engineer) for building construction
 - d. Experience as an inspector for building construction.
- 2. At least 5 years of verifiable experience in the design, construction, inspection, maintenance and repair of floating structures including:
 - a. Log float construction, including stringers
 - b. Piling systems
 - c. Utility systems
 - d. Floating structure construction
- K. **Combo-Structure:** A boathouse-dwelling unit combination.
- L. **Covered Moorage (covered marina):** Floating structure(s) used primarily for the moorage of boats in berths which are fully or partially covered by a roof structure to protect the boats from weather.
- M. **Dangerous Structure:** Any structure which has conditions or defects as described in Section 24.15.060, Section 24.15.065 or Section 19.16.250 to the extent that life, health, property, or safety of its occupants or the public are endangered.
- N. **Debris Boom:** A pile-supported floating structure, typically comprised of logs or foam filled pipe, located immediately upstream of a facility that provides protection from floating debris.
- O. **Director:** The director of the Bureau of Development Services as provided in Section 24.10.050.
- P. **Dwelling:** Structure containing one or two dwelling units used, intended or designed to be used, leased, let or hired out to be occupied for living purposes. See also "Multi-family dwelling".
- Q. **Dwelling Unit:** One or more habitable rooms that are occupied by, or designed or intended to be occupied by, one person or by a family or group of housemates living together as a single housekeeping unit that includes facilities for living, sleeping, cooking, eating, and sanitation.

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- R. Engineer of Record:** The term “engineer of record” shall mean either engineer or architect of record.
- S. Existing Structure:** A floating structure built and secured in its current mooring site prior to January 1, 2008 or previously built and moored in its current mooring site under a valid permit in compliance with Title 28. If a floating structures is in violation of Title 33, it shall not be an "existing structure" within the meaning of Title 28.
- T. Fire Apparatus Access Roads:** Roads providing the driving surface for fire department vehicles responding to an emergency, extending from a public right-of-way to a point nearest a moorage or marine gangway or pier.
- U. Floatation Device:** Logs, foam blocks, concrete floats or other similar devices which in combination form a floatation system for the support of a floating structure.
- V. Floatation System (Float):** A combination of floatation devices designed to provide the buoyancy required to support the loads imposed by a floating structure. The system may be either a prescriptive system or an engineered system, as provided under Title 28.
- W. Floating Home:** A floating structure used as a one or two family dwelling or sleeping unit which is supported by a floatation system.
- X. Floating Structure:** A structure supported by a floatation system constructed in compliance with Title 28 and held in place by piling and/or mooring devices.
- Y. Gangway:** A variable slope structure intended to provide pedestrian access between a fixed pier or shore and a floating structure.
- Z. Grandfathered:** The allowance for a floating structure, with conditions existing prior to the adoption of new or updated codes which regulate the construction of such structures, to remain without the requirement for retroactive improvement to the new or updated standards under Title 28, provided the existing structure is maintained in good repair and does not become a dangerous structure, or does not otherwise pose an imminent danger to the public health or safety or to adjoining property. "Grandfathered" does not include structures which violate Title 33.
- AA. Harbor Master:** That person assigned to carry out the duties of Harbor Master, as provided in Section 19.04.070.
- BB. Houseboat:** A watercraft, with a hull, capable of travel under its own power as part of its normal use which is registered by the State as a watercraft and which contains a dwelling or temporary dwelling structure. Houseboats are a category of boat.

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- CC. Identifying Number Plate:** A registration plate issued by the State Marine Board with each Certificate of Registration for a Floating Home (FH), a Boathouse (BH) or Combo-structure (C).
- DD. Improvement:** The addition of new or alteration of existing elements to an existing structure to improve or alter the functional character of the space or element.
- EE. Maintenance:** The work of keeping a structure or property in proper condition to prevent deterioration or unsafe conditions and to perpetuate its use.
- FF. Marina:** Floating structure(s) used primarily for the service, repair, sale or moorage of boats in berths, but may include other occupancies.
- GG. Moorage:** A site used primarily for the mooring of one or more floating structures or boats and includes the piling, mooring connectors, piers, ramps, gangways, walkways, and the land area used in conjunction therewith.
- HH. Moorage Map:** A plan of a moorage.
- II. Moored or Mooring:** The attachment of a boat or floating structure in one location temporarily or permanently to piles, walkways, gangways, piers or other structures.
- JJ. Mooring Connectors:** A connection between a floating structure, floating home, boathouse, berth, or marina, and a pile, pier, walkway, ramp, gangway or other structure, with the capability to hold the structure in place under reasonably expected conditions.
- KK. Mooring Site:** A site within a moorage designed or used for the mooring of a boat, boathouse, floating home, combo-structure or other floating structure; including berths or slips.
- LL. Multi-family Dwelling:** A structure containing three or more dwelling units used, intended or designed to be used, leased, let or hired out to be occupied for living purposes.
- MM. New Construction:** A new floating structure or an addition to an existing floating structure.
- NN. NFPA:** National Fire Protection Association.
- OO. Operator:** Any person who has charge, care or control of all or part of a moorage or marina, or a building or structure associated with a moorage or marina.
- PP. Owner, Moorage:** Any person having a legal or equitable interest in a moorage or marina and any building or structure that is part of the equity of the moorage or marina.

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- QQ. Owner, Floating Structure:** A person who has a legal or equitable interest other than a security interest in a floating structure, and the right of use or possession of the floating structure, but does not include a lessee.
- RR. Pier:** A non-floating fixed platform extending out over the water from shore to which gangways are usually attached. (Piers and wharves are regulated under the Oregon State Structural Specialty Code).
- SS. File or Piling:** A column or group of columns of timber, steel, or reinforced concrete bored or driven into the ground to carry vertical and lateral loads from a floating structure or pier, including those systems of piles described as dolphins or batter piles.
- TT. Plumbing, Plumbing System, or Plumbing Fixtures:** All potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all drains, sewers, and sewage holding tanks including their respective joints and connections, devices, receptors, and appurtenances within the premises and shall include potable water piping, potable water treating or using equipment and water heaters.
- UU. Property:** The area of a moorage or marina within defined legal boundaries including all portions of the moorage or marina facility located on land and on water and all improvements, buildings or structures within that boundary that are part of the equity of the marina or moorage; or a floating structure under separate ownership from the moorage where it is located.
- VV. Public way:** Any sidewalk, planting strip, alley, street, or pathway, improved or unimproved, that is dedicated to public use.
- WW. Ramp:** A fixed, sloped structure providing pedestrian access between portions of a moorage that are at different elevations.
- XX. Reconstruction:** The disassembly and subsequent replacement of portions of a structure with like material in a manner consistent with the previous construction.
- YY. Repair:** The replacement or renewal of any part of an existing structure for the purpose of its maintenance.
- ZZ. River Community:** The group of persons who own and/or occupy floating structures and/or boats, who operate and maintain marinas and moorages or who are involved in the design, construction, maintenance and/or regulation of floating structures.
- AAA. Site Map:** A plan of a moorage or marina that includes related land-based structures.
- BBB. Slip:** See mooring site.

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- CCC. Specialty Codes:** The Oregon Structural Specialty Code (as adopted in City Code Chapter 24.10), Oregon Residential Specialty Code (as adopted in City Code Chapter 24.10), Oregon Mechanical Specialty Code (as adopted in City Code Chapter 27.01), Oregon Plumbing Specialty Code (as adopted in City Code Chapter 25.01), the Oregon Electrical Specialty Code (as adopted in City Code Chapter 26.01) and the Oregon Fire Code (as adopted in City Code Chapter 31.10).
- DDD. Swim or Ski Floats:** A floating platform or ramp, without enclosed usable space, intended for the recreational use of swimmers and water skiers.
- EEE. Tender House:** An uninhabitable, floating, accessory structure whose use is incidental to the use of the main structure it is accessory to and which is located at the same mooring site as the main structure. Water, gas and electric utilities may be provided but the structure shall not contain a kitchen or any facilities, equipment or furnishing that will allow for overnight sleeping or maintenance of separate living. An accessory structure which contains a kitchen or any facilities, equipment or furnishing that will allow for overnight sleeping or separate living shall be regulated as a floating home and not as a Tender House and is required to be titled and registered with the State Marine Board as a Floating Home (FH).
- FFF. Transient Tie-Up:** A floating structure used exclusively for the open moorage of pleasure boats on a short term, maximum 72-hour stay or a floating structure used for passengers boarding or leaving commercial watercraft where the commercial watercraft remains moored to the floating structure for a maximum of twelve (12) hours within any twenty-four (24) hour period.
- GGG. Vessel:** Any vehicle at least 110 feet or more in length overall, used or capable of being used as a means of transportation on water.
- HHH. Walk:** A fixed portion of a floating structure providing a walking surface for access to and around a floating structure.
- III. Walkway:** A covered or open floating structure used for ingress to or egress from a mooring site. There are three types:
- 1. Fingerfloat:** A fingerlike floating structure, usually attached perpendicular to a main walkway or marginal walkway, which physically defines a berth and provides direct pedestrian access to and from a berthed boat or floating structure to the main or marginal walkway.
 - 2. Main Walkway:** A floating structure to which one or more fingerfloats may be attached, which provides direct pedestrian access between the mooring site and marginal walkways or shore.
 - 3. Marginal Walkway:** A floating structure that provides pedestrian access between two or more main walkways and the shore or between two or more

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fingerfloats and the shore where no main walkways are used and fingerfloats attach directly to the marginal walkway.

- JJJ. Water Dependent Activity:** An activity that is dependent upon access to navigable or non-navigable waters, including but not limited to moorages and marinas.
- KKK. Watercraft:** Any vehicle less than 110 feet in length overall, used or capable of being used as a means of transportation on water.

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CHAPTER 28.03 - ADMINISTRATION AND ENFORCEMENT

Sections:

- 28.03.010 Responsibility.
- 28.03.015 River Community Advisory Committee.
- 28.03.020 Permits and Inspections.
- 28.03.030 Fees.
- 28.03.035 Bureau of Development Services Administrative Appeal Board.
- 28.03.040 Appeals.
- 28.03.050 Enforcement.
- 28.03.060 Abatement of Dangerous Floating Structures.

28.03.010 Responsibility.

(Amended by Ordinance Nos. 176955, 181437 and 183597, effective April 9, 2010.) The Director shall administer and enforce the provisions of Title 28 except that the Harbor Master shall have the responsibility for the initial and periodic inspection of existing moorages as well as the permitting, testing and inspection of standpipes. In the event that the Harbor Master determines a violation of Title 28 has occurred at a moorage within the jurisdiction of the Harbor Master, such violation shall be reported to the Director who will then have the enforcement authority thereof. The Director may authorize the Harbor Master to enforce the provisions of Title 28 on behalf of the Director. The Director may render interpretations of Title 28 and adopt policies and procedures in conformance with the intent and purpose of this Title. The Director shall seek the advice and opinions of members of the River Community as represented by the River Community Advisory Committee during this process, but the Director shall have the final authority for rendering interpretations and adopting policies and procedures.

The State of Oregon Marine Board shall have responsibility for issuance of a certificate of title and identifying number plate for floating homes, combo-structures and boathouses. Issuance by the State of a title and identifying number plate does not certify that a floating home, combo-structure or boathouse is in compliance with the provisions of Title 28 or any other construction standard. Owners of floating structures are responsible for displaying the required identifying number plate on the floating structure, so that the plate is readily visible from the walkway providing access to the structure.

Nothing in this Title is intended to displace or conflict with any other applicable federal or state statute, rule or regulation nor grant any exemptions from such federal or state regulations.

28.03.015 River Community Advisory Committee.

(Added by Ordinance No. 181437; amended by Ordinance Nos. 183597 and 187664, effective May 6, 2016.)

- A. Purpose.** The River Community Advisory Committee is a citizen advisory body, representing those persons who own and/or occupy floating structures and/or boats, who operate and maintain marinas and moorages or who are involved in the design, construction, maintenance and/or regulation of floating structures. The purpose of

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the Committee is to obtain timely input from that community in regard to development of procedures and administrative guidelines for implementing the City's regulations of floating structures under Title 28. The Committee advocates for and supports consistent and fair application and implementation of these regulations. The Committee will provide public input to the Director by:

1. Providing leadership and expertise on issues affecting floating structures;
2. Providing feedback to the Director on the impact of potential regulations and administrative rules on floating structures, taking into consideration the full range of City goals and objectives;
3. Providing recommendations for regulatory, code, and administrative rule changes affecting floating structures;
4. Monitoring the application and enforcement of regulations for their effectiveness in achieving the City's goals;
5. Recommending customer service, permitting, process, and compliance improvements to the Director; and,
6. Serving as an advisory board to the Director on processes and procedures under Title 28.

B. Membership. The River Community Advisory Committee shall consist of six members each appointed by the Mayor, and approved by the City Council. The members shall be selected to provide representation of those persons with knowledge or expertise on the unique construction conditions or the nautical history and traditions associated with floating structures. Members shall include representatives from any of the following categories: floating home resident, marina operator, floating structures contractor, floating structures design professional, yacht club member, and on the water business owner.

C. Appointments and Terms. Appointment to the River Community 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 River Community Advisory Committee shall serve no more than two, complete three-year terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. Vacancies occurring prior to the end of a term for whatever cause may be filled by qualified persons through appointment by the Mayor for the remainder of the term.

D. Meetings, Officers, and Subcommittees.

1. The River Community Advisory Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall

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be conducted in accordance with adopted rules of procedure. Four members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the River Community 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 River Community 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 River Community Advisory Committee are expected to attend each meeting of the committee. The Mayor may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent (50%) of the meetings in any year.

F. Compensation. River Community Advisory Committee members shall serve without compensation.

28.03.020 Permits and Inspections.

(Amended by Ordinance Nos. 181437, 183597 and 187664, effective May 6, 2016.) It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, or convert any structure regulated by Title 28, except as provided for in Title 28, or cause the same to be done without first obtaining a separate permit for each structure from the building official as required by Title 28.

Exemption from the permit requirements of Title 28 shall not authorize any person to do work in any manner in violation of the provisions of Title 28 or any other rules or regulations of the City of Portland, the State of Oregon, or the Federal government.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits are required for any such work performed for floating structures regulated under Title 28.

A. Permits and inspections shall be required for the following:

1. The new construction of floating homes, tender house structures, boathouses or combo structures, except as may otherwise be exempted elsewhere in Title 28.
2. The construction of:
 - a. A new deck, walk, or porch not previously a part of a floating structure; or

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- b.** An addition of habitable space for a floating home or combo-structure; or
- c.** An extension of an existing deck, walk, porch or the float for a floating home, or combo-structure.

EXCEPTION: A one time extension of not more than five percent (5%) in area or eight (8) inches in width or length, whichever is less, to the area of an existing deck, walk, porch or the float for a floating home or combo-structure shall be allowed without permit provided such extension does not cause an unbalanced or overloaded condition and provided such extension does not reduce the separation between floating structures below that is allowed by Title 28. As-built plans for such additions shall be provided to the Director upon completion of the work to allow for updating of permit information.

- 3.** Alteration to or reconstruction of any element of a floating home, boathouse or combo-structure except as exempted by Section 28.03.020 C.
- 4.** Existing or new floating homes, boathouses, combo structures or commercial structures moved from a site outside the City to a mooring site within the City of Portland.
- 5.** Existing or new floating homes, combo-structures or commercial structures relocated from one mooring site to another mooring site either in the same moorage or to a separate moorage within the City of Portland.
- 6.** The new construction, addition, alteration, reconstruction, or improvement of public and private floating structures.
- 7.** Any new and/or alteration to any electrical, plumbing, heating/air conditioning installation on a floating structure, including wood stoves.

Exception: As provided in the Specialty Codes, minor repairs and maintenance of electrical, plumbing, heating/air conditioning installations do not require a permit.

- 8.** Temporary structural supports that will remain in place for not more than 180 days or relocation, replacement, reconstruction or repairs, that require a permit, that are performed to an existing structure due to an emergency condition may be undertaken without first obtaining a permit for the work. The owner of the structure on which the work is performed shall inform the Director within three (3) business days of the commencement of the work, the extent of work that is being performed and shall obtain the required permits for the work within ten (10) business days of the commencement of the work.

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9. A certificate of compliance is required for floating structures moved from one moorage to another moorage within the City. No certificate of compliance is required for moving a floating structure from one slip to another within the same moorage.
- B.** The permit and inspection process and requirements shall be as determined by the Director. The Director shall seek the advice and opinions of members of the River Community Advisory Committee during this process, but the Director shall have final authority in determining such processes and requirements. Such information shall be published by the Director in bureau policies and procedures that are made available to the public as provided in Chapter 1.07. Such policies and procedures shall not be altered or suspended until after consultation with the River Community Advisory Committee.
- C.** Permits and inspections are not required for the following:
1. The new construction of structures regulated by Title 28 that will not be moored or occupied within the jurisdiction of the City. Substantiating documentation shall be provided to verify compliance with this Section.
 2. Repairs to a floating structure as specified in Section 28.05.020.
 3. Replacement of piles as specified in Section 28.05.020.
 4. Construction, alteration or repair of individual swim or ski floats.
 5. The repair or reattachment of flexible water and sewer connections to individual floating homes, combo-structures, tender houses and boathouses, made in compliance with plumbing code requirements.
 6. Construction, alteration or reconstruction of any portion of tender houses not greater than 200 square feet in area and with a height of not more than seventy-five percent (75%) of the width of the float or fifteen (15) feet from the level of the float deck, whichever is less, to the highest point of the structure.
 7. Relocation of boathouses or tender houses within a moorage as long as the unit moved is in good repair. The distance between units relocated within a moorage shall not be: less than the distance between units that pre-existed prior to the move if that distance is less than 6 feet between the nearest exterior walls and 4 feet between the nearest roof, deck, balcony or other architectural projection; or less than 6 feet between the nearest exterior walls and 4 feet between the nearest roof, deck, balcony or other architectural projection if the pre-existing distances are greater than or equal to 6 feet between the nearest exterior walls and 4 feet between the nearest roof, deck, balcony or other architectural projection. The distance between

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units when the relocation is to another moorage within the City shall either comply with the separation distance required by Section 28.05.010 B.4. or shall be the separation distance as determined acceptable by consultation with the Harbor Master in compliance with Section 28.05.010 B.4.

EXCEPTION: Electrical permits are required for the connection of a relocated boathouse or tender house structure to electrical service at the new location.

The owner/operator of the moorage shall provide an updated moorage map as required by Section 28.05.010 reflecting the new location of the relocated boathouse and the distance between the boathouse and adjacent structures and shall send a notice of the relocation, including separation distances after the relocation, to the Director.

8. Temporary relocation of an existing floating structure from its normal mooring site for dredging or other maintenance work to the moorage or to facilitate the permitted move of other floating structures, provided the floating structure is returned to its normal mooring site and provide the final distance between floating structures is the same as previously existed prior to the temporary move.

EXCEPTION: Electrical permits are required for the reconnection of floating structures moved under the provisions of this paragraph.

9. Other work as exempted by the Specialty Codes.
- D.** When permits are required, the owner of the structure must obtain the required permits and inspections prior to proceeding with the next phase of work and obtain a final certificate of compliance prior to the occupancy of the structure. Instructions for requesting inspection are provided at permit issuance.
- E.** It is the responsibility of the owner of the floating structure to obtain the required certificate of compliance under the following process:
1. The owner of the structure or the owner's authorized agent shall call for final inspection within 10 business days of the completion of the work covered by a permit.
 2. A Certified Structural Inspector from the Bureau of Development Services shall respond to the call for final inspection within 2 business days of receipt of the call for final inspection.
 3. The area of work covered by the issued permit shall not be occupied until the certificate of compliance has been issued.

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4. Failure to call for final inspection and obtain a certificate of compliance and/or occupying the area of work prior to obtaining a certificate of compliance shall be cause for the Director to issue a notice to vacate the structure.

28.03.030 Fees.

(Amended by Ordinance No. 181437, effective December 21, 2007.) All fees for permits and special inspections are stated in the Fee Schedule adopted by City Council by ordinance. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center. Fees shall be paid in advance for all plan review, permits and inspections.

28.03.035 Bureau of Development Services Administrative Appeal Board.

(Added by Ordinance No. 187664, effective May 6, 2016.)

- A. **Appointment of Administrative Appeal Board.** The Bureau of Development Services Administrative Appeal Board consists of the Building Official and Bureau staff members appointed by the Director. In appointing staff members, the Director will consider the issues presented by the appeal and what particular expertise will be helpful in addressing those issues. The staff will act in an advisory capacity to the Building Official. The Administrative Appeal Board may:
 1. review appeals of the Bureau's application and interpretation of this Title and the State of Oregon specialty codes adopted in this Title (collectively referred to as the "Building Code");
 2. review requests for modifications to the strict application of the Building Code; and
 3. review requests to use alternative materials, design or methods of construction and equipment.
- B. **Appeals to the Administrative Appeal Board and Final Decisions.** Any person aggrieved by a decision of the Bureau related to the application and interpretation of the Building Code or this Title or who wants to request a modification to the strict interpretation of the Building Code or consideration of an alternative material, design or method of construction or equipment may file an appeal with the Administrative Appeal Board. Such an appeal must be filed within 180 days of the Bureau decision being appealed; provided, however, the Building Code in effect at the time the Bureau decision was made shall be applied to the administrative appeal. The Administrative Appeal Board may:
 1. grant an appeal if the Administrative Appeal Board finds that this Title or the Building Code was not correctly interpreted or applied;

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2. grant a modification to the application of this Title or the Building Code where special individual reasons make application of the strict letter of this Title or the Building Code impractical, the modification is in compliance with the intent and purpose of this Title or the Building Code, and such modification does not lessen health, life and fire safety or structural requirements of the floating structure; or
3. approve an alternative material, design or method of construction and equipment if the Administrative Appeal Board finds that any such alternative complies with the intent of this Title or the Building Code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Building Code in quality, strength, effectiveness, fire resistance, durability, and safety. The Administrative Appeal Board may not waive the requirements of this Title or the Building Code. The Administrative Appeal Board review will culminate in a final decision by the Building Official. The Administrative Appeal Board meeting is not open to attendance by the appellant or the public. The Bureau will provide final decisions to the appellant by publication of the decision on the Bureau's website within 10 calendar days of the hearing, provided the Bureau has received all required information from the applicant.

C. Reconsideration of Final Decisions and Appeals to the Floating Structure Code Board of Appeal. Any person aggrieved by a final decision of the Building Official made under Subsection B. above may either file a reconsideration of that decision within 180 days of the decision based on new or revised information or appeal the decision to the Floating Structure Code Board of Appeal in accordance with Section 28.03.040 within 90 days of the final decision being appealed. There is no additional fee for the first reconsideration of an Administrative Appeal Board decision or for an appeal to the Floating Structure Code Board of Appeal. The Building Code in effect at the time of the final decision being reconsidered or appealed will be applied to the reconsideration or subsequent appeal to the Floating Structure Code Board of Appeal.

D. Fees for Appeals. The fees for administrative appeals shall be as stated in the Fee Schedule adopted by the City Council. The current approved Fee Schedule is available at the Development Services Center and on the Bureau's website.

28.03.040 Appeals.

(Replaced by Ordinance No. 187664, effective May 6, 2016.)

A. Appointment of Floating Structures Code Board of Appeal. In order to hear appeals of final decisions of the Building Official made under Section 28.03.035, there has been created a Floating Structures Code Board of Appeal, consisting of four members and three alternates appointed by the Mayor and approved by the City Council.

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1. Each member and alternate member must be qualified by experience and training to make decisions pertaining to the Building Code and the construction and maintenance of floating structures and moorage facilities. One member will be from the Building Code Board of Appeal as constituted by City Code Section 24.10.080, one member and one alternate must be an architect or engineer knowledgeable in the design of floating structures, one member and one alternate must be knowledgeable in the construction, maintenance and repair of floating structures, and one member and one alternate must be from one of the following interest groups: a for-profit moorage representative; a non-profit moorage representative; a yacht club representative; or a floating home resident.
 2. Floating Structures Code Board of Appeal appointments shall be for 3-year terms. Appeal Board members may serve no more than two complete 3-year terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. Vacancies occurring prior to the end of a term for whatever cause may be filled by qualified persons through appointment by the Mayor for the remainder of the term.
 3. Any member may be removed by the Mayor for incompetence, dereliction of duty, incapacity or other sufficient cause.
 4. Members of the Floating Structures Code Board of Appeal shall comply with the State ethics laws applicable to public officials.
 5. Members of the Floating Structures Code Board of Appeal shall serve in a voluntary capacity and without pay.
- B. Appeals to the Floating Structures Code Board of Appeal.** The Floating Structures Code Board of Appeal may review Administrative Appeal Board decisions or any other final decision of the Building Official or Director related to the application and interpretation of this Title or the Building Code. The Floating Code appeal will be limited to the facts and record reviewed by the Administrative Appeal Board, Building Official or Director related to the decision being appealed. A hearing will be held within 45 days after an interested party submits a written appeal to the Floating Structures Code Board of Appeal. A panel of at least three Floating Structures Code Board of Appeal members will hear each appeal, one of whom must be a member of the Building Code Board of Appeal. The Board may, by a majority vote, affirm, annul, or modify the decision. In the event of a tie vote, the appeal shall be considered denied.
- C. Powers and Limitations of Authority of the Floating Structures Code Board of Appeal.** The Floating Structures Code Board of Appeal may provide reasonable interpretations of the requirements of this Title and the applicable Building Code and may grant an appeal if the Board finds one of the following:

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1. the Building Official or Director did not correctly apply or interpret this Title or the Building Code;
2. special individual reasons make application of the strict letter of this Title or the Building Code impractical, the modification is in compliance with the intent and purpose of this Title or the Building Code, and such modification does not lessen health, life and fire safety or structural requirements of the floating structure; or
3. any alternative material, design or method of construction and equipment complies with the intent of this Title and the Building Code and the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Title or the Building Code in quality, strength, effectiveness, fire resistance, durability, and safety. The Floating Structures Code Board of Appeal may not waive the requirements of this Title or the applicable Building Code.

Any person aggrieved by a final decision of the Floating Structures Code Board of Appeal may, within 30 days after the date of the decision, appeal to the appropriate advisory board of the State of Oregon Department of Consumer and Business Services.

28.03.050 Enforcement.

(Amended by Ordinance No. 181437, effective December 21, 2007.) The Director may enforce the provisions of Title 28 using the authority provided in Section 3.30.015.

28.03.060 Abatement of Dangerous Floating Structures.

(Amended by Ordinance Nos. 171455 and 181437, effective December 21, 2007.) The Director may abate dangerous floating structures using the authority provided under Chapter 29.40.

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CHAPTER 28.04 - REGULATIONS FOR
FLOATING STRUCTURES

Sections:

28.04.010 General.

28.04.020 Maintenance.

28.04.010 General.

(Amended by Ordinance No. 181437, effective December 21, 2007.) Other than the retroactive improvements required in Section 28.05.010 A. and Section 28.05.020 A., existing structures are grandfathered.

28.04.020 Maintenance.

(Amended by Ordinance No. 181437, effective December 21, 2007.) All floating structures and supporting structural systems, electrical, plumbing and mechanical installations and devices required by Title 28 shall be maintained in good serviceable condition. As provided in the Specialty Codes, minor repairs and maintenance of floating structures including the electrical, plumbing, heating/air conditioning systems do not require a permit.

**CHAPTER 28.05 - REGULATIONS
PERTAINING TO EXISTING
CONSTRUCTION**

Sections:

- 28.05.010 Floating Structures.
- 28.05.020 Moorages.

28.05.010 Floating Structures.

(Amended by Ordinance Nos. 181437 and 187664, effective May 6, 2016.)

- A.** Retroactive improvements required of floating structures.
 - 1.** Identification. All floating structures shall be identified by number or letter or combination thereof, corresponding to their location in a moorage.
 - 2.** All floating homes, boathouses and combo-structures shall have a state issued identifying number plate displayed in a location that is readily visible from the walkway providing access to the structure. Failure to properly display the required identifying number plate and/or produce the certificate of title issued by the State when requested to do so by the Harbor Master or a Certified Structural Inspector of the Bureau of Development Services shall be cause for the violator to be cited for the violation and for appropriate enforcement action to be taken as provided for in Section 28.03.050. The violation shall also be reported to the State Marine Board, the County Marine Patrol and the County Assessor.
 - 3.** Moorage owners/operators shall maintain a moorage map with each mooring site identified by number or letter or combination thereof and which identifies each floating structure by mooring site number or letter and by the identifying number. Such maps shall be updated as changes occur in the layout of the moorage or location of the floating structures in the moorage. Such map shall be available for Harbor Master review when requested.
- B.** Separation required between floating existing structures.
 - 1.** The separation existing on January 1, 2008 between one floating structure and another may be maintained provided such separation is:
 - a.** Documented on the moorage map that is maintained by the owner/operator of the moorage facility; and
 - b.** Provided that the Harbor Master determines that such spacing does not pose a high fire or life safety risk. A copy of the updated moorage map shall be provided to the Harbor Master, which shows

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the conditions and uses in place as of January 1, 2008. The Director shall refer to this map in determining whether an existing structure is grandfathered under Title 28.

2. Floating homes and combo-structures relocated within a moorage shall meet the following separation requirements:
 - a. For moorages constructed prior to November 3, 1990, the distance between units relocated within a moorage shall not be: less than the distance between units that pre-existed prior to the move if the distance is less than 6 feet between the nearest exterior walls and 4 feet between the nearest roof, deck, balcony or other architectural projection; or less than 6 feet between the nearest exterior walls and 4 feet between the nearest roof, deck, balcony or other architectural projection if the pre-existing distance is greater than or equal to 6 feet between the nearest exterior walls and 4 feet between the nearest roof, deck, balcony or other architectural projection.
 - b. For moorages constructed after November 3, 1990, the distance between units relocated within a moorage shall not be: less than the distance between units that pre-existed prior to the move if that distance is less than 10 feet between the nearest exterior walls and 8 feet between the nearest roof, deck, balcony or other architectural projection; or less than 10 feet between the nearest exterior walls and 8 feet between the nearest roof, deck, balcony or other architectural projection if the pre-existing distance is greater than or equal to 10 feet between the nearest exterior walls and 8 feet between the nearest roof, deck, balcony or other architectural projection.

Where it is impractical to meet the separation specified in Section 28.05.010 B. due to structural limitations of the mooring site, the Harbor Master may approve a separation less than that specified. Such approval for reduced separation shall be clearly documented on the moorage map and on the notification for the relocation that is provided to the Director, as provided in Section 28.03.020.

3. A floating structure used for other than a floating home, combo-structure, boathouse or tender house which is relocated from one mooring site to another within a moorage shall comply with the separation distances required for new construction as specified in Section 28.06.050.D. Where it is impractical to meet the separation specified in Section 28.06.050.D due to structural limitations of the mooring site, the Harbor Master may approve a separation less than that specified, but in no case shall the separation be less than that which existed prior to the relocation or less than specified in Section 28.06.050 D, whichever is smaller. In no case shall such reduction

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pose unacceptable levels of fire or life safety risk as determined by the Harbor Master. Such approval for reduced separation shall be clearly documented on the moorage plan and on the notification of the relocation which is provided to the Director, as provided in Section 28.03.020.

4. Existing or new floating homes, combo-structures, boathouses and tender houses relocated from a mooring site in one moorage within or outside the City to a mooring site in a different moorage within the City shall be spaced a minimum of 6 feet apart between the nearest exterior walls and 4 feet apart at the nearest roof, deck (which is elevated above the level of the walking surface of the float), balcony or other architectural projections, unless the moorage in which the relocation takes place was constructed after November 3, 1990 with separations between floating structures required to be greater than six (6) feet wall to wall or four (4) feet projection to projection, in which case the separations as required when the moorage was constructed shall apply. In lieu of the required separations specified in this section the relocated structure may be provided with the alternative protection system as required by Section 28.05.010 C. A permit is required for any such move as provided in Section 28.03.020.
5. A floating structure, either new or existing, used for other than a floating home, combo-structure, boathouse or tender house which is relocated from one moorage within the City to another moorage within the City shall comply with the separation distances required for new construction as specified in Section 28.06.050 D. A permit must be obtained for any such move as provided in Section 28.03.020.
6. Projections such as but not necessarily limited to eaves, roof overhangs, decks, balconies or other architectural projections for newly constructed floating structures, for additions and alterations to existing floating structures and for moved or relocated floating structures shall not project beyond the edge of the float supporting the structure into the area above a main or marginal walkway, nor may such projections extend beyond the legally established boundaries of the mooring site.
7. New, main floor additions to existing floating homes, combo-structures, boathouses and tender houses of up to a total of twenty-five percent (25%) by area, may be built with the same separation between the floating structure being expanded and the next adjacent floating structure as exists on January 1, 2008 and which is documented on the moorage map. A permit is required for any such expansion as provided in Section 28.03.020. No further additions beyond the original twenty-five percent (25%) may be made without complying with the separation as specified in Section 28.05.010 B.7.

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8. New, main floor additions to existing floating homes, in excess of twenty-five percent (25%) by area, and second floor additions of any size, shall be spaced a minimum of 6 feet apart between the nearest exterior walls and 4 feet apart at the nearest roof, deck (which is elevated above the level of the walking surface of the float), balcony or other architectural projections, unless the moorage in which the relocation takes place was constructed after November 3, 1990 with separations between floating structures required to be greater than 6 feet wall to wall or 4 feet projection to projection, in which case the separations as required when the moorage was constructed shall apply. In lieu of the required separations specified in this section the relocated structure may be provided with the alternative protection system as required by Section 28.05.010 C. A permit is required for any such expansion as provided in Section 28.03.020.
 9. Any addition to an existing floating structure other than a floating home, combo-structure, boathouse or tender house shall meet the separation requirements as required for new construction specified in Section 28.06.050 E. A permit is required for any such expansion as provided in Section 28.03.020.
- C. Alternate protection systems to minimum separation between adjacent floating homes and combo-structures.
 1. When the wall to wall separation is less than 6 feet but more than 3 feet, or the separation between roofs, decks (which are elevated above the level of the walking surface of the float), balconies or other architectural projections is less than 4 feet but more than 2 feet, the structure being moved or added to shall be equipped throughout with a complete automatic sprinkler system installed in compliance with NFPA 13R Standards (2007) or all of the following for fire life safety protection:
 - a. All windows in the affected wall or walls shall be 1/4 inch thick, fixed, wireglass in 16 gauge steel frames, or alternatives approved by the Harbor Master or the windows shall be listed 45 minute assembly. If this requirement negates natural ventilation requirements as specified in the building code, a manually activated mechanical ventilation system providing two air changes per hour with twenty percent (20%) outside air shall be provided.
 - b. All doors in the affected wall or walls shall be 1-3/4 inches thick, solid core, and be self closing. Door lights shall be limited to twenty-five percent (25%) of the door area and be 1/4 inch thick, fixed wireglass in 16 gauge steel frames or alternatives as approved by the Harbor Master.

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- c. A fire alarm system consisting of 110 volt rate of rise detectors placed on the outside of the exterior wall or walls in question and 110 volt, hard wired ionization type smoke detectors installed throughout the building interior shall be provided. All detectors are to be interconnected to an interior and exterior alarm. The number and placement of detectors shall be as determined by the Harbor Master. The exterior alarm shall be capable of being heard for a distance of 150 feet.
- 2. When the wall to wall separation is less than 3 feet or the roof separation is less than one foot, the structure being moved or added to, shall be equipped throughout with a complete automatic sprinkler system in compliance with NFPA 13R Standards (2007).

28.05.020 Moorages.

(Amended by Ordinance Nos. 180917, 181437, 183597 and 187664, effective May 6, 2016.)

- A. Retroactive requirements required of existing moorages.
 - 1. Identification. All moorages shall be provided with identification as specified in Section 28.06.070.
 - 2. Fire protection standpipe. The following described fire protection standpipe system shall be required at all moorages having any portion of a floating structure more than 250 feet from the point of fire apparatus set up. The standpipe system shall be installed within one year of notification to the owner by the Harbor Master of the requirement for such system; or an agreement allowing for deferred installation of the fire protection system to a timeline acceptable to the Harbor Master shall be established within 90 days of the notification that such an installation is required. Prior to installation of any standpipe system, a permit shall be obtained from the Fire Marshal. Except where otherwise provided in this code, the design and installation of the standpipe system shall be in accordance with the latest edition of NFPA 14: "Installation of Standpipes and Hose Systems", as adopted by Title 31 Fire Regulations and the following:
 - a. Water for fire protection standpipes shall be supplied by one of the following methods:
 - (1) From FDC from a fire hydrant providing at least 500 GPM at 20 PSI and located within 300 feet from the closest point of fire department access to a moorage exit ramp.
 - (2) Pumped from the Willamette or Columbia Rivers or associated bodies of water with an on site pump or pumps

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capable of delivering 250 GPM at 100 PSI to the most hydraulically remote outlet on the standpipe system. Pumps are to be of a type approved by the Harbor Master and shall be listed for their intended use.

- b.** Fire protection standpipes shall have a fire department connection located within 150 feet of fire apparatus set up and not more than 150 feet from the top of the moorage access ramp. The fire department connection shall be of a double clapper design.
- c.** When required by the Harbor Master a fire department connection shall be located to provide reasonable access for a fire boat.
- d.** System capacity controlled by a fire department connection shall not exceed 750 gallons unless approved by the Harbor Master.
- e.** Fire protection standpipes shall have pipe sized to provide 250 gallons per minute at 100 PSI at the most hydraulically remote outlet on the standpipe system. The maximum input pressure at the fire department connection shall be 150 PSI.
- f.** Fire protection standpipes shall have adequate drain valves, or alternate systems as approved by the Harbor Master, installed to ensure complete drainage.
- g.** Fire protection standpipes shall have gate valve assemblies made of non-corroding metal, 2-1/2 inch I.D. with National Standard male threads and metal caps. Valve assemblies shall be spaced a distance apart as follows:
 - (1)** For moorages having marine service stations, floating homes or other type of structures having permanent living quarters, valves are to be located every 100 feet and within 50 feet of the end of walkways.
 - (2)** For moorages serving only boathouses and covered moorages housing personal watercraft and pleasure boats, valves are to be located every 150 feet and within 75 feet of the end of the walkways.
 - (3)** For moorages having only open moorage of pleasure boats, standpipes shall only be required along the marginal walkway with valves required only at intersecting main walkways, providing the main walkways do not exceed 100 feet in length from their intersection with the marginal walkways, or not less than every 200 feet and 100 feet from

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the end of marginal walkways not having intersecting main walkways. Main walkways in excess of 100 feet in length from their intersection with the marginal walkway shall have standpipes installed with valves located every 200 feet along the main walkway and not more than 100 feet from the end of the main walkway. Existing moorages not in compliance with the above requirements shall bring their standpipes systems into compliance at the time that fifty percent (50%) or more of a walkway is repaired or improved or as otherwise provided under agreement with the Harbor Master.

- (4) For moorages with sections of differing use, each section is required to have a standpipe system matching the requirements of a moorage having that use. Existing moorages not in compliance with the above requirements shall bring their standpipe systems into compliance at the time that fifty percent (50%) or more of a walkway(s) serving each type of use is repaired or improved or as otherwise provided under agreement with the Harbor Master.
- h. Piping materials, whether new or replacement, shall be protected against corrosion by hot dip galvanizing or by use of HDPE piping. If HDPE piping is used it must be installed underwater with a minimum of twelve (12) inches of water cover over the main runs and shall be supported so that the pipe will not broach the surface of the water when the pipe is not charged with water. Where flexible hose couplings are used they shall have swaged on fittings.
- i. Moorages used exclusively for loading and off loading of boats and transient tie-up moorages do not require the installation of a standpipe system when approved by the Harbor Master.
- j. Standpipe systems shall be inspected and tested annually in accordance with the current edition of NFPA 25, "Standards for the Testing of Water Based Fire Protection Systems" as adopted by Title 31 Fire Regulations. Tests and inspections shall be done in a manner prescribed by the Fire Marshal. If requested, the City may perform annual service tests upon the property owner/operator signing a waiver of liability and upon payment of a fee to the Fire Marshal, as provided in Title 31. If connection to the City water supply is necessary to facilitate any method of testing standpipes, Water Bureau Water Quality Inspections shall be contacted in each instance. Additionally, State approved backflow protection shall be provided.

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3. Smoke/heat vents and Curtain Boards. All existing covered moorages shall be provided with smoke/heat vents and curtain boards as specified in Section 28.06.050, when required by the Harbor Master. Where existing moorages do not have the required vents and curtain boards, these elements shall be installed within two (2) years of notification to the owner by the Harbor Master of the requirement for the vents and curtain boards or an agreement allowing for deferred installation of the vents and curtain boards to a timeline acceptable to the Harbor Master shall be established within 90 days of the notification that such an installation is required. Building permits are required for the installation of vents and curtain boards.

B. Regulations pertaining to repairs to moorages and marinas.

1. Repairs requiring the replacement of fifty percent (50%) or more of the piling within any 12 month period shall be made in accordance with the provisions for new construction and shall require a building permit. Permits are also required from the Army Corps of Engineers.
2. Repairs requiring the replacement of less than fifty percent (50%) of the piling within any 12 month period may be made with like or better materials in a like manner without obtaining a building permit provided the design of the piling is certified by an Oregon registered engineer who is responsible for observing the installation. Upon completion of the installation of the replacement piling a plan of the marina or moorage showing the location of all replaced piles and a summary letter of compliance from the engineer responsible for the design shall be submitted to the Director for inclusion in the permanent records. Permits are required from the Army Corps of Engineers.

EXCEPTION: Up to a maximum of ten percent (10%) of the piling within a moorage or marina may be replaced within any 12 month period without an engineer being responsible for the design of the piling and the observation of installation provided an engineer does review the installation and provides a summary letter stating that the replacement piling will provide structural capacity equal to or greater than the replaced piling. The summary letter from the engineer shall be submitted to the Director for inclusion in the permanent records. Permits are required from the Army Corps of Engineers.

3. Walks and walkways and their supporting structure: The following repairs of existing walks and walkways are allowed within any 12 month period without permit or inspection:
 - a. Replacement of no more than 50 percent of the decking, stringers and floatation logs or other floatation material with like or better

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materials in a like manner. Substantiating data may be required to determine compliance with this Section

- b.** Repair or replacement of less than 50 percent of the concrete portions of an individual concrete float with like or better materials in a like manner. Substantiating data may be required to determine compliance with this Section.
- 4.** Other work not specifically exempted from permit requirements by Title 28 but which is exempted from permit under the Specialty Codes is also exempted from the requirement for permit.

All work exempt from permit shall be performed in compliance with the provisions of Title 28 and the Specialty Codes as applicable and shall not cause an unsafe or overloaded condition.

C. Alterations and Additions to Moorage and Marinas.

- 1.** Walkways and supporting structure. Any alterations or improvements within any 12 month period which involve a total of less than fifty percent (50%) of the structural components, except piling as stated in Section 28.05.020 B., may be made with like or better materials in a like manner without requiring a permit provided the alteration or improvement does not increase the area of the walkway or cause an unsafe or overloaded condition. Increase in the area of a walkway shall be treated as an addition and shall comply with Section 28.05.020 C.2. Exemption from the permit requirements of Title 28 shall not authorize any person to do work in any manner in violation of the provisions of Title 28 or any other rules or regulations of the City of Portland, the State of Oregon, or the Federal government.
- 2.** Additions shall be made in accordance with the provisions for new construction. Gangways and standpipes required as a result of any addition shall be provided in conjunction with such addition and shall be constructed and installed in accordance with the provisions for new construction as specified in Section 28.06.060.

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CHAPTER 28.06 - NEW CONSTRUCTION

Sections:

- 28.06.010 Minimum Standards.
- 28.06.020 Materials and Installations.
- 28.06.030 Conventional Construction Methods and Materials for Floating Structures and Walkways Using Log Support Systems.
- 28.06.040 Engineered Construction.
- 28.06.050 Fire Safety.
- 28.06.055 Life Safety.
- 28.06.060 Gangways, Ramps, Walkways and Walks.
- 28.06.070 Identification

28.06.010 Minimum Standards.

(Amended by Ordinance No. 181437, effective December 21, 2007.) Moorages, marinas and floating structures are to be designed and built to the minimum standards specified in the Specialty Codes except as modified by Title 28.

28.06.020 Materials and Installations.

(Amended by Ordinance Nos. 181437 and 187664, effective May 6, 2016.)

- A. Structural materials. Structural members and connectors within 18 inches of the water, except logs used for floatation, steel stringers and steel piling, shall be fabricated of materials with natural resistance to decay or be coated or treated such that the materials will resist deterioration due to their proximity to the water. In general: framing lumber within 18 inches of the water and decking material which is exposed to the weather shall be pressure treated with an approved preservative. Framing connectors, anchoring chain, shackles and shackle pins or other anchoring devices shall be hot-dipped galvanized or non-corrosive metal except for the pins that connect stringers to the floatation logs. Plywood shall have exterior type adhesive; exposed plywood shall be exterior grade. Structural members may consist of composite materials if such materials are approved by the Director.
- B. Preservative treated wood shall be treated using a waterborne preservative and is to be produced in accordance with the most current "Best Management Practices for Treated Wood in Aquatic Environments" issued by the Western Wood Preservers Institute and the Canadian Institute of Treated Wood. Preservative treated wood shall be identified by the quality assurance mark of an inspection accredited agency.
- C. Energy Efficiency. The exterior building envelope of the floating structure including exterior walls, floors, roofs, doors, windows, and skylights as well as the mechanical, electrical, and plumbing systems for the structure shall comply with the energy efficiency requirements of the State of Oregon Building Code, as defined in Oregon Revised Statutes Section 455.010 based on the occupancy of the building. Thermal insulation which may be subject to moisture, such as main floor underfloor insulation, shall be of a type approved for damp locations.

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- D.** Ventilation. Enclosed wood construction systems for floating structures shall be ventilated in accordance with the requirements of the State of Oregon Residential Specialty Code or the State of Oregon Structural Specialty Code (2005).

28.06.030 Conventional Construction Methods and Materials for Floating Structures and Walkways Using Log Support Systems.

(Amended by Ordinance No. 181437, effective December 21, 2007.)

- A.** Floating structures. The following methods and materials are approved without engineering provided the highest point of the roof structure measured from the top of the float does not exceed seventy-five percent (75%) of the minimum width of the float.

- 1.** The logs and stringers forming the floats under floating structure shall conform to these provisions:

- a.** The structure on the float cannot be larger than the float.

EXCEPTION: Decks raised above the level of the float deck and balconies shall be permitted to project a maximum of 3 feet 0 inches beyond the edge of the float provided such projections do not affect the stability of the float as detailed in Section 28.06.040, the projections do not extend beyond the legally established boundaries of the slip in which the floating structure is located and provided the required separations between structures is not reduced by the projection. Engineering calculations shall be provided to verify that any projections beyond the edge of the float will not affect the stability of the float and structure.

- b.** Floats supporting combo-structures and which have a boatwell that interrupts the continuity of the float shall be an engineered design or shall comply with prescriptive alternate methods of construction as adopted by the Director under Section 28.03.010.
- c.** Raft logs are to be 16-inch minimum diameter at the tip and shall be spaced no greater than 18" between tangent points.
- d.** Bearing walls should align over stringers or center line of logs. When such alignment is not feasible, adequate support for bearing walls must be provided.
- e.** If the Certified Structural Inspector or Certified Floating Structure Inspector or an architect or engineer responsible for the design of the floating structure finds the completed log raft insufficiently stable for the intended structure, they may then require the stringer

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layout to compose a rigid frame by the addition of side chords and fixed joints or cross bracing or by an alternate engineered design.

- f.** Logs shall be Douglas Fir, Sugar Pine, Lodge Pole Pine, Western (Idaho) White Pine, Alaska Yellow Cedar or Sitka Spruce, sound and free of all bark above the water line.
 - g.** In a floating structure foundation float at least fifty percent (50%) of all logs shall be full length. Segmented logs must be alternated between full-length logs. Joints in segmented logs shall be staggered a minimum of three (3) stringer spaces apart laterally on alternate segmented logs. Not more than one joint may be used per segmented log assembly. All outboard logs shall be full length.
 - h.** Logs shall be notched so as to provide sufficient bearing for the stringers. The seat of the notch shall be a minimum of 4-1/2 inches above the water level when the float is fully loaded.
 - i.** Wood stringers shall be nominally a minimum of 6 inches by 10 inches for one and two story structures and shall be preservative treated in compliance with Section 28.06.020 B. Steel stringers shall be of a size to provide equivalent bearing surface and load capacity as a wood stringer used for a similar conditions and shall have a minimum web thickness of 0.250 inches.
 - j.** Stringers inside of perimeter bearing walls shall be placed on the logs not more than 4 feet on center and fixed to the logs with headed steel rods a minimum of 5/8 inches in diameter and a minimum of 20 inches long. These pins are to penetrate the log at least 10 inches. All log to stringer contact points must have two pins.
 - k.** The wood construction below the joists is to be inspected for proper construction and soundness of logs, including dapped bearing connections, prior to installation of joists. Inspections shall be performed by a Certified Structural Inspector, a Certified Floating Structure Inspector, a licensed architect or a licensed engineer. The person performing the inspection shall prepare a report of the inspection. The inspection report shall be submitted to the Director for review and approval prior to continuing the construction of the float.
- B.** Walkways leading to floating structures. Floating walkway supports may consist of preservative treated 6 inch x 6 inch wood stringers not more than 6 feet-0 inches on center or preservative treated 4 inch x 6 inch wood stringers not more than 5 feet-0 inches on center. Steel stringers of a size to provide equivalent bearing surface and load capacity as a wood stringer may be used for similar conditions.

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Stringers shall be anchored to the logs with headed steel rods (pins) as described above. Single headed steel rods (pins) may be used at interior logs. Maximum joist spacing is 2 feet-0 inches on center.

- C.** Floatation. Floating structures shall have adequate floatation to maintain a clearance above the water of one foot zero inches (1'-0") minimum from water line to the top of the walking surface for walkways and walks and one foot eight inches (1'-8") minimum from the water line to the finished floor level for the lowest occupied floor of all other floating structures, under all applicable load conditions.
- D.** Mooring connections. Mooring connections shall be adequate to keep the moorage in place under all reasonable load conditions. The following minimum connection standards are deemed to provide adequate connection to resist average load conditions. Where a local condition imposes greater than average load conditions on a moorage, the builder shall provide adequate connection to resist such loads. Such connection shall be designed by an Oregon registered engineer to resist the actual loads expected.

 - 1.** Floating structures shall be anchored to the moorage structure with connections to the floatation system of the structures. Connectors shall be provided as indicated below. These points shall be a minimum of one foot from each end of the float.

 - a.** For floats where floatation logs are parallel to the current flow connectors shall be provided at each outside log and at not more than fifteen (15) feet apart at interior logs.
 - b.** For floats where floatation logs are not parallel to the current flow connectors shall be provided at each outside log and at not more than fifteen (15) feet apart at interior logs with one additional connector provided at the upstream outside log approximately midway along the length of the log.
 - 2.** The connections shall consist of a steel bracket or other approved connection. The bracket is to be 3/8 inch thick and adequate in size to support the pins. Pins are to be a minimum of 4 inches apart. This bracket shall be fixed with a minimum of three, headed steel rods (pins) a minimum of 5/8 inch in diameter that penetrate the floatation log at least 10 inches. The connections from the bracket to the walkway or piling shall consist of chain with a minimum link wire diameter of 1/2 inch or other approved connection device. If attached to walkway logs, the boom chain shall be looped around the second log or most secure log of the walkway. Walkways shall be adequately secured to pilings.

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28.06.040 Engineered Construction.

(Amended by Ordinance No. 181437, effective December 21, 2007.)

- A.** General. The minimum structural design of floating structures and moorages, except those structures conforming to the conventional construction methods and materials as listed above, shall be in conformity with all applicable sections of the State Structural Specialty Code and the requirements of this section. The piling, mooring connectors, the gangway, and floatation system for all floating structures shall have an engineer of record who is registered in Oregon.

The Engineer of Record shall be responsible for establishing the design criteria and completing the design of the complete project. The Engineer of Record shall prepare and certify complete construction drawings and calculations for structural strength and floatation. The design criteria shall be substantiated by the Engineer of Record and noted on the first sheet of the construction drawings.

If an engineer or architect other than the Engineer of Record has been engaged to design an element of the project such as but not limited to piles or gangways, the Engineer of Record must:

1. Verify that the other engineer or architect has provided drawings and calculations certified by an Oregon engineer or architect.
 2. Verify that the other engineer or architect has used design criteria that have been established by the Engineer of Record.
 3. Verify the compatibility of the element's design with the design of the complete project.
 4. Verify that the designs of structural connections between the elements of the project designed by other engineers and those elements designed by the Engineer of Record have been accomplished by an engineer or architect registered in Oregon.
 5. Place review approval stamp on all drawings and calculations prepared by the other engineers showing that 1. through 4. have been accomplished.
- B.** Loading. All floating structures, piling, mooring devices and gangways shall be designed and constructed to sustain, within the stress limitations specified in the Structural Specialty Code, all applicable loads specified in the State Structural Specialty Code and this Title.
1. Current loads shall be calculated on the basis of a minimum current speed of 1.5 knots unless the designer can provide documentation that the maximum current speed that can be anticipated at the location of the structure is less than 1.5 knots. If anticipated minimum current speeds of

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greater than 1.5 knots can be expected at the location of the structure the higher current speed shall be used for calculation of current loads.

2. Wave and wake loads shall be calculated on the basis of the maximum possible wave and/or wake that can be expected at the location of the structure.
3. Impact loads from boats, debris and other objects shall be considered with a minimum velocity as determined using a minimum current speed of 1.5 knots. If anticipated current speeds of greater than 1.5 knots can be expected at the location of the structure the higher current speed shall be used for calculation of impact loads.
4. Earthquake loads shall be considered based on values specified in the State Structural Specialty Code.
5. Gangways not more than 6 feet wide shall be designed to sustain a live load of 50 PSF unless they serve structures which contain an occupancy where more than 50 people may occupy a room at one time such as some dining establishments or meeting rooms. Gangways more than 6 feet wide and all those serving occupancies with a calculated occupant load of 50 or more shall be designed to sustain a live load of 100 PSF.

EXCEPTION: Gangways not more than 6 feet wide serving public recreational boat launching and transient tie-up facilities may be designed to sustain a live load of 40 PSF.

6. All floating structures, piling, mooring connectors, gangways and ramps shall be designed and constructed to resist lateral forces produced by the reasonable combination of expected wind, current, wave, wake, earthquake and impact loads at the location.

C. Mooring connectors.

1. Every floating structure shall be moored with connectors having the capacity to hold the structure in place under reasonably expected conditions. For engineered structures the number and locations for mooring connectors shall be as specified by the design engineer.
2. Whatever structure the mooring connectors are attached to shall be designed to withstand the loads from the mooring connectors. The engineer of record's design criteria for the project shall include the maximum dimensions of the floating structure(s) as these determine the loads on the mooring connectors and their supports.

D. Piling.

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1. Floating structures shall be directly or indirectly attached to piling which is adequate to resist lateral forces produced by any normally expected combination of wind, current, wave, wake, earthquake and impact. The minimum height of the top of the piling shall be a minimum of two feet above the point of connection of the floating structure to the piling when the water rises to the 100 year flood elevation as shown on the Federal Insurance Rate Maps published by the Federal Emergency Management Agency. Batter piles shall not interfere with the ability of a floating structure to rise to an elevation at least two (2) feet above the level of the 100 year flood elevation that is used to determine the minimum height of piling.

E. Floatation.

1. Floating structures shall be constructed and maintained to provide a floatation system that complies with the requirements of this chapter. The floatation devices shall be structurally sound and securely attached to the framing for the superstructure, except that foam floatation blocks may be held in place by friction only.

The floatation systems shall provide support adequate to provide a level and safe walking surface under all reasonable load conditions. The following minimum standards apply to all floating structures.

2. Clearance Above Water. The minimum clearance above water as measured from the water line to the top of the lowest point on the floor or deck under usual dead load conditions, shall not be less than one foot zero inches (1'-0") from water line to the top of the walking surface for walkways and walks, and not less than one foot eight inches (1'-8") from the water line to the finished floor level of the lowest occupied floor for all other floating structures.

EXCEPTION: Boathouses and the portion of combo-structures that house a personal watercraft need only have adequate floatation to maintain clearance above water under all applicable conditions.

3. Live Loads. In addition to dead loads, the floatation system shall be adequate to support the maximum condition of the following minimum live loads. Higher loads may be more appropriate if the design engineer determines the need for a higher load based on the intended use conditions.
 - a. 25 PSF applied to the gross area; or,
 - b. A concentrated load of 600 lbs.; or,

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- c. 25 PSF applied to the gross, main floor area plus 10 PSF on each upper floor or loft; or,
 - d. For floating structures that are occupied as other than a one or two family residence, the live load required by the State Structural Specialty Code for the specific occupancy shall apply.
 - e. Pedestrian walkways or ramps serving an occupant load of 10 or more; 40 PSF; all others 25 PSF.
 - f. Pedestrian walkways or structures serving boat launching or transient tie-up facilities only; 25 PSF.
 - g. At locations where live loads are transmitted from gangways to floating structures, the live load may be reduced fifty percent (50%) on the gangway for purposes of calculating the reaction only. Additional floatation may have to be provided to compensate for this reaction on the floating system to maintain the prescribed clearance above water.
4. Stability with short term, off-center loading or wind loading. The floating structure when subjected to either short-term off-center loading or wind loading shall not exceed the following limitations:
- a. The maximum angle of list shall not exceed 4.0 degrees, or the clearance above water when measured from the water line to the top of the first floor or deck shall not be less than 1/3 of the normal clearance above water, whichever is the more restrictive.
 - b. The ratio of resisting moment (Mr) to applied moment (Ma) shall be equal or greater than unity:
$$\frac{Mr}{Ma} \geq 1$$
- The resisting moment due to buoyancy (Mr) shall be computed about a longitudinal axis passing through the center of gravity at a list angle of not more than 4.0 degrees.
- c. The minimum off-center loading shall be considered as applicable to the completed structure and shall be considered in addition to all dead loads. It shall consist of a minimum live load of 100 pounds per lineal foot of floor length at the first floor and 50 pounds per lineal foot of floor length at each additional floor or loft. If the width of the floor or loft exceeds 20 feet then the load shall consist of 5 pounds times the width of the floor per lineal foot of floor length at the first floor and 2.5 pounds times the width of the floor per lineal

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foot of floor length at each additional floor or loft. These uniform live loads are to be applied halfway between the center of gravity and the outside edges of the floors. The overturning moments resulting from the off-center loadings (Ma) shall be computed about both sides of the center axis of gravity.

- d.** Other appropriate eccentric or off-center loading due to wind, snow, live loads or combinations of these or other similar loads as may be determined to apply by the engineer of record, shall also be considered.

28.06.050 Fire Safety.

(Amended by Ordinance Nos. 180917 and 181437, effective December 21, 2007.)

- A.** Fire apparatus access roads. Access to moorages shall be by fire apparatus access roads having all-weather driving surfaces capable of supporting a 23-ton load. Such roads shall be a minimum 20 feet wide with not less than 13 feet-6 inches overhead clearance. They shall be provided from the nearest public way to the head of the gangway. Fire apparatus turnarounds shall be required on any fire access road having a dead end exceeding 300 feet.
- B.** Moorage exits. Two exit gangways are required whenever any one of the following conditions apply:
 - 1.** Except as noted in item 2, if a marginal walkway exceeds 250 feet in length or if any point on the marginal walkway would be more than 250 feet from a gangway, additional gangways must be provided. When two or more gangways are required or provided, there shall be a gangway located at the extreme ends of the marginal walkway unless an alternate location is approved by the Harbor Master based on site specific conditions.
 - 2.** Uncovered moorages for the moorage of pleasure boats (open moorage configuration) and having not more than two floating homes (for owner and caretaker, for instance) must have additional gangways if the marginal walkway exceeds 500 feet in length or if any point on the marginal walkway would be more than 500 feet from a gangway. When two or more gangways are required or provided, there shall be a gangway located at the extreme ends of the marginal walkway unless an alternate location is approved by the Harbor Master based on site specific conditions.
 - 3.** Total distance from the nearest point of apparatus set-up (usually at the head of a gangway) to the most remote portion of the moorage exceeds 800 feet.
- C.** Distance Between Moorages. A new moorage or the expansion/modification of an existing moorage shall not interfere with safe fireboat access to an existing

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neighboring moorage. The Harbor Master shall determine minimum separations necessary to maintain fireboat access to existing moorages.

D. Distance between floating homes, tender houses, combo-structures and boathouses.

1. Floating homes, tender houses, combo-structures and boathouses at new moorages shall be spaced a minimum of 10 feet apart between the nearest exterior walls and 8 feet apart between the nearest roof, deck (which is elevated above the level of the walking surface of the float), balcony or other architectural projections.
2. Projections such as but not necessarily limited to eaves, roof overhangs, decks, balconies or other architectural projections for newly constructed floating structures, for additions and alterations to existing floating structures and for moved or relocated floating structures shall not project beyond the edge of the float supporting the structure into the area above a main or marginal walkway or extend beyond the legally established boundaries of the slip in which the floating structure is located.
3. Separation distances may be reduced to 6 feet apart between the nearest exterior walls and 4 feet apart between the nearest roof, deck (which is elevated above the level of the walking surface of the float), balcony or other architectural projections when one of the following is provided:
 - a. A complete sprinkler system is installed in compliance with NFPA 13R Standards (2007) is installed in the structure(s) which create the reduce clearance conditions; or
 - b. Exterior walls with a fire resistance rating of one-hour with protected openings (fixed 1/4 inch wire glass in 16 gauge steel frames and 45-minute door assemblies) are to be provided at the locations where the reduced clearances occur for the new or relocated structure(s) which causes or creates the reduced clearance.

E. Distance between floating structures other than floating homes, tender houses, combo-structures and boathouses:

1. Floating structures at new moorages that are used as other than floating homes, tender houses, combo-structures and boathouses shall be spaced a minimum of 20 feet apart between the nearest exterior walls and 16 feet apart between the nearest roof, deck (which is elevated above the level of the walking surface of the float), balcony or other architectural projections.
2. Projections such as but not necessarily limited to eaves, roof overhangs, decks, balconies or other architectural projections for newly constructed floating structures, for additions and alterations to existing floating

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structures and for moved or relocated floating structures shall not project beyond the edge of the float supporting the structure into the area above a main or marginal walkway or extend beyond the legally established boundaries of the slip in which the floating structure is located.

- 3.** Separation distances may be reduced to 10 feet apart between the nearest exterior walls and 8 feet apart between the nearest roof, elevated deck, balcony or other architectural projections provided:
 - a.** Exterior walls where reduced clearance occurs are of one hour fire resistive construction for the new or relocated structure(s) which causes or creates the reduced clearance.
 - b.** Window openings in the exterior walls where reduced clearance occurs shall be not more than twenty-five percent (25%) of the wall area and shall be three-quarter-hour (3/4 hour) listed assemblies for the new or relocated structure(s) which causes or creates the reduced clearance.
 - c.** Door openings on the exterior walls where reduced clearance occurs shall be protected with one hour listed assemblies for the new or relocated structure(s) which causes or creates the reduced clearance.
- 4.** Separation distances may be reduced to 6 feet apart between the nearest exterior walls and 4 feet apart between the nearest roof, elevated deck, balcony or other architectural projections provided:
 - a.** The building is fully sprinklered in compliance with NFPA 13 Standards (2007) including any exterior overhang or projection; and
 - b.** Exterior walls where reduced clearance occurs are of one-hour fire resistive construction without openings for the new or relocated structure(s) which causes or creates the reduced clearance.
- F.** Occupancy separation for combo-structures. A covered boatwell, in a combo-structure, enclosed on more than two sides shall be separated from the habitable space by a wall having 5/8 inch thick type 'X' water resistant gypsum board on the boatwell side.
- G.** Occupancy separations for floating structures used as other than floating homes, tender houses, combo-structures and boathouses: An occupancy separation shall be provided between different occupancy groups in a floating structure used as other than floating homes, tender houses, combo-structures and boathouses when required by the Structural Specialty Code. Such occupancy separations shall meet the fire resistance as specified in the Structural Specialty Code.

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EXCEPTION: A covered boatwell which serves only one dwelling unit in a floating structure containing three or more dwelling units shall be permitted to have a separation between the boatwell and the unit served which complies with Section 28.06.050 F., provided such boatwell is separated from other units in the structure as required by the Structural Specialty Code for unit separations.

- H.** Fire protection standpipe. The following described fire protection standpipe system shall be required at all moorages having any portion of a floating structure more than 250 feet from the point of fire apparatus set up. Prior to the installation of any standpipe system a permit shall be obtained from the Fire Marshal. Except as otherwise provided in Title 28 the design and installation of the standpipe system shall be in accordance with the latest edition of NFPA 14: "Installation of Standpipe and Hose Systems", as adopted in Title 31 and the following:
1. Water for fire protection standpipes shall be supplied by one of the following methods:
 - a. From Fire Department connection from a fire hydrant providing at least 500 GPM at 20 PSI and located within 300 feet from the closest point of fire department access to a moorage exit ramp.
 - b. Pumped from the Willamette or Columbia Rivers or associated bodies of water with on site pump or pumps capable of providing 250 GPM at 100 PSI to the most hydraulically remote outlet on the standpipe system. Pumps are to be of a type approved by the Harbor Master and shall be listed for their intended use.
 2. Fire protection standpipes shall have a fire department connection located within 150 feet of fire apparatus set up and not more than 150 feet from the top of the moorage access ramp. The fire department connections shall be of a double clapper design.
 3. When required by the Harbor Master a fire department connection shall be located to provide reasonable access for a fire boat.
 4. System capacity controlled by a fire department connection shall not exceed 750 gallons unless approved by the Harbor Master.
 5. Fire protection standpipes shall have pipe sized to provide 250 gallons per minute at 100 PSI pressure at the most hydraulically remote outlet on the standpipe system. The maximum input pressure at the fire department connection shall be 150 PSI.
 6. Fire protection standpipes shall have adequate drain valves, or alternate systems as approved by the Harbor Master, installed to ensure complete drainage.

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7. Fire protection standpipes shall have gate valve assemblies made of corrosion resistant metal, 2-1/2 inch I.D. with National Standard male threads and metal caps. Valve assemblies shall be spaced a distance apart as follows:

 - a. For moorages having marine service stations, floating homes or other type of structures, having permanent living quarters, valves are to be located every 100 feet and within 50 feet of the end of walkways.
 - b. For moorages serving only boathouses and covered moorages, valves are to be located every 150 feet and within 75 feet of the end of the walkways.
 - c. For moorages having only open moorage of pleasure boats, standpipes shall be required along the marginal walkway with valves required at intersecting main walkways, or not more than every 200 feet and 100 feet from the end of marginal walkways. Where main walkways extend more than 100 feet from their intersection with the marginal walkway, standpipes shall be provided along the main walkways with valves located every 200 feet and not more than 100 feet from the end of the main walkway.
 - d. For moorages with sections of differing use, each section is required to have a standpipe of differing use, each section is required to have a standpipe system matching the requirements of a moorage having that use.
8. Piping materials shall be protected against corrosion by hot dip galvanizing or by use of HDPE piping. If HDPE piping is used it must be installed underwater with a minimum of twelve (12) inches of water cover over the main runs. Adequate anchorage of HDPE piping shall be provided to prevent uncharged piping from broaching the water surface. Where flexible hose couplings are used they shall have swaged on fittings.
9. Moorages used exclusively for loading and off loading of boats and transient tie-up moorages do not require the installation of a standpipe system when approved by the Harbor Master.
10. Standpipe systems shall be inspected and tested annually in accordance with the current edition of NFPA 25, "Standards for the Testing of Water Based Fire Protection Systems" as adopted in City Title 31. Tests and inspections shall be done in a manner prescribed by the Fire Marshal, as provided. If requested, the City may perform annual service tests upon the property owner/operator signing a waiver of liability and upon payment of a fee to the Fire Marshal, as provided in Title 31. If connection to the City water

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supply is necessary to facilitate any method of testing standpipes, Water Bureau Water Quality Inspections shall be contacted in each instance. Additionally, State approved backflow protection shall be provided.

- I.** Smoke/heat Vents and Curtain Boards. Covered moorages shall have smoke/heat vents and curtain boards installed as follows:

EXCEPTION: Smoke/heat vents and curtain boards will not be required if the Harbor Master determines that the roof configuration of the covered moorage (such as a shed roof without fascia boards) will not trap smoke and heat under the roof.

- 1.** Curtain Boards. Curtain boards shall be installed to subdivide the enclosed roof areas of covered moorages not more than every 100 linear feet for moorages with slips of 45 feet or less in length and not more than every 75 linear feet for moorages with moorage slips of more than 45 feet in length.
 - a.** Curtain boards shall extend from eave to eave.
 - b.** Curtain boards shall be installed flush to the underside of the roof sheathing and shall extend down to the lowest point of the roof line, but shall be maintained no lower than eight (8) feet above any walkway.
 - c.** Curtain boards shall be of galvanized sheet metal, water resistant gypsum board or other similar approved material that will provide equivalent performance and moisture resistance.
 - d.** Curtain boards shall be sealed to resist the passage of smoke and fire.
- 2.** Smoke/heat Vents. Smoke/heat vents shall be installed within each area of the roof of a covered moorage that is separated by curtain boards.
 - a.** Smoke/heat vents shall be centered between curtain boards and shall be installed with a minimum ratio of one (1) square foot of vent opening to every fifty (50) square feet of area under the roof.
 - b.** Smoke/heat vents shall be installed at the highest point of the roof or as approved by the Harbor Master.
 - c.** Smoke/heat vents shall be listed drop out or automatic opening assemblies with a minimum dimension of four (4) feet.
- 3.** Smoke/heat vents and curtain boards shall be shown on the permit documents issued for construction of the moorage cover.

- J.** Covered Moorage - Limitations on service, repair and fueling.

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- 1.** Except at duly authorized fuel docks, fueling of boats is prohibited under Section 19.16.135.
- 2.** Storage of flammable or combustible liquids shall comply with Section 19.16.135.
- 3.** Only minor service, repair or exchange of parts for maintenance of a vessel, boat or watercraft is allowed under the roof structure at a covered moorage.
 - a.** Minor service, repair or exchange of parts includes but is not necessarily limited to the following:
 - (1)** Changing engine/motor oil, replacing hydraulic fluids, lubrication of engine or drive train.
 - (2)** Replacement of running gear or safety equipment that does not require alteration or modification to the structure of the craft.
 - (3)** Repairs to the fiberglass, steel, wood or composite hull, superstructure or other structural component of a boat up to an area not to exceed nine (9) square feet.
 - (4)** Painting, varnishing or similarly finishing elements such as handrails, rubrails, toeboards, etc., or minor touch up of paint, varnish or other similar finish to an area not to exceed nine (9) square feet.
 - (5)** Replacement of parts of the engine or drive train that does not require the disassembly of the engine or drive train.
 - b.** Minor service, repair or exchange of parts does not include the following:
 - (1)** Any operation that requires hot work, including but not limited to welding and cutting.
 - (2)** The disassembly of motors, engines or drive trains for repair or overhaul.
 - (3)** The replacement of structural components of a boat such as framing members, engine mounts, deck supports, etc.
 - (4)** The application of paint, varnish or other similar finish to hulls, decks, or superstructure in excess of the area specified in subsection a. above.

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(5) Repairs to the fiberglass, steel, wood or composite hull, superstructure or other structural component of a boat in excess of the area specified in subsection a. above.

c. The Harbor Master shall have the authority to interpret if work being undertaken in a covered moorage is in compliance with these limitations.

28.06.055 Life Safety.

(Added by Ordinance No. 181437, effective December 21, 2007.)

A. One and Two Family floating homes. Floating homes, tender houses, combo-structures and boathouses shall be constructed and maintained in compliance with the requirements of the State Residential Specialty Code, and Title 24, Title 28, and Title 29.

1. Foundation systems. Foundation systems as specified in State Residential Specialty Code are not applicable to the construction of floating homes. Floating Homes shall be supported on floatation systems designed in accordance with provisions specified in Section 28.06.030 and Section 28.06.040. Floating homes shall be securely anchored to the float on which they are constructed using an engineered connection system designed to prevent the home from being dislodged or overturned.

2. Framing. Framing lumber shall comply with the requirements of Section 28.06.020 A.

3. Allowable alternatives. Recognizing the unique history and traditions associated with floating homes the following alternatives to the requirements specified in the Residential Specialty Code are allowed without appeal:

a. Exterior wall and opening protection shall be as described in Section 28.06.050 based on the separation between structures in a moorage.

b. Sleeping Loft. In a floating home or combo-structure and within individual dwelling units in a floating structure containing three or more dwelling units, a sleeping loft or accessory living area such as a den, office, hobby room or similar area which is not more than 250 square feet in area that is located above the level of the main floor of a floating home may use the following standards:

(1) Access to the loft space may be by a "ship's ladder" type of stair having a rise not to exceed 12 inches and a run of not less than 6 inches or an alternating tread device as specified in the Structural Specialty Code. Width of stairs or

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alternating tread device shall be a minimum of 30 inches. Handrails shall be provided at both sides of stair or alternating tread device. Headroom at stair or alternating tread device shall be not less than 6 feet 6 inches at any point.

- (2) A loft space need not be provided with exterior openings for natural light, ventilation or emergency escape and rescue provided the loft area is open and unobstructed to the floor below, except for columns and posts and railings not more than 42 inches high, and the floor below onto which the loft opens has exterior openings equal to the total required for the floor area served and the loft.

- c. Porthole assemblies, whether new or salvaged, may be installed in a floating home to enhance the nautical character of the structure. Such assemblies need not comply with the energy conservation requirements of the specialty code provided the total area of all such assemblies installed does not constitute more than two percent (2%) of the total exterior wall area of the floating home. Such assemblies may be used to meet the required area for natural light and, if openable, to satisfy the required natural ventilation. Such assemblies may not be used to satisfy the required emergency escape and rescue requirements from sleeping areas.

- B. Floating structures for use and occupancy as other than floating homes, combo-structures, boathouses or tender houses accessory to a floating home shall be constructed and maintained in compliance with the requirements of the Structural Specialty Code and Title 24, Title 28, and Title 29.

1. Foundation systems. Foundation systems as specified in the Structural Specialty Code are not applicable to the construction of floating structures. Floating structures shall be supported on floatation systems designed in accordance with provisions specified in Section 28.06.030 and Section 28.06.040. Floating structures shall be securely anchored to the float on which they are constructed using an engineered connection system designed to prevent the structure from being dislodged or overturned.
2. Framing. Framing lumber shall comply with the requirements of Section 28.06.020 A.
3. Allowable alternatives. Recognizing the unique history and traditions associated with floating structures the following alternatives to the requirements specified in the Structural Specialty Code are allowed outright without appeal.

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- a.** Exterior wall and opening protection shall be as described in Section 28.06.050 based on the separation between structures in a moorage.
- b.** A loft, mezzanine or accessory area such as a private office, employee work room or similar area which is not more than 250 square feet in area, that is accessible to employees only and that is located above the level of the main floor of a floating structure may use the following standards:

EXCEPTION: Loft spaces within individual dwelling units in floating structures containing three or more dwelling units shall be permitted to comply with the provisions of Section 28.06.055 A.3.b.

- (1)** Access to the loft space shall be permitted to be a "ship's ladder" type of stair having a rise not to exceed 12 inches and a run of not less than 6 inches or an alternating tread device as specified in the Structural Specialty Code. Width of stairs or alternating tread device shall be a minimum of 30 inches. Handrails shall be provided at both sides of stair or alternating tread device. Headroom at stair or alternating tread device shall be not less than 6 feet 6 inches at any point.
 - (2)** A loft space need not be provided with exterior openings for natural light or ventilation provided the loft area is open and unobstructed to the floor below, except for columns and posts and railings not more than 42 inches high, and the floor below onto which the loft opens has exterior openings equal to the total required for the floor area served and the loft.
 - c.** Porthole assemblies, whether new or salvaged, may be installed in a floating structure to enhance the nautical character of the structure. Such assemblies need not comply with the energy conservation requirements of the specialty code provided the total area of all such assemblies installed do not constitute more than five percent (5%) of the total exterior wall area of the floating structure. Such assemblies may be used to meet the required area for natural light and, if openable, to satisfy the required natural ventilation.
- 4.** Where the Structural Specialty Code would require two exits be provided from a structure or occupancy within a structure, such exits shall be separated as required by the specialty code. The point of exit discharge for the exits shall comply with the following:
- a.** The exits shall discharge directly to a main walkway at two separate locations located as far apart as is practicable; or,

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- b.** The exits shall discharge to two separate fingerfloats or walks located on opposite sides of the structure. Fingerfloats shall each have direct and independent access to a main walkway. Walks shall each have direct and independent access to a fingerfloat or main walkway. The point of exit discharge onto the walk shall not be more than fifty (50) feet travel distance from the point of access to the main walkway; or,
- c.** The exits shall discharge to a continuous walk that encircles the structure on at least three sides and which provides the capability for exiting in two directions along the walk to one of two separate and distinct locations where the walk accesses the main walkway.
- d.** Walks need not exceed the width specified in Section 28.60.060 unless the occupant load served by the walk exceeds 150 persons.

28.06.060 Gangways, Ramps, Walkways and Walks.

(Amended by Ordinance No. 181437, effective December 21, 2007.)

- A.** All gangways, ramps, walkways, and walks serving as a means of egress for floating structures used for commercial occupancies shall be illuminated by lights designed, constructed and maintained to provide a minimum average of 1 foot candle of light per square foot at the walking surface.

EXCEPTION: Recreational boat launching and transient tie-up facilities.

- B.** Gangways and ramps shall have a maximum slope of 1 vertical to 2.5 horizontal and shall have a non-slip walking surface or surface cleats securely fastened in place with a maximum spacing center to center of 1 foot 6 inches.
- C.** Gangways shall have a minimum, unobstructed width of five (5) feet when a single gangway is required and four (4) feet when more than one gangway is required and shall be provided with guardrails and handrails as required by the building code. Intermediate landings shall not be required for gangways.

EXCEPTION: Gangways serving an occupant load less than 10 and gangways serving recreational boat launching and transient tie-up facilities need not be more than four (4) feet in width.

- D.** Walkways shall have a minimum width of six (6) feet, except for fingerfloats, which may be three (3) feet in width.
- E.** Mooring connectors and similar obstructions may project into the required width of main and marginal walkways not more than six (6) inches at either side. Cleats and bull rails shall not project more than four (4) inches into the required width along either side of a main or marginal walkway. Cleats or bull rails not more than

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four (4) inches in width may be provided along either side of a fingerfloat provided the width of the fingerfloat is of sufficient width to provide a minimum of thirty-six (36) inches of clear walking surface between the cleats or bull rails. Utility stands may project into the required width of main or marginal walkways provided they do not reduce the clear unobstructed width of the walkway to less than four (4) feet for a distance of three (3) feet measured in the direction of travel along the walkway.

- F.** A walk with a minimum width of twenty-four (24) inches shall be provided on at least two opposite sides of all floating homes, combo-structures, boathouses and tender house structures. These walks shall provide direct access from the floating home, combo-structure, boathouse or tender house structure to an adjacent fingerfloat or main walkway.
- G.** A walk with a minimum width of thirty-six (36) inches shall be provided on at least two opposite sides of any floating structure that is used or occupied as other than a floating home, combo-structure, boathouse or tender house structure accessory to a floating home. These walks shall provide direct access from the floating structure to an adjacent fingerfloat or main walkway.

28.06.070 Identification.

(Amended by Ordinance Nos. 181437 and 183597, effective April 9, 2010.) All moorages shall be provided with identification as follows:

- A.** All moorages shall be identifiable by name and address from the street on which they front at or near the point of emergency vehicle access.
- B.** The head of each gangway providing access to the moorage shall be obviously identifiable from the point of emergency vehicle access; or in those cases having a secondary access road, from the shore end of the access road; or the facility shall be signed as required to provide such identification.
- C.** The location and identification of all floating structures shall be obvious from the head of each gangway by placement of a site map indicating the layout of the moorage and the walkways and which identifies each structure and/or slip individually by number or letter or combination thereof. For the purposes of this subsection, "site map" means a plan of a moorage or marina that shows the layout of the moorage or marina including all gangways, walkways, mooring sites and land based structures and identifies the moorage by address and each moorage site/slip or land based building by number or letter or a combination thereof or by address if separate from that one of the moorage or marina.
- D.** The walkway, structure and mooring site identification shall be logical and obvious. Identification work shall be subject to the Harbor Master's approval.

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- E.** All floating homes, boathouses, and combo-structures shall have a state issued identifying number plate displayed in a location that is readily visible from the walkway providing access to the structure.
- F.** Moorage owners/operators shall maintain a moorage map with each mooring site identified by number or letter or combination thereof and which lists the state identifying number, if applicable, of the structure occupying each mooring site or identifies the structure occupying the mooring site by use and tenant name if no state number plate is required for the structure. Such plan shall be available for Harbor Master review when requested.

**CHAPTER 28.07 - ELECTRICAL
INSTALLATIONS**

Sections:

- 28.07.010 General.
28.07.020 Specific Requirements.

28.07.010 General.

(Amended by Ordinance No. 181437, effective December 21, 2007.) All electrical work shall be designed and installed in accordance with the State of Oregon Electrical Specialty Safety Code, the State of Oregon Residential Specialty Code, Title 26 and this Chapter. Permits and inspections are required for all work except as specifically exempted by Title 28.

Existing electrical work which was lawfully in place in the City of Portland on January 1, 2008 or which was constructed or relocated under a valid permit after that date, shall be grandfathered as provided in Title 28.

28.07.020 Specific Requirements.

(Amended by Ordinance No. 181437, effective December 21, 2007.) In addition to the requirements specified in the Electrical Specialty Code and Title 26, the following specific requirements apply to electrical installations for moorages, marinas and floating structures.

- A. Transformer pads shall not be located closer than either (8) feet to combustible surfaces and two (2) feet to noncombustible surfaces.
- B. Overhead power drops shall be installed and maintained a minimum of 14 feet above walking surfaces and/or the ordinary high water line.
- C. Electrical installations within two (2) feet of the water shall be considered to be in a wet environment, except that installations inside a structure and not exposed to the water may be considered to be in a dry environment.

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CHAPTER 28.08 - PLUMBING INSTALLATIONS

Sections:

- 28.08.010 General.
28.08.020 Specific Requirements.

28.08.010 General.

(Amended by Ordinance No. 181437, effective December 21, 2007.) All plumbing installations shall be designed and installed in accordance with the Oregon State Plumbing Specialty Code, the State of Oregon Residential Specialty Code, Title 25 and this Chapter. Permits and inspections shall be required for all plumbing work except as specifically exempted by Title 28.

Existing plumbing which was lawfully in place in the City of Portland as of January 1, 2008 or which was constructed or relocated under a valid permit after that date, shall be grandfathered as provided in Title 28.

28.08.020 Specific Requirements.

(Amended by Ordinance No. 181437, effective December 21, 2007.) In addition to the requirements of the Plumbing Specialty Code and Title 25, the following specific requirements apply to plumbing installations for moorages, marinas and floating structures.

- A.** Sewage ejectors shall be installed in accordance with the manufacturer's instructions and the Oregon State Plumbing Specialty Code., except that the head pressure required by Section 318 K (6)(3) for testing drainage systems is reduced from 10 feet to 5 feet for ejectors installed at individual floating homes.
- B.** Flexible connectors for water lines shall be approved by the National Sanitation Foundation and be of the type approved for mobile home installations or marine use.
- C.** Piping materials must comply with the requirements of the Oregon State Plumbing Specialty Code and Title 25.
- D.** Continuously running water through the moorage supply line is an acceptable alternate to pipe insulation to avoid pipe freezing.
- E.** All flexible pressure sanitary sewer connections to and in the moorage dock pressure sanitary sewer system shall be, as a minimum, helically reinforced PVC, ultraviolet resistant, smooth inside and outside hose which shall remain flexible down to a temperature of minus four degrees Fahrenheit (- 4° F). Insert adapters from flex hose to rigid piping used in the pressure sanitary sewer system shall be plated steel, stainless steel, brass or aluminum with stainless steel hose clamps.
- F.** Backflow Protection. All water service connections regardless of size or type supplying water from the city distribution system to any type of floating structure,

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whether permanent or temporary, shall be equipped with an approved backflow prevention assembly. The type of backflow assembly required for service connections to facilities as described in Title 28 shall be a Reduced Pressure Backflow Assembly (RPBA). The backflow assembly shall be installed at the termination of the City distribution system and at the start of the private distribution system.

Services that supply water to fire sprinkler systems typically are not fully metered. The type of backflow assembly required for fire sprinkler applications shall be a Reduced Pressure Detector Assembly (RPDA).

Only State of Oregon Department of Human Services and Portland Bureau of Water Works approved assemblies may be installed. Applicable backflow assembly installation requirements shall comply with both the Oregon Administrative Rules Chapter 333 and City of Portland Bureau of Water Works Title 21.

All plumbing work and materials used in association with the installation of a required backflow assembly on a potable water service line, shall be installed in accordance with the Oregon State Plumbing Specialty Code, Title 25 and this Chapter. All applicable permits and inspections shall apply except as exempted by other provisions of Title 28.

All backflow assembly installations whether installed on potable or non-potable water service lines shall be subject to inspection and approval by the Bureau of Water Works.

Backflow assemblies installed on service connections to floating structures that were installed before January 1, 2008 and are not on the State of Oregon Department on Human Services approved list of assemblies shall be allowed to remain in service as long as:

1. The type of assembly is commensurate with the degree of hazard as outlined in OAR 333-061-0070(6) (2007) and Bureau of Water Works backflow assembly installation requirements under Title 21.
2. The assembly is being properly maintained, tested at least annually and performs satisfactorily.

Assemblies of this type that need to be relocated, require more than minimum maintenance or are on services that are modified, changed size or remodeled shall be replaced with an approved assembly. Additionally, as outlined in Title 21 section 21.12.320 of the City code, approved assemblies may be required to be installed for new construction, where buildings or structures are remodeled, or where tenant improvements are made.

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**CHAPTER 28.09 - MECHANICAL
INSTALLATIONS**

(Amended by Ordinance No. 181437, effective December 21, 2007.) All mechanical work, including but not limited to heating, air conditioning, ventilating, gas piping and woodstoves, shall be designed and installed in accordance with the State of Oregon Mechanical Specialty Code, the State of Oregon Residential Specialty Code, Title 27 and this Chapter. Permits and inspections shall be required for all work except as specifically exempted by Title 28.

Existing mechanical which was lawfully in place in the City of Portland on January 1, 2008 or which was constructed or relocated under a valid permit after that date, shall be grandfathered as provided in Title 28.

TITLE 31 - FIRE REGULATIONS

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(Title replaced by Ordinance No. 180276, effective June 28, 2006.)

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CHAPTER 31.10 - ADMINISTRATION

Sections:

31.10.010	Title.
31.10.020	Purpose and Scope.
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31.10.130	Request for Records.

31.10.010 Title.

The authority established in this Title shall be known as the “Fire Regulations” and may be so cited and pleaded and is referred to herein as “this Title.”

31.10.020 Purpose and Scope.

- A.** This Title shall be deemed an exercise of the police powers of the City for the preservation and protection of the public health, peace, safety and welfare, and all of its provisions shall be liberally construed for that purpose.
- B.** This Title establishes regulations affecting or relating to structures, premises, processes, and safeguards regarding:
 - 1.** The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
 - 2.** Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
 - 3.** Fire hazards in the structure or on the premises from occupancy or operations;
 - 4.** Matters related to the construction, extension, repair, alteration or removal of fire suppression, fire alarm systems and hazardous material storage, dispensing and use.
- C.** The provisions of this Title shall apply equally to both public and private property, and shall be binding upon public officers and employees and all other persons except as may be otherwise specifically provided herein.

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- D.** This Title shall be applicable in addition to the measures of fire prevention as set forth in the laws and regulations of the State of Oregon and the United States. The provisions of this Title, insofar as they are substantially the same as existing titles and/or ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

31.10.030 Definitions.

(Amended by Ordinance Nos. 180917, 181956 and 187748, effective June 17, 2016.)

- A.** “Aerial Luminary Device” (commonly known as a sky lantern) is any device that has an open flame and which can be sent airborne or adrift.
- B.** “Building” is any structure used or intended for supporting or sheltering any use or occupancy.
- C.** “Certificate of Fitness” means a written statement issued by the Fire Marshal certifying that the person to whom the certificate is issued has passed an examination as to his or her qualifications to perform the specifically identified work and that he or she has authority to perform such work during the term specified.
- D.** “Commercial Building” means any structure, tank or yard that is subject to regulation under applicable fire codes. It includes any temporary structure or vehicle that is used for commercial purposes and is not moved for 60 days. It includes occupancies on public and private property as well as on all other types of ownership. It does not include one and two-family residential structures.
- E.** “Entity” includes a corporation, foreign corporation, nonprofit corporation, profit and nonprofit unincorporated association, business trust, estate, partnership, trust, sole proprietorship, individual, two or more persons having a joint or common economic interest, any state, the United States and any foreign government.
- F.** “Fee Schedule” means a listing of fees, penalties, discounts and other payments payable to the City of Portland for services or other requirements set forth in this Title, which is adopted by City Council.
- G.** “Fire Bureau” shall mean Portland Fire & Rescue.
- H.** “Fire Code” means the Oregon Fire Code, 2014 edition, with City of Portland Amendments.
- I.** “Fire Hazard” means any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or which may obstruct, delay, hinder or interfere

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with the operations of the Fire Bureau or the egress of occupants in the event of fire.

- J.** "Fire Regulations" means the statutes and administrative rules adopted by the State of Oregon and the Portland City Code adopted by the Council and the policies adopted under the authority granted under this Chapter to the Fire Marshal which are for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.
- K.** "Key Box", also known as a "lock box", is a secure metal box used to hold keys for a specific site, to provide Fire Bureau personnel access to that site.
- L.** "Occupancy" means the activity in a building or on property outside a building where services or housing are provided or commodities are bought, sold, handled, manufactured or stored. A single business entity with multiple uses or activities in a building as defined by the Oregon Structural Specialty Code is considered one occupancy. Any structure, yard or group of tanks outside a building such as tank farms, moorage and outside storage are considered one occupancy. The definition includes individual businesses within a multiple occupancy commercial building but it does not include individual dwelling units within a multiple residential building. The Oregon Structural Specialty Code shall define classification of all buildings and structures as to use and occupancy.
- M.** "Owner/occupant" means the owner, operator, occupant or entity legally responsible for a premise or the delivery of services or housing, or the buying, selling, handling, manufacture or storage of commodities, and/or the condition of the building.
- N.** "Periodic Inspection" means an inspection performed periodically by a member of the Fire Bureau for the purpose of determining that the entire occupancy is in compliance with the requirements of fire regulations. A "periodic inspection" is also known as a "regular inspection" by the Fire Bureau. It does not include specific requests for inspection.
- O.** "Permit" means a written permission of the Fire Marshal issued pursuant to the provisions of this Title.
- P.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1985, shall be considered as providing ordinary accepted meanings.

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31.10.040 Organization.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** The Fire Bureau shall administer the provisions of this Title unless otherwise specified in this Title.
- B.** The Fire Chief shall be responsible for all fire prevention efforts in the City and for enforcing the provisions of this Title or any subsequent amendments to the same.
- C.** The personnel of the Fire Prevention Division shall consist of a Fire Marshal and as many Deputy Chief Fire Marshals, Fire Captains, Senior Fire Inspectors, Fire Inspectors and other employees as may be allowed and provided by the Fire Chief and City Council. Such personnel may act to enforce provisions of this Title as assigned by the Fire Marshal. The Fire Marshal shall report directly to the Fire Chief.
- D.** There shall be, in the Fire Prevention Division of the Fire Bureau, a section designated as the "Fire and Arson Investigation Unit", which shall be considered a law enforcement unit of the City of Portland. Personnel assigned to this unit shall be designated peace officers, for fire and life safety purposes including determining the cause of fires, for detecting arson, and for enforcing this Code and any other codes, rules or regulations incorporated therein. This unit shall be charged with the enforcement of the criminal laws of the State of Oregon relating to the crimes of arson, reckless burning, insurance fraud, and other related crimes.

31.10.050 Authority.

(Amended by Ordinance Nos. 180514, 181956, 186247 and 187748, effective June 17, 2016.)

- A.** Rules and Regulations. The Fire Marshal, with the approval of the Fire Chief, is authorized to make and enforce such rules, regulations and policies for the prevention and control of fires and fire hazards, as may be necessary to carry out the intent of this Title.
- B.** Adoption of Oregon State Statutes. In order to obtain an exempt jurisdiction status from the State Fire Marshal, in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this title by reference the following provisions of the Oregon Revised Statutes: 162.225, 162.235, 162.375, 162.255, 476.005, 476.010, 476.150 through 476.290, 476.380, 476.715, 479.015 through 479.170, 479.190, 479.195, 479.210 through 479.300, 479.990(6), and all of ORS 480 except 480.350, 480.355, 480.375(2), 480.432 through 480.440.

Where reference is made to the State Fire Marshal in the Oregon Revised Statutes in this Title, the term "City Fire Marshal" shall be substituted for it.

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- C.** Adoption of Oregon State Administrative Rules, Fire Marshal Chapter 837. In order to obtain an exemption in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this Title by reference the following administrative rules adopted by the State Fire Marshal:
- 1.** OAR 837 - Division 12, Public Display of Fireworks in Oregon
 - 2.** OAR 837 - Division 20, Flammable and Combustible Liquids
 - 3.** OAR 837 - Division 30, Liquefied Petroleum Gas, Sections 837-030-0140 through 837-030-0180 and 837-030-0230
 - 4.** OAR 837 – Division 40, Adoption of the Oregon Structural Specialty Code and Mechanical Special Code, Section 837-040-0140
 - 5.** OAR 837 - Division 41, Fire Protection Regulations Relating to Existing Non-Conforming High Hazard Facilities - Exitway Protection
 - 6.** OAR 837 - Division 45, Smoke Detectors

Where reference is made in this Title to the State Fire Marshal in the Oregon State Fire Marshal Administrative Rules, the term "City Fire Marshal" shall be substituted for it.

- D.** Oregon Residential Specialty Code. In order to allow alternative methods of fire protection for the development of one and two family dwellings, the City hereby adopts and incorporates into this Title by reference Oregon Administrative Rule 918-480-0100.
- E.** Adoption of Oregon Fire Code, 2014 Edition. In addition to the provisions of this Title, and as a supplement thereto, in order to regulate those conditions hazardous to life and property from fire or explosion that are not specifically addressed by this Title, the City hereby adopts the 2014 Edition of the Oregon Fire Code with amendments.
- F.** Standards of the National Fire Protection Association. When requested by a building owner, the Fire Marshal may use criteria from an edition of a National Fire Protection Association Standard that is more current than adopted by Chapter 45 of the 2014 Oregon Fire Code.
- G.** When the Oregon State Fire Marshal adopts amended National Fire Protection Association (NFPA) Standards, the Fire Marshal is authorized to enforce the amended standard.

31.10.060 Authority to Require Address Change.

The Fire Marshal is authorized to require a property address change when, in the opinion of the Fire Marshal, the existing address may delay emergency response by emergency service providers.

31.10.070 Citations.

(Amended by Ordinance Nos. 180514 and 181956, effective June 25, 2008.)

- A.** Authority Established. If, after investigation, the Fire Marshal determines that a violation of this Title has occurred, and that the person, entity or owner/occupant committing the violation knew or should have known that the action was in violation of this Title, a citation may be issued to the person, entity or owner/occupant committing the violation. Citable violations include, but are not limited to:
1. Failure to obtain a permit
 2. Failure to adhere to permit conditions
 3. Failure to adhere to assigned occupant load limit in assembly occupancy
 4. Exit blocked, obstructed
 5. Exit corridor or aisle obstructed or width reduced
 6. "Exit" sign missing or not working
 7. Fire extinguisher missing, discharged or wrong type
 8. Firefighting appliance blocked, obstructed or otherwise rendered unusable
 9. Fire alarm device or fire extinguishing system blocked, obstructed or otherwise rendered unusable
 10. Failure to use, maintain, store or secure propane bottle as required by this Title
 11. Performing work that requires a Certificate of Fitness without a valid certificate
 12. Assigning an employee to perform work that requires a Certificate of Fitness without a valid certificate
 13. Parking on a posted fire access road
 14. Blocking or obstructing any fire hydrant or fire department connection

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15. Conducting mobile fueling operation in violation of Fire Code regulations
 16. Possession or use of illegal fireworks
 17. Illegal storage of fireworks
 18. Illegal sale of fireworks
 19. Illegal commercial fireworks display
 20. Illegal occupancy in violation of International Building Code
 21. Burning in violation of Fire Code
 22. Repetitive false alarms in occupancies equipped with fire, smoke and/or water flow detection systems.
 23. Violations that would constitute or contribute to an immediate and/or imminent hazard to life and property
- B.** Each day a person, owner or occupant violates or fails to comply with a provision of this chapter may be considered a separate violation for which a citation may be issued.
- C.** Fines Authorized. Citations shall result in monetary fines as set forth in Fee Schedule adopted by City Council. Fines may escalate for two or more occurrences of the same or similar violations by the same person, owner or occupant within a four-year period. Fines may escalate for failure to pay within 30 days of issuance. The Fire Marshal may suspend 1/2 of any citation fine, providing the person, owner or occupant cited agrees in writing to immediately cease and/or abate the violation. If the person, owner or occupant is found to be in violation of the same or similar violation within a four year period, the original fine may be reinstated and shall be in addition to any other fine authorized by this title.
- D.** Citation Process. Citation shall be delivered as would reasonably be expected to provide notice, including in person, by certified mail or posted conspicuously on property. Citation shall include:
1. Name and address of person, owner or occupant being cited
 2. A description of the property where the violation occurred
 3. Date(s) of the violation
 4. Reference to the particular code(s) violated

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5. A statement explaining actions required of person, owner or occupant being cited
6. A statement of applicable monetary penalty, and
7. A statement of the right to appeal the citation

31.10.080 Appeals.

A. Standing for Appeals. The following persons, owners or occupants, herein called appellants, may submit an appeal as described in this Title:

1. Any person, owner or occupant who has been ordered by the Fire Marshal to incur any expense under any provision of this Title;
2. Any person, owner or occupant who has been cited by the Fire Marshal for violation of any provision of this Title;
3. Any person, owner or occupant whose application for a permit or approval under this Title has been refused by the Fire Marshal;
4. Any person, owner or occupant whose special case is not specifically covered by this Title.

B. Board of Appeals. The Fire Code Board of Appeals, having been established, is hereby continued.

1. The Board shall consist of three members, and an alternate for each member. Each member and alternate shall serve a term of three years. The Mayor shall appoint and may remove any member or alternate from the Board at any time.
2. Board members and alternates must by experience and training in building construction, building operations or fire protection systems, be qualified to pass on the provisions of this Title as they affect the interest of the City as a whole. No two members or alternates shall be engaged in the same business, profession or occupation. No member or alternate shall be an officer, official or employee of the City.
3. No member or alternate shall hear or act on a matter in which he or she has any interest, direct or indirect, pecuniary or otherwise. In the event of such an interest, the member's alternate shall hear and determine the matter.
4. The Board annually shall elect a Chairman from among the three members of the Board. Meetings of the Board shall be held at the call of the Chairman, who shall call meetings at the Fire Marshal's request.

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C. Appeal Procedure.

1. Appellant shall serve written notice of appeal on the Fire Marshal no more than ten days after the Fire Marshal's order or action. The notice of appeal shall be in such form as specified by the Fire Marshal, and shall be accompanied by appeal fee.
2. The Fire Marshal may approve, approve with conditions or deny the requested relief. The decision of the Fire Marshal, with a brief statement for its basis, shall be transmitted to the appellant in writing. If the appellant is not satisfied with the decision, the appellant may, within ten days after notice, serve written notice on the Fire Marshal requesting a hearing before the Fire Code Board of Appeals.
3. The Fire Marshal shall transmit copies of the notice of appeal to the Board of Appeals and to the Commissioner-in-Charge. Not less than 10 days prior to the date of the hearing, the Board shall mail notice of the date, time and place of the hearing to the appellant, by certified mail, return receipt requested.
4. After the hearing, the Board may by a majority vote, affirm, annul or modify the action of the Fire Marshal provided any modification of a strict application of this Title shall be made only on condition that a substantially equivalent degree of safety is provided and is generally conforming to national standards concerning fire prevention, fire safety measures and building construction requirements for safety. The decision of the Board interpreting the provisions of this Title may be by a majority vote of the Board. The Board shall deliver a certified copy of its decision to the appellant.
5. Where unquestionably and clearly, practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of this Title may result from the literal interpretation and enforcement thereof, the Board of Appeals may grant variances from this Title, in a specific case with such conditions and safeguards as the Board may determine, in harmony with the general purpose, intent and spirit of this Title, so that the public safety and welfare shall be secured and substantial justice shall be done. The grant of a variance shall be by unanimous vote of the Board.
6. The Board of Appeals shall submit to the Council on or before the first day of August of each year a report summarizing its decisions for the preceding fiscal year together with its recommendations for amendments to this Title.

31.10.090 Remedies.

In enforcing any of the requirements of this Title, the Fire Marshal may gain compliance by:

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- A. Instituting a proceeding before the Code Hearings Officer as set out in Title 22 of the City Code; or
- B. Causing appropriate action to be instituted in a court of competent jurisdiction; or
- C. Taking such other action as the Fire Marshal, in the exercise of the Fire Marshal's discretion, deems appropriate.

31.10.100 Waivers and Adjustments.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. Commissioner-in-Charge of the Fire Bureau is authorized to waive any fees, fines and penalties in this Title based on guidelines established by the Commissioner. The authority to waive fees, fines and penalties based on the established guidelines may be delegated to the Fire Marshal.
- B. At the discretion of the supervisor in charge of customer accounts, account balances may be zeroed out if that balance represents only residual unpaid principal, interest or penalties.

31.10.110 Collections.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. The City may bring legal action to collect any fee, fine, penalty or interest provided for in this Title and assessed by a Fire Bureau member.
- B. Accounts with amounts 91 days or more past due will be handled according to the collection policy established by the Fire Bureau; this may include use of a professional collection agency. Fees imposed by collection agency may be added onto the current fee liability of the account. Invoices returned by the U.S. Postal Service as "refused" or payments returned by a financial institution for insufficient funds will be considered delinquent and subject to immediate collection actions.

31.10.120 Rewards.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A. Fund Authorized. The Fire Chief, in consultation with the Commissioner-in-Charge, is authorized to establish a reward fund to assist with investigations of violations of this Title. Such fund may include up to \$1000 of Bureau budget allocations as well as donations from individuals, businesses and non-profit organizations.
- B. Reward Fund Disbursements. The Fire Marshal may, in consultation with the Fire Chief and Commissioner-in-Charge:
 - 1. Contribute funds to other public agencies or non-profit organizations to facilitate the investigation of specific arson crimes;

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- 2.** Offer and disburse rewards directly to individuals, except as limited by this Title, who have assisted with the investigation or prosecution of a violation of this Title.
- C.** A reward under the provisions of this Code shall not be paid to any United States, State, County, or municipal officer or employee. Bounty hunters are not entitled to rewards under this Chapter.

31.10.130 Request for Records.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** Upon written application, under the Public Records Law, accompanied by the fee adopted by the City Council, the Fire Marshal may furnish copies of fire incident reports, non-confidential fire investigation reports, fire prevention inspection reports and other bureau-related information. If there is no copy on file, the fee will not be refunded.
- B.** Nothing in this section shall be construed as applying to any City, County, State or Federal agency, or subdivision thereof, or any nationally recognized nonprofit agency engaged in the suppression or prevention of fire.

**CHAPTER 31.20 - GENERAL
REQUIREMENTS**

Sections:

31.20.010	Authority at Fires or Other Emergencies.
31.20.020	Eliminating Fire Hazards.
31.20.030	Violator Assumes Costs.
31.20.040	Fire Marshal Authorized to Abate Hazard and Assign Costs.
31.20.050	Fire Marshal Authorized to Require Building Alterations.
31.20.060	Unsafe Buildings.
31.20.070	Temporary Fire Watch.
31.20.080	Authority to Establish Fire Escape Maintenance and Removal Standards.
31.20.090	Authority to Require Key Boxes and Charge Installation Fee
31.20.100	Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.
31.20.110	Certificates of Fitness.
31.20.120	Use of Helicopters.

31.20.010 Authority at Fires or Other Emergencies.

A. The Fire Marshal or any of his or her assistants, the Fire Chief, or any member of the Fire Bureau in charge of fire fighting at a fire, or the Chief of Police or any member of the Police Bureau in charge of police officers attending a fire, may immediately, summarily and without being required to give any notice whatsoever

- 1.** Cause the use and/or occupancy of all or any portion of a building or structure which is found to be in danger of fire resulting from the spread of an existing fire to be discontinued;
- 2.** Close said building or structure or part thereof during such period of danger;
- 3.** Prevent the use and occupancy thereof.

Such officer may use such force as he or she may find reasonably necessary to protect human life. It is unlawful for any person to refuse to leave such building, structure or portion thereof when ordered to vacate the same under authority of this Section.

B. The Fire Chief or the Fire Chief's authorized representatives shall be in charge of the scene of any emergency involving the saving of life and/or property from fire or other disaster, emergency medical services, hazardous materials incidents, or other emergency aid and shall have the power and authority to direct such operation as may be necessary in the reasonable performance of their duty.

31.20.020 Eliminating Fire Hazard.

Any owner/occupant, using or having charge or control of any premises, or any part of any premises, who creates or maintains a condition, or situation which constitutes a fire or life

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safety hazard, or who fails to promptly comply with the written notice of the Fire Bureau, shall be deemed guilty of violating this Title.

31.20.030 Violator Assumes Costs.

If a violation of this chapter results in or contributes to any emergency, including a fire, the violator may be civilly liable for the full cost of the emergency response as well as cleanup costs. The Commissioner-in-Charge of the Fire Bureau shall fix the amount of such expense. The amounts of all such charges assessed pursuant to this Section shall be paid to the City Treasurer, for deposit into the general fund of the City.

31.20.040 Fire Marshal Authorized to Abate Hazard and Assign Costs.

Where the Fire Marshal or Fire Bureau official in charge of the incident deems conditions exist that are deemed hazardous to life and property, except as limited by this Title, he/she is authorized to abate summarily such hazardous conditions that are in violation of this Title. Any costs associated with such summary abatement shall be charged against the property using the procedure provided for in City Code Chapter 22. The owner, occupant or other person in charge shall be immediately notified of the action taken and ordered by the Fire Marshal to secure the premises in full compliance with this Title.

31.20.050 Fire Marshal Authorized to Require Building Alterations.

Whenever the Fire Marshal finds that the means of egress from a building or portion thereof, or that the means of preventing the origin or spread of fire or of extinguishing fire in any building or portion thereof, are insufficient or inadequate, the Fire Marshal is hereby authorized and empowered to direct and require that any such building or portion thereof be rearranged, altered, or repaired to be sufficient and adequate in such respects.

31.20.060 Unsafe Buildings.

- A.** Notwithstanding the mandatory directives to the Fire Marshal contained in this subsection, the Fire Marshal may, in the exercise of his authority, and in lieu of ordering the vacation of such building or structure, impose alternative interim measures, including, but not limited to, the imposition of a fire watch as established in this Title, when, in the opinion of the Fire Marshal, such interim measures will reduce such hazard so that it is no longer imminently dangerous so that persons may temporarily occupy such building or structure until such hazard has been abated.
- B.** The owner, the owner's agent, or the occupant shall reimburse the City for any expenditures used in precautionary measures under this Section; or such expenditures shall be included as an additional item and be spread as an assessment against the property.
- C.** If a building or structure used for low income multi-family housing is found to be imminently dangerous, as set forth in this Title, the Fire Marshal shall not cause the use and/or occupancy of the building or structure to be discontinued immediately, but shall report the matter to the Commissioner-In-Charge who shall report the

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matter to the Council for consideration of rehabilitation and repair by the City, provided that the Fire Marshal, in the exercise of his discretion, finds that interim measures, including but not limited to a fire watch, will reduce the hazard so that it is no longer imminently dangerous.

31.20.070 Temporary Fire Watch.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** In order to avoid relocating persons from, or the vacation of, any structure, place of business or place of habitation that is imminently dangerous, as described in this Title, the Fire Marshal or senior fire officer may, if he determines that a reasonable level of fire and life safety can be obtained, order the owner/occupant to provide either a licensed, bonded security agency or other means approved by the Fire Bureau, to perform as a fire watch, making periodic patrols, as designated by the Fire Bureau, as a condition of allowing continued occupancy. If such patrols are not available or cannot be established as ordered by the Fire Marshal or senior fire officer, or if owner/occupant is unavailable, or if owner/occupant does not comply with such orders of the Fire Bureau, then the Fire Marshal or senior fire officer may:
- 1.** Order off duty Fire Bureau personnel back to duty to provide the fire watch patrol, or
 - 2.** Contract with a licensed, bonded security company to provide such service
- B.** The owner /occupant shall be responsible for paying all costs incurred by the Fire Bureau to the City Treasurer, who will reimburse the Fire Bureau's budget for this expense. If such costs are not paid within 30 days of billing, an assessment shall be made by ordinance and entered in the docket of City liens. Such entry shall constitute a lien upon the property and collected in all respects as provided for in this Title, and shall bear interest at the rate of 9 percent per year from 10 days after the date of entry into the lien docket.

31.20.080 Authority to Establish Fire Escape Maintenance and Removal Standards.

(Amended by Ordinance No. 187748, effective June 17, 2016.) The Fire Marshal is authorized to develop and enforce standards for the maintenance and removal of fire escapes in accordance with provisions of the 2014 Oregon Fire Code.

31.20.090 Authority to Require Key Boxes and Charge Installation Fee.

The Fire Marshal is authorized to require the installation of a key box in or on a building or area when access to or within the building or area may be difficult for firefighting purposes. The Fire Marshal may charge a fee for installation of a key box, regardless of whether the installation is mandatory or voluntary.

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31.20.100 Maintenance of Fire Protection Systems in Five-Story Apartment Buildings.

(Amended by Ordinance No. 181956, effective June 25, 2008.) The owners of five-story apartment buildings of Type V-A construction approved under City Code Section 24.95 shall be responsible for assuring that the fire and life-safety systems required by the City Code Section 24 are maintained in an operable condition at all times. Approved persons shall conduct quarterly tests of such systems; a written record shall be maintained and be available to the inspection authority, unless otherwise required by the Fire Chief.

31.20.110 Certificates of Fitness.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** A Certificate of Fitness shall first be obtained from the Fire Marshal before doing any of the following:
 - 1.** Automatic sprinkler system installation, alteration, testing, service or repair;
 - 2.** Fire extinguisher refilling, service or repair;
 - 3.** Fixed fire extinguishing systems installation, alteration, testing, service or repair;
 - 4.** Privately owned fire mains or hydrant systems installation, alteration, testing, service or repair;
 - 5.** Commercial cooking hood and duct system cleaning.
- B.** When an applicant has successfully complied with regulations administered by the Fire Marshal, and upon receipt of the first annual fee as specified in the fee schedule adopted by City Council, the Fire Marshal shall issue a Certificate of Fitness to the applicant. The Fire Marshal shall issue subsequent annual Certificates of Fitness on payment of an annual fee, unless the certification has lapsed, been suspended or been revoked.
- C.** Each Certificate of Fitness issued shall remain valid and in effect for one year from the date of issue unless suspended or revoked for due cause by the Fire Marshal. The certificate shall not be transferable.
- D.** It is unlawful for any person firm or corporation to assign an employee or other person to perform any of the activities regulated by this Chapter unless such employee or person is certified, or working under an on-site supervisor who is certified.
- E.** Whenever the Fire Marshal determines after investigation that any person holding a Certificate of Fitness as provided herein has performed work so as to create a hazard to life or property, the Fire Marshal is authorized and empowered to suspend or revoke the Certificate of Fitness. Notice shall be given of the suspension or

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revocation and the reasons for the suspension or revocation shall be identified in the notice.

- F.** The Fire Marshal may issue a citation to firms or corporations in violation of this Chapter.
- G.** Any person, firm or corporation so affected may appeal such suspension, revocation or citation as provided in this Title.
- H.** Once a Certificate of Fitness has been revoked, an applicant shall reapply, meet the requirements of certification and pay fees for a new Certificate before performing work on equipment requiring a Certificate. The Fire Marshal may delay issuance of new Certificate for up to 90 days following revocation.

31.20.120 Use of Helicopters.

Notwithstanding any other provisions of this Code, the Fire Bureau may use and land helicopters any place within the City, subject to Federal and State regulations for the purpose of training Fire Bureau personnel and helicopter operators in fire suppression techniques and disaster relief procedures and for the purpose of conducting disaster relief drills subject to the consent of the property owner or in the case of City property, the director of the affected bureau.

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**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.

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.

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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 Nos. 181956 and 187748, effective June 17, 2016.)

- 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.
- D.** Work or activity without a Permit. Whenever any work for which a permit is required by this Title has commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Title nor from any penalty prescribed by law.
- E.** Work and Equipment Requiring Permits. Except for one and two-family dwellings, unless otherwise specified, permits and associated fees are required:

 - 1.** To install, alter, repair or remove,

 - a.** Automatic sprinkler systems and standpipes or equipment pertaining thereto
 - b.** Fixed extinguishing systems or related equipment

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- c.** Fire alarm systems or equipment pertaining thereto
 - d.** Pre-manufactured paint spray booths or related equipment
 - e.** Private fire hydrants or related piping or devices
 - f.** Liquefied natural gases (LNG), liquefied petroleum gases (LPG) or compressed natural gas (CNG) of 100 gallon water capacity or more
 - 2.** To install containers, piping and related equipment for the manufacture, storage, handling or use of compressed gases.
 - 3.** To install, alter or remove tanks and related equipment used for storage, handling, transport or use of flammable or combustible liquids or hazardous materials as defined in the Fire Code.
 - a.** Exception: Fuel supply for portable generators outside of buildings, limited to 60 days on a single premises during a 12 month period.
 - 4.** To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of any equipment or piping in connection with the manufacture, storage, handling, use or sale of flammable or combustible liquids or hazardous materials.
 - 5.** To change the type of contents stored in tanks containing flammable or combustible liquids or hazardous materials to a material other than that for which the tank was designed and constructed.
 - 6.** Heating Oil Tank Decommissioning. When requested by an owner for the purposes of documenting the decommissioning of a commercial or a one or two-family residential underground heating oil storage tank, a permit may be issued and an inspection made after payment of a fee in the amount specified in adopted Fee Schedule.
 - 7.** To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of any stationary tank, equipment or piping containing liquefied petroleum gas (LPG) in one and two family dwellings.
- F.** Permit Applications.
 - 1.** Applications for permits shall be made by the owner or authorized agent to the Fire Prevention Division in such form and detail as prescribed by the Fire Bureau. The application shall be accompanied by:
 - a.** Sufficient plans, specifications, and engineering data to verify that the proposed activity or design complies with applicable codes, standards and regulations. When the applicant fails to provide

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adequate specifications and plan detail, the Fire Marshal may require additional information including all submittals to be prepared by an architect or engineer registered in the State of Oregon.

- b.** Payment as set forth in Fee Schedule adopted by City Council.
- c.** Exception: When the installation of a fire protection system is not required but is voluntarily installed, but not as an alternative to another requirement, the fees specified in the Fee Schedule shall be reduced by 50%.

- 2.** Any permit issued under this Title shall be personal to the party for whom it has been issued.

G. Voiding, Revocation or Suspension of Permit.

- 1.** Any permit that purports to sanction a violation of this Title or any applicable law or regulations shall be void and any approval of plans and specifications in the issuance of such permit shall likewise be void.
- 2.** After an administrative hearing by the Fire Marshal, any such permit may be suspended or revoked under the following conditions:
 - a.** It is transferred or assigned to a party other than the party to whom the permit was issued;
 - b.** It is used for a location other than that for which it was issued;
 - c.** Approved plans, conditions or limitations set forth in the permit have been violated;
 - d.** The permittee fails, refuses, or neglects to comply with any order or notice duly served under the provisions of this Title;
 - e.** The permitted work was initiated without the owner's or other governmental agency's consent;
 - f.** Work has not begun within 180 days of permit issuance;
 - g.** Work, once commenced, has not progressed for a period of 90 days.
 - h.** Payment for the permit has been returned or refused by the paying agent.
- 3.** Any permit may be suspended for up to three business days without a hearing if the Fire Marshal finds that a fire hazard exists or there has been

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any false statement, misrepresentation or omission as to a material fact, or change in condition from those stipulated in the application or plans upon which the permit was based. The permittee shall be given notice of the precise violations.

4. A permittee whose permit has been revoked or suspended may appeal the action as provided in this Title. The permit shall remain valid, pending the decision of the Board of Appeals.

31.30.050 Additional Permit Requirements.

- A. Plan Review. Plans for construction, alteration, repair, or other work involving or affecting the fire and life safety features of any building regulated by the Fire Marshal shall be reviewed by representatives of the Fire Prevention Division prior to issuance of the building permit.
- B. Inspection of Permitted Work. All construction, work, or activity for which a permit is required shall be subject to inspection by the Fire Marshal. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Fire Marshal nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.
- C. Inspection Requests. It shall be the duty of the person doing the work authorized by a permit to notify the Fire Marshal that such work is ready for inspection. The Fire Marshal may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing, by telephone, or by other means at the option of the Fire Marshal. Upon inspection the fire Marshal may require corrections. It shall be the duty of the permit applicant requesting an inspection to promptly comply with the written notice of corrections required by the Fire Marshal as a condition of the permit. A fee may be charged for re-inspections when the work is not ready for the requested inspection.
- D. Inspection Record Card. Work requiring a permit shall not be commenced until the permit holder or his agent shall post an inspection record card in a conspicuous place on the premises which allows the Fire Marshal to conveniently make the required entries regarding the work. This card shall be maintained as described until final approval of permitted work has been granted by the Fire Marshal.

31.30.060 Special Inspections.

When inspections are requested or required outside of normal working hours to verify compliance with approved plans or permits, an hourly fee shall be paid as set forth in fee schedule adopted by City Council, with a minimum charge of four hours.

31.30.070 Expiration of Plan Review.

Applications shall expire by limitation when no permit is issued within 180 days following the date of application due to incomplete information or failure to provide requested corrections. In such cases plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Fire Marshal. The Fire Marshal may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

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CHAPTER 31.40 - SPECIAL USE PERMITS

Sections:

- 31.40.010 Permits and Fees Required.
- 31.40.020 Activities Requiring Temporary Permits.
- 31.40.030 Applications.
- 31.40.040 Inspection of Permitted Work.
- 31.40.050 Revocation and Suspension of Permits.
- 31.40.060 General Requirements for Explosives, Blasting Agents, Pyrotechnics and Fireworks.
- 31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.
- 31.40.080 Additional Requirements for Blasting Activities.

31.40.010 Permits and Fees Required.

It is unlawful for any person or entity to use a building or premises or to engage in any activities for which a permit is required in this Title without first obtaining such permit from the Fire Marshal. In instances where laws or regulations are enforced by other agencies, joint approval shall be obtained.

All permits issued under this Title shall be presumed to contain the provision that the applicant or the applicant's agents shall carry out the proposed activity in compliance with all the requirements of this Title and any other Federal and State laws and City regulations, and other design guidelines as adopted by City Council that apply, whether specified or not, and in complete accordance with the approved plans and specifications.

A permit issued under this Title shall continue until revoked or for such a period of time as designated therein at the time of issuance. It shall not be transferable and any change in use, occupancy or operation shall require a new permit.

31.40.020 Activities Requiring Temporary Permits.

(Amended by Ordinance Nos. 181956 and 187748, effective June 17, 2016.)

A. Temporary permits and associated fees are required for:

1. Festivals, celebrations and special events of a temporary nature where occupant load of 500 or more people as calculated by the Fire Marshal, in an assembly building without fixed seating
2. Gatherings of 50 or more people for civic, social, recreational or religious functions in structures not approved for assembly use
3. Use of tents or membrane structures with sides and/or fencing on greater than 75% of the perimeter with a calculated occupant load of 50 or more
4. Gatherings of 50 or more people that are fenced on four sides

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5. Trade shows with gatherings of fewer than 500 people when, in the opinion of the Fire Marshal, conditions warrant additional safety precautions
6. Display of four or more motorized vehicles in a building when not associated with a permitted event
7. Fire performance and theatrical firearms, including but not limited to use of blanks or use of open flame associated with a live performance
8. Storage or use of liquid propane (LP) gas in excess of 17 ounces
9. Temporary use of LP gas within buildings in excess of the amounts allowed by this Title
10. Storage or use of LP gas in outdoor markets with gatherings of 50 or more people
11. Use of lasers that require a Federal variance
12. Pyrotechnic special effects, other than fireworks
13. Public fireworks display
14. Retail sales of fireworks
15. Blasting
16. Transportation of explosives
17. When cutting or welding is performed in restricted areas, including:
 - a. Where the sprinkler system is impaired
 - b. Where there exists the potential of an explosive atmosphere, such as locations where flammable gasses, liquids or vapors are present
 - c. Areas with readily ignitable materials, such as storage of large quantities of bulk sulfur, baled paper, cotton, lint, dust or loose combustible materials
 - d. On board ships at dock or ships under construction or repair
 - e. At other locations as specified by the Fire Marshal
18. To place and use roofing kettles on any surface above grade.

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19. To conduct a spraying or dipping operation using flammable or combustible liquids or the application of combustible powders regulated by the Fire Code outside of a permitted spray booth or room.

B. Annual Permits.

1. An annual permit and associated fee is required for permanent installation of 90 days or more of LP gas containers greater than 25 gallons WC or 100 lbs.
2. Any commercial occupancy that allows fire performance art shall obtain an annual permit.
3. Any assembly occupancy with an occupant load of 500 or greater and a maximum floor space of 20,000 square feet may apply for an annual permit for up to four pre-approved floor plans. The floor plan(s) must include detailed information regarding exiting, stage set-up and set-up of fixtures and furnishings. If approved, the annual permit may substitute for individual permits providing there is no deviation from the approved plan.

Exceptions:

- a. Any exiting, stage or floor plan that deviates from a pre-approved plan requires an individual permit with associated fee.
- b. Any plan that includes booths or vendors requires an individual permit with associated fee.
- c. Any annual permit may, at the discretion of the Fire Marshal, be revoked for cause.

31.40.030 Applications.

- A. Applications for permits shall be made to the Fire Prevention Division in such form and detail as prescribed by the Fire Bureau. The application shall be accompanied by payment as set forth in Fee Schedule adopted by City Council. Applications for the permit and required plans shall be submitted for approval not less than two weeks prior to the event or the commencement of advance ticket sales, whichever occurs first. Applications submitted less than one week prior to the event shall be charged double the permit fee set forth in the Fee Schedule.
- B. The application for the permit shall state the name, address and telephone number of the owner or party legally occupying the building or premises on which the activity will be conducted. The application shall be accompanied by the written permission of the owner or legal occupant, signed by a person with authority to do so, authorizing the applicant to carry on the activity described in the application, in the building or on the premises described.

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- C. When required by the Fire Marshal, sufficient plans, specifications, and engineering data must be submitted for the purpose of verifying that the proposed activity or design complies with applicable codes, standards and regulations. When the applicant fails to provide adequate specifications and plan detail, the Fire Marshal may require additional information including all submittals to be prepared by an architect or engineer registered in the State of Oregon.
- D. The Fire Marshal may refuse to issue a permit if the applicant has unpaid fees for prior permits or unpaid citations.

31.40.040 Inspection of Permitted Work.

All activity for which a permit is required shall be subject to inspection by the Fire Marshal. An approved set of plans and the permit shall be kept at the event site. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the Fire Marshal nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

31.40.050 Revocation and Suspension of Permits.

- A. Any permit that sanctions a violation of this Title or any applicable law or regulations shall be void and any approval of plans and specifications in the issuance of such permit shall likewise be void.
- B. Any permit issued under this Title may, after an administrative review by the Fire Marshal, be suspended or revoked under the following conditions:
 - 1. It is used by a person other than the person to whom the permit was issued;
 - 2. It is used for a location other than that for which it was issued;
 - 3. Approved plans, conditions or limitations set forth in the permit have been violated;
 - 4. The permittee fails, refuses, or neglects to comply with any order or notice duly served under the provisions of this Title;
 - 5. The permitted work was initiated without the owner's or other governmental agency's consent;
 - 6. The Fire Marshal finds that a hazard other than that anticipated in the permit approval exists, or there has been a false statement, misrepresentation or omission as to a material fact, or a change in condition from that stipulated in the application or plans upon which the permit was based.
 - 7. Payment for the permit has been returned or refused by the paying agent.
- C. The Fire Marshal may, as an alternative remedy, suspend the permit:

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1. For the first offense in any two-year period, revoke the permit for one day and/or performance, or until the condition is corrected;
 2. For the second offense in any two-year period, revoke the permit for three days and/or performances, or until the condition is corrected;
 3. For the third offense in any two-year period, revoke the permit for fifteen days and/or performances;
 4. For the fourth and subsequent offenses in any two-year period, revoke the permit for 30 days and/or performances.
- D.** The City shall not be responsible for any losses arising from the permit suspension or revocation.

31.40.060 General Requirements for Explosives, Pyrotechnics, Blasting Agents and Fireworks.

- A.** The applicant shall follow all federal, state, county and city laws and regulations applicable to obtaining, owning, transporting, storing, handling and using explosive materials in addition to obtaining all blasting permits required and issued by the City. The Fire Marshal may adopt policies and procedures consistent with these regulations for the purpose of protecting the public, providing safety to life and property and to assure consistent practices in enforcement and administration of these requirements.
- B.** Shipments at Terminals.
1. Carriers shall immediately notify the Fire Marshal when explosives, pyrotechnics, blasting agents or fireworks are delivered within the City. Carriers delivering such cargo at a waterfront terminal shall also notify the Harbor Master of such delivery.
 2. Carriers of explosives, pyrotechnics, blasting agents or fireworks for delivery within the City shall immediately upon arrival at the destination notify the consignee or the consignee's agent of the arrival of the cargo. The consignee or the consignee's agent shall, within 24 hours after the arrival of the cargo in the City, move the cargo outside the City or to a storage facility within the City approved by the Fire Marshal. Upon a showing of extreme hardship and minimal risk of danger to life and property, the Fire Marshal may extend the 24 hour period. If, after notification, the consignee or the consignee's agent does not move the cargo as specified above and within the time specified above, the carrier shall so notify the Fire Marshal, who shall instruct the carrier as to the disposition of the cargo.

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3. No explosives, pyrotechnics, blasting agents or fireworks awaiting further shipment to destinations outside the City shall be held at a terminal within the City for more than 24 hours unless under direct order of the Fire Marshal.

C. Transportation by Water.

1. All explosives, blasting agents, fireworks and pyrotechnics transported from land to water or from water to land are subject to regulation under applicable provisions of this Chapter and Portland City Code 19 "Harbors" and shall be subject to supervision by the Harbor Master with regard to loading, unloading and handling on any waterfront facility in the City. The Harbor Master shall notify the Fire Marshal when any vessel having explosives, blasting agents, pyrotechnics or fireworks on board enters the City limits.
2. The party with legal custody shall provide adequate security of explosives, blasting agents, pyrotechnics and fireworks during the time that they are held at any waterfront facility.

31.40.070 Additional Requirements for Sale, Use and Possession of Fireworks and Pyrotechnics.

(Amended by Ordinance No. 187748, effective June 17, 2016.)

- A. It is unlawful to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks, aerial luminary devices or pyrotechnics within the City, except as specified by ORS 480.120. For the purpose of this Chapter, the Fire Marshal of the City is recognized as an ex-officio Deputy State Fire Marshal as provided by State statute.
- B. All permitted public fireworks displays may be supervised and controlled by the Fire Chief, acting by and through the Fire Marshal.
- C. Violations - The Fire Marshal is authorized to receive for storage or transfer explosives, blasting agents, pyrotechnics or fireworks obtained by law enforcement officers or others. The Fire Marshal shall confiscate, remove, or have removed at the owner's expense, all stocks of fireworks or other combustibles exposed for sale or held in stock in violation of this Title, and may destroy same, when the Fire Marshal finds such measures necessary for the preservation of the public safety.

31.40.080 Additional Requirements for Blasting Activities.

- A. A blasting permit is required for every individual project requiring blasting. It shall be a violation of this Title for any person or entity to do any of the following without first obtaining a permit from the Fire Marshal.

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1. be in possession of high explosive materials, as defined by the adopted fire code;
 2. transport explosives;
 3. conduct an operation or activity requiring the use of explosive materials; or
 4. perform, order or supervise the loading and firing of high explosive materials for the purpose of blasting.
- B.** Certificate of Insurance. The applicant shall provide a certificate of liability insurance to include X, C, U coverage in a form to be approved by the City:
1. In an amount not less than one million dollars (\$1,000,000), or
 2. Such additional amount as may be reasonable under all of the circumstances then existing as determined by the Fire Marshal.

The certificate of insurance shall state on its face that the underlying liability insurance policy includes coverage for and indemnification of the City, its officers, agents (including any blasting consultant in the employ of the City, and any employees of such blasting agent) as additional insured, against any claims brought by owners of any property for loss or damage that resulted from such blasting and coverage to indemnify, hold harmless and defend the City, its officers, agents, and employees in and from any cost, attorney's fees or judgments arising in any way from the actions of the permittee as a result in whole or in part from the blasting. The certificate shall also state that the insurance company must give the City a minimum of 10 days' notice of cancellation of the required liability insurance coverage. Notice shall include notice to the Fire Marshal.

- C.** Additional Permissions.
1. A valid Certificate of Possession from the Bureau of Alcohol, Tobacco and Firearms must be obtained prior to issuance of a permit.
 2. High explosive materials shall not be transported, sold, given, delivered, or transferred to anyone in the City not in possession of a valid blasting permit.
 3. Permits for blasting projects in a public right-of-way or adjacent to a public right-of-way when the blast may affect operation of the right-of-way shall not be issued unless approved by other City Bureaus or other public agencies as deemed appropriate by the Fire Marshal.
- D.** City Assumes No Liability. By the passage of the ordinance codified in this chapter or the issuance of any permit under this chapter, the City assumes no responsibility for any damage caused by the person or entity blasting within the City.

CHAPTER 31.50 - BUILDING INSPECTIONS

Sections:

- 31.50.010 Purpose and Scope.
- 31.50.020 Organization.
- 31.50.030 Process.
- 31.50.040 Administrative Warrants.
- 31.50.050 Fees Authorized.

31.50.010 Purpose and Scope.

The Fire Marshal shall establish a program for the periodic inspection of all occupancies of commercial buildings for compliance with the fire regulations. The Fire Marshal shall adopt a policy regarding the frequency, priority, and type of inspection of occupancies in commercial buildings subject to the availability of budgeted funds and staff. The Fire Marshal or the Fire Marshal's designees may, at all reasonable hours, enter into all buildings and upon all premises, except private residences, to conduct an inspection to determine if fire hazards exist.

31.50.020 Organization.

The Fire Marshal shall establish minimum qualifications of individuals performing inspections. Individuals may be members of the Fire Prevention Division, members of other Divisions within the Fire Bureau, members of other public agencies operating under an interagency agreement, or employees or individuals working under contract with the Fire Bureau.

31.50.030 Process.

- A.** Prior to a periodic inspection, each owner/occupant shall be sent a letter by first class mail, giving notice of the inspection and listing commonly found violations of fire regulations. Failure to correct the common violations listed in the letter shall result in an additional fee for each class of violation.
- B.** When a periodic inspection reveals a violation of fire regulations, the Fire Marshal shall so notify the owner/occupant and the owner/occupant shall be responsible for immediately abating the violation. Failure to abate the violation as prescribed by the Fire Marshal shall result in additional penalties as set forth in a fee schedule adopted by City Council.

31.50.040 Administrative Warrants.

(Amended by Ordinance No. 181956, effective June 25, 2008.) Where entry for the purpose of periodic inspection or investigation has been sought and refused, or an inspection or investigation may, in the opinion of the Fire Marshal, be jeopardized without an inspection warrant, the Fire Marshal may seek and execute such warrant as allowed under the provision of ORS 476.155 through 476.170.

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31.50.050 Fees Authorized.

(Amended by Ordinance No. 181956, effective June 25, 2008.)

- A.** There shall be an inspection fee payable by the building owner/occupant for all periodic inspections as well as inspections requested by the owner/occupant. The building owner will be billed in situations where the occupant shows the Fire Marshal a lease agreement or some other legal arrangement with the building owner which places the responsibility for fire inspection and the payment of fees on the building owner.
 - 1.** Exception: Inspections of primary and secondary schools and nonprofit hospitals buildings with an Oregon State Structural Code occupancy designation of I – 2 (Hospitals), shall be exempt from all fees except illegal occupancy, violation and reinspection fees.
- B.** Fees for periodic inspections, reinspections, violations and penalties shall be set forth in a fee schedule adopted by City Council. All fees shall be paid to the City Treasurer within 30 days of the invoice date and shall be considered delinquent after that date. A penalty shall be assessed if a person fails to pay the fee when due.