

Purpose of Establishing Prohibited Conduct.

The purpose of these rules is to preserve pedestrian plazas areas as defined by the Portland Bureau of Transportation (PBOT) for the enjoyment, safety, comfort and convenience of the public and to enhance the orderly administration of the pedestrian plazas, by prohibiting conduct that unreasonably interferes with the administration and lawful use of the pedestrian plaza. The purpose of this Chapter is not to punish any person for prior conduct, but, rather, to provide civil and non-punitive regulations the Council finds necessary to prevent nuisances and to protect the health, welfare and safety of the public using the pedestrian plazas. Any violation of the provisions of this Chapter is punishable in accordance with these rules.

Soliciting For or Conducting Business.

A. Except as expressly permitted under the terms of a lease, concession or permit, no person shall solicit for or conduct any business in a pedestrian plaza.

B. For purposes of this Section, "solicit for or conduct any business" means:

1. Sell or offer to sell any article or service;
2. Display goods, or descriptions or depictions of goods or services, with the intent to engage any member of the public in a transaction for the sale of any good or service; or
3. Perform or engage in any act with the intent or expectation of receiving payment therefor from any person.

C. Nothing in this Section shall prohibit any act by any Police Officer in the scope of employment or duty, or by any person performing any work on behalf of the City, nor shall this Section be construed to prohibit any act protected under the circumstances by the federal or state constitution.

Unlawful Urination or Defecation.

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

Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.

A. No person shall sell, possess or consume any alcoholic beverage in any pedestrian plaza, except under a concession contract or lease, or by permit issued under Chapter 17.25. Such permit may include any conditions as, in the discretionary judgment of PBOT, will promote the preservation of the pedestrian plaza for the peaceful enjoyment of the public at large.

B. No person shall commit any of the following acts in a pedestrian plaza:

1. Sell, distribute, make available or offer to provide a controlled substance or prescription drug to another;
2. Package, possess or store a controlled substance;
3. Transport a controlled substance or materials intended to be used in the packaging of a controlled substance;
4. Solicit another to provide, make available, sell or distribute a controlled substance or prescription drug to any person; or
5. With the intent to engage in any act prohibited by this Section, seek, meet, approach or encounter another.

C. Nothing in Subsection B of this Section shall prohibit the possession in a pedestrian plaza of medications prescribed to the person or to a person under that person's care, if and under such conditions as possession of such substance is otherwise lawful.

D. For purposes of this Section, "controlled substance" shall have the meaning provided in ORS 475.005(6), and "prescription drug" shall have the meaning provided in ORS 689.005(6).

Possession of Weapons.

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

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

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

Structures in Pedestrian Plazas.

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

Disposing of Rubbish.

A. No person shall place any garbage, or other rubbish, or refuse or debris, nor shall any person deposit or leave birdseed, breadcrumbs or other food particles or food waste, in or upon any pedestrian plaza. Nothing in this Section shall prohibit any person from eating food in any pedestrian plaza, nor shall the prohibitions of this Section apply to the incidental loss of food particles that cannot reasonably be collected and properly disposed of.

B. No person shall enter any pedestrian plaza with garbage, or other rubbish or refuse or debris that has originated from outside the pedestrian plaza, for the purpose of disposing of any of the rubbish, refuse, or debris in the pedestrian plaza.

C. The prohibitions of this Section shall not apply to the disposal, in receptacles provided for that purpose, of garbage or refuse that results from the normal use of the pedestrian plaza for recreational or other lawful purposes.

Vandalism; Protection of Pedestrian Plaza Property and Vegetation.

A. No person shall take, remove, destroy, break, cut, injure, mutilate, or deface in any way or attach any thing to, any structure, monument, statue, vase, fountain, wall, fence, railing, gate, vehicle, bench, or other property in any pedestrian plaza. No person shall remove, destroy, break, injure, mutilate, or deface in any way in any pedestrian plaza any shrub, fern, plant, flower, or other vegetation. No person shall plant, prune, remove, destroy, break, injure, mutilate, or deface in any way in any pedestrian plaza any tree without a permit from the City Forester under the provisions of Title 11. This provision shall not prohibit authorized work done for, by or on behalf of the City.

B. No person shall, without prior authorization, take, use, or have in his or her possession any equipment belonging to the City and designated for pedestrian plaza or recreation use, outside of the limits of the established pedestrian plaza.

Fires, Fireworks and Smoking Prohibited.

A. No person shall light any fire in any pedestrian plaza, except in areas and/or facilities designated by the Director for such use and in conformance with all applicable laws.

B. No person shall possess or ignite any fireworks in any pedestrian plaza

C. No person shall smoke or use tobacco in any form in any place in any pedestrian plaza. For purposes of this Section, smoking and tobacco are defined to include, but are not limited to: bidis, cigarettes, cigarillos, cigars, clove cigarettes, e-cigarettes, nicotine vaporizers, nicotine liquids, hookahs, kreteks, pipes, chew, snuff, smokeless tobacco, and marijuana.

D. Notwithstanding any other provision of this Code, a person who violates this section shall not be subject to exclusion under these rules, or to criminal enforcement under Section 1.01.140 of this Code. Rather, any person violating this section shall be required to leave the pedestrian plaza in which the offense occurred, for the remainder of the day. Enforcement will be administered by Police who have the authority to enforce pedestrian plaza rules, except that any person providing security services may enforce the prohibitions on tobacco and smoking in that pedestrian plaza, but only in the manner provided by this Section.

Animals.

A. No person shall injure, harm, disturb, or molest any wild or domestic animal in any pedestrian plaza.

B. No person owning, in control of or responsible for any dog shall allow that dog to be in any pedestrian plaza if the dog is not held securely on a leash no greater than eight feet in length.

C. No person shall hitch any animal to any tree, shrub, fence, railing, or other structure or facility in any pedestrian plaza, except to such structures or facilities as are designated for that purpose.

D. No person shall bring or keep any animal in any pedestrian plaza if the animal is not within the person's immediate reach and control.

E. No person shall allow any animal in that person's ownership, possession, custody or control to injure any other person or animal or damage any property in any pedestrian plaza. Any person so allowing any animal to cause any such injury or damage shall be liable for the full amount of the injury or damage and for the costs of impounding the animal.

F. No person shall allow any animal in the person's possession, custody or control to discharge any fecal material in any pedestrian plaza unless the person promptly removes and disposes of the fecal material in an appropriate receptacle. No person shall allow any animal in the person's possession, custody or control to enter or remain in any pedestrian plaza unless the person has in the person's possession the equipment necessary to remove and properly dispose of any fecal material deposited by the animal in the pedestrian plaza.

G. No person owning, in control of or responsible for any animal shall allow that animal to be in any pedestrian plaza if the animal is not in compliance with applicable Multnomah County Animal Control regulations; provided, however, that dogs otherwise complying with those regulations may be off leash in designated off-leash areas or during designated off-leash hours.

H. Any animal in any pedestrian plaza in violation of any provision of this Section may be impounded, at the expense of the animal's owner, on the order of any Police Officer or of any Animal Control officer.

I. The prohibitions of this Section do not apply to service animals while performing their qualifying services, nor to animals while in the course of the official performance of police or rescue activities.

J. Notwithstanding any other provision of this Code, any person violating this section is subject only to a civil penalty not to exceed \$150 for each violation. Any person assessed a civil penalty under this Subsection may appeal the citation to the Code Hearings Officer in accordance with the provisions of Title 22 of this Code.

Use of Certain Devices or Equipment.

A. No person shall ride or operate a skateboard on any brickwork, cobblestone or ornamental surface, table, chair, bench, fountain area, planter, or sculpture located in a pedestrian plaza.

B. No person shall operate any motorized vehicle or motorized wheeled vehicle or motorized wheeled device in any pedestrian plaza, except designated vehicle areas, or by permit. The prohibitions of this Section do not apply to authorized service or emergency vehicles or to the following electric mobility devices used by persons who need assistance to be mobile, and used in accordance with all applicable pedestrian plaza and traffic rules:

1. "Electric assisted bicycle" as defined in ORS 801.258;
2. "Motorized wheelchair," "Mobility scooter" or "Power chair" defined as an electric powered transportation device for one person in a seated position, with feet resting on floorboards or foot rests, and incapable of exceeding a speed of 20 mph; or
3. "Human or personal transporter system" defined as a self-balancing, electric-powered transportation device with two wheels, able to turn in place, and designed to transport one person in a standing position, with a top speed of 20 mph.

C. No person shall operate an electric mobility device in a pedestrian plaza in an unsafe manner or at a speed exceeding 15 mph, or, when pedestrians are present, at a speed exceeding 5 mph, or fail to yield the right-of-way to all pedestrians.

Remote Control Vehicles, Aircraft and Watercraft.

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

Emergency pedestrian plaza Closure.

A. In case of an emergency, or in case where life or property are endangered, all persons, if requested to do so by any Police Officer, shall depart from the portion of any pedestrian plaza specified by that Police Officer, and shall remain off that pedestrian plaza or that portion of the pedestrian plaza until permission is given to return.

B. Whenever it is in the interest of public health or safety to do so, the Commissioner or the Mayor, the Director, or Police Officer may close any pedestrian plaza, or any part thereof, and may erect or cause to

be erected barricades prohibiting access to any such pedestrian plaza, or part thereof, at appropriate locations. Notices that any pedestrian plaza, or part thereof, is closed shall be posted at appropriate locations during the period of such closure, if feasible; however, failure to post such notices shall not invalidate such closure nor shall it invalidate any exclusion for violating this Section.

C. No person shall enter any pedestrian plaza or any part thereof that has been closed under this Section, or remain in such pedestrian plaza, or part thereof, after having been notified of the closure and having been requested to leave by the Commissioner, the Mayor, the Director or Police Officer. A closure under this Section shall not exceed 18 hours without the written approval of the both the Commissioner and the Mayor.

D. When a state of emergency is declared under Section 15.04.040 of this Code, the Mayor or other persons authorized by Section 15.08.020 or by subsection B of this Section may close any pedestrian plaza and recreation facility to normal use and may designate that facility for emergency operations, which operations may include providing emergency services to the public, subject to the following conditions:

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

Trespassing and Areas Closed to the Public.

A. No person, without the consent of the Director or other authorized Police Officer, shall enter any pedestrian plaza upon which the words "no admittance," or similar words indicating that entry is prohibited or restricted, are displayed.

B. No person shall ride, drive, or walk on such parts or portions of the pedestrian plazas or pavements as are closed to public travel, nor shall any person interfere with barriers erected in any pedestrian plaza.

C. No person shall enter or remain in any pedestrian plaza in violation of an exclusion issued under this section.

Hours of Pedestrian Plaza Closure.

A. No person shall be in a pedestrian plaza during hours of pedestrian plaza closure. Unless the Director designates otherwise for any pedestrian plaza, "hours of pedestrian plaza closure" means any time between the hours of 12:01 a.m. and 5 a.m.

B. This Section shall not apply to the following:

1. Persons attending, participating in, going to or coming from an activity either programmed or scheduled under a permit issued by PBOT, or a customer of a business directly adjacent to the pedestrian plaza.
2. Pedestrians or people on bikes crossing a pedestrian plaza area between the two paved portions of one street or boulevard.

Condition of Parole or Probation or Judicial or Other Order.

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

Rules and Regulations, Directions of Police Officers to be Obeyed.

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

Pedestrian Plaza Exclusions.

A. In addition to other remedies provided for violation of these rules, or of any of the laws of the State of Oregon, any Police Officer may exclude any person who violates any applicable provision of law in any pedestrian plaza from that pedestrian plaza in accordance with the provisions of this Section. Nothing in this Section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the state or federal constitutions. However, a person engaged in such protected activity who commits acts that are not protected, but that violate applicable provisions of law, shall be subject to exclusion as provided by this Section.

Exhibit A

B. For purposes of this Section, "applicable provision of law" includes any applicable provision of this Code, of any City ordinance, or of any rule or regulation promulgated by the Commissioner or the Council under this Title, any applicable criminal or traffic law of the State of Oregon, any law regarding controlled substances or alcoholic beverages, any applicable County ordinance or regulation, and any ordinance or regulation adopted by the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) governing any Tri-Met facility in that pedestrian plaza. For purposes of this Section, "applicable" means relating to the person's conduct in the pedestrian plaza.

C. An exclusion issued under the provisions of this Section shall be for thirty (30) days. If the person to be excluded has been excluded from any pedestrian plaza at any time within two years before the date of the present exclusion, the exclusion shall be for ninety (90) days. If the person to be excluded has been excluded from one or more pedestrian plazas on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for 180 days.

D. Before issuing an exclusion under this Section, a Police Officer shall first give the person a warning and a reasonable opportunity to desist from the violation. An exclusion shall not be issued if the person promptly complies with the direction and desists from the violation. Notwithstanding the provisions of this Subsection, no warning shall be required if the person is to be excluded for engaging in conduct that:

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

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

2. Otherwise involves a controlled substance or alcoholic beverage; or

3. Has resulted in injury to any person or damage to any property; or

4. Constitutes a violation of any of the following provisions of this Code:

- a.** Section 14A.40.030 - Indecent Exposure;
- b.** Section 14A.40.040 - Loitering to Solicit Prostitution;
- c.** Section 14A.40.050 - Unlawful Prostitution Procurement Activities;
- d.** Section 14A.60.010 - Possession of a Loaded Firearm in a Public Place;

- e. Section 14A.60.020 - Discharge of a Firearm;
- f. Section 14A.60.030 - Tear Gas and Stun Guns;
- g. Section 14A.60.040 - Explosives and Bottle Bombs;

5. Is conduct for which the person previously has been warned or excluded for committing in any pedestrian plaza.

E. Written notice shall be given to any person excluded from any pedestrian plaza under this Section. The notice shall specify the date, length and place of the exclusion, shall identify the provision of law the person has violated and shall contain a brief description of the offending conduct. The notice shall inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal. It shall be signed by the issuing party. Warnings of consequences for failure to comply shall be prominently displayed on the notice.

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

G. At any time within the period of exclusion, a person receiving such notice of exclusion may apply in writing to the Commissioner for a waiver of some or all of the effects of the exclusion for good reason. If the Commissioner grants a waiver under this Subsection, the Commissioner shall promptly notify the Portland Police Bureau's Records Division and the PBOT Director of such action. In exercising discretion under this Subsection, the Commissioner shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be in the pedestrian plaza during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the Commissioner determines to be relevant to the determination of whether or not to grant a waiver. Notwithstanding the granting of a waiver under this Subsection, the exclusion will be included for purposes of calculating the appropriate length of exclusions. The decision of the Commissioner to grant or deny, in whole or in part, a waiver under this Subsection is committed to the sole discretion of the Commissioner, and is not subject to appeal or review.

H. If an appeal of the exclusion is timely filed under this section, the effectiveness of the exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon the issuance of the Hearings Officer's decision, unless the Hearings Officer specifies a later effective date.

I. If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion. If the predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the predicate exclusion had not been issued. If multiple exclusions issued to a single person for a single pedestrian plaza are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.

J. No person shall enter or remain in any pedestrian plaza at any time during which there is in effect a notice of exclusion issued under this Section excluding that person from that pedestrian plaza.